

## EXPLANATORY STATEMENT

Approved by the Hon Michael McCormack MP, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

*Road Vehicle Standards (Model Reports) Determination 2021*

### Summary

This Explanatory Statement accompanies the *Road Vehicle Standards (Model Reports) Determination 2021* (the Determination) which is made under section 88 of the *Road Vehicle Standards Rules 2019* (the Rules), and sets out the form that a Model Report must take, including the information that it must contain.

A Model Report is used to ensure that a vehicle modified or manufactured in accordance with it will meet the relevant standards and the requirements for entry on the Register of Approved Vehicles (RAV).

The content of this Determination is particularly relevant to what a holder of a road vehicle type approval (type approval) or registered automotive workshop (RAW) approval must do in order to manufacture or modify a road vehicle ‘in accordance with’ a Model Report. The key components required to be included in the Model Report, in that respect, are the ‘Vehicle Scope’ and ‘Work Instructions’.

The Model Report must also contain a ‘verification checklist’ that complies with the requirements of the Determination. This will be used primarily by the holder of an authorised vehicle verifier (AVV) approval when verifying a vehicle.

Where a vehicle covered by the Model Report is modified by the holder of a RAW approval, the Work Instructions of the Model Report must require the RAW to attach a consumer information notice to the vehicle. This notice informs the consumer about the modifications that have been made to the vehicle and contains warnings in relation to service, warranty, compliance with national road vehicle standards and suitability for use on Australian roads. This notice enables consumers to make more informed decisions about the purchase of a modified vehicle.

### Legislative context

The Rules and determinations made under the Rules, set out matters that support the regulatory framework of the *Road Vehicle Standards Act 2018* (the Act). The Act provides a modern framework for the Commonwealth to regulate, among other matters, the importation and the first provision of road vehicles in Australia. It includes measures to manage the risks associated with road vehicles and road vehicle components. Such measures are designed to ensure that road vehicles and approved road vehicle components provided in Australia meet certain safety, anti-theft and environmental standards. The Act also gives effect to Australia’s obligations regarding the harmonisation of international road vehicle standards.

The Rules set out a series of ‘tools’ (to adopt the name of Part 4 of the Rules)—approvals that enable road vehicles to satisfy the requirements of entry pathways, such as approvals relating to RAWs, AVVs, Model Reports and Testing Facilities, which, in turn, enable the vehicles to be provided for the first time in Australia.

## **Legislative authority**

The Determination is made under section 88 of the Rules. Subsection 88(1) provides that the Minister may, by legislative instrument, determine the form that a Model Report must take, including the information that a Model Report must contain.

Examples of what a determination made under subsection 88(1) may contain are set out in subsection 88(2) of the Rules.

Subsection 88(2) provides that a determination may require a Model Report to set out:

- steps that the holder of a RAW approval or road vehicle type approval must take when manufacturing or modifying a road vehicle to which the report applies;
- records that must be kept by the holder of the RAW approval or type approval about the manufacture or modification of the vehicle; and
- the verification checklist that the holder of an AVV approval must complete when verifying the vehicle.

## **Purpose and operation of the instrument**

### Overview of the Act and Rules

The Act regulates the importation and first provision of road vehicles in Australia. The Rules set out matters that support the regulatory framework of the Act. The Rules provide for the keeping of a RAV (Part 2 of the Rules) on which a road vehicle must generally be entered before it may be provided for the first time in Australia (section 24 of the Act). A vehicle may be entered on the RAV if it satisfies the requirements of an entry pathway (subsection 15(1) of the Act).

Subsection 19(2) of the Act states that the Rules may provide for or in relation to the grant of approvals to enable road vehicles to satisfy the requirements of the type approval pathway or other entry pathways.

There are currently two pathways available for vehicles to be entered on the RAV (Part 3 of the Rules):

- the type approval pathway, which applies to all vehicles of a particular type that fully or substantially comply with the applicable national road vehicle standards made under the Act and are approved for volumetrically unrestricted supply to the Australian market (section 15 of the Rules)
- the concessional RAV entry approval pathway, which applies to an individual vehicle if:
  - there is a concessional RAV entry approval in force for that vehicle
  - certain conditions of the approval have been met, and
  - the vehicle is in Australia, unless the approval lifts this requirement (section 31 of the Rules).

The Rules set out eligibility requirements for each pathway. The Rules also set out the tools through which road vehicles may satisfy the requirements of RAV entry pathways, such as approvals relating to RAWs, AVVs, Model Reports and testing facilities.

Section 68 of the Rules provides that a person may apply to the Secretary of the Department of Infrastructure, Transport, Regional Development and Communications (the Department) for approval of a Model Report that applies to a model, or one or more variants, of:

- specialist and enthusiast vehicles (SEVs) entered on the SEVs Register
- used two or three-wheeled vehicles that are not entered on the SEVs Register
- trailers with an aggregate trailer mass more than 4.5 tonnes, or
- road vehicles that have been entered on the RAV through the type approval pathway and

will be subject to second stage of manufacture.

A Model Report sets out how a road vehicle model, or one or more variants may be manufactured or modified to meet the applicable standards, which include both the Australian Design Rules (ADRs) and standards set out in the *Road Vehicle Standards (Model Reports – Compliance with Standards) Determination 2021*.

The approval of a Model Report is subject to any conditions specified in the approval and to the conditions set out in the Rules (section 81 of the Rules). One of the conditions set out in the Rules requires the holder of the approval to keep the Model Report accurate and up-to-date (section 82). The holder of the approval is required to notify the Department if (broadly speaking):

- the Model Report contains an error or does not meet the requirements imposed under this Determination, or
- a vehicle manufactured or modified in accordance with the Model Report would not comply or substantially comply with certain relevant standards (subsection 82(2) of the Rules).

The holder of the approval must take action in such cases, either by applying to vary the Model Report to rectify the matter, or asking the Secretary to suspend or revoke the Model Report approval (subsection 82(1)(b)).

There are also other conditions that relate to matters such as the keeping of records (section 83), allowing the Department access to the Model Report (section 84), keeping records of certain testing results (section 85) and providing information to the Secretary or an inspector (section 86).

#### Purpose of the Determination

The purpose of the Determination is to set out the content that must be included in a Model Report and the form it must take.

The Determination requires a Model Report to contain:

- Vehicle Scope - identifying the road vehicle variants to which the Model Report applies (by setting out the specifications of the relevant vehicles before modification, and after manufacture or modification);
- Work Instructions - instructions requiring the RAW to do a number of things, including:
  - confirm that the Model Report applies to the vehicle to be manufactured or modified
  - identify any recalls that apply to the vehicle and ensure they have been rectified
  - correctly manufacture or modify the vehicle
  - ensure that the components of the vehicle do not exceed the limit of acceptable deterioration
  - ensure the odometer correctly reflects the distance travelled by the vehicle
  - provide a Consumer Information Notice
  - keep the required records relating to the manufacture or modification of the vehicle,
- Verification checklist – (excluding Model Reports for aggregate trailer mass of more than 4.5 tonnes) for the AVV to use in verifying that the vehicle has been manufactured or modified correctly, and
- a unique document identifier for each set of Work Instructions in the Model Report.

The Determination is to be read in conjunction with the *Road Vehicle Standards (Model*

*Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules, which determines the standards, otherwise referred to as Australian Design Rules (ADRs) that apply to vehicles manufactured or modified in accordance with a Model Report. The two determinations will assist in maintaining a minimum level of general quality of vehicles being approved for use on public roads in Australia.

A Statement of Compatibility with Human Rights for the Determination is at [Attachment A](#).

A section by section explanation of the Determination is at [Attachment B](#).

## **Consultation**

The Department has consulted with industry associations, in-service regulators and the public on the development of policy relating to the content and operation of Model Reports.

Initially, consultation on the development of the Road Vehicle Standards Bill 2018 was conducted in three distinct phases from 2013 onward. Further information about this consultation process can be found at chapter 6, ‘Consultation’, in the *Review of the Motor Vehicle Standards Act 1989 Regulation Impact Statement, 6 March 2018* (<https://ris.pmc.gov.au/2018/03/06/review-motor-vehicle-standards-act-1989>).

The Department then conducted more targeted consultation with industry associations and in-service regulators on the development of the Determination, primarily through the Road Vehicle Standards Act Implementation Consultation Framework, which established three consultation groups, addressing type approvals, concessional RAV entry and RVSA tools.

In July and November 2019 the Department consulted with the Tools Consultation Group considering the Department’s approach to Model Reports. Details of the consultation process and the position papers presented to meetings are published on the Department’s website.

The Department released an exposure draft of the Determination and the Explanatory Statement on 15 December 2020, and received submissions from four stakeholders in February 2021. Subsequent meetings were held with one key stakeholder on the proposed Determination.

## **Prescribing matters by reference to other instruments or documents**

Subparagraph 14(1)(a)(ii) and subsection 14(3) of the *Legislation Act 2003* provide that a legislative instrument may incorporate the provisions of a disallowable legislative instrument as in force from time to time unless a contrary intention appears in the enabling legislation. Subsection 82(6) of the Act further permits the Determination to make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

Paragraph 15J(2)(c) of the *Legislation Act 2003* provides that if documents are incorporated in an instrument (such as the Determination) by reference, the Explanatory Statement for that instrument must contain a description of the incorporated documents and indicate how they may be obtained. The following information is for the purposes of paragraph 15J(2)(c).

The Determination incorporates select definitions from the Rules, which are a legislative instrument made under section 19 of the Act.

The Determination references the following instruments:

- *Vehicle Standard (Australian Design Rule—Definition and Vehicle Categories) 2005*
- *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021*
- *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021*, and

- *Vehicle Standard (Australian Design Rule 38/00—Trailer Brake Systems) 2006.*

These instruments are available without cost to the public through the Federal Register of Legislation ([www.legislation.gov.au](http://www.legislation.gov.au)).

### **Regulation Impact Statement**

A Regulation Impact Statement (RIS) was prepared in relation to policy options regarding the *Motor Vehicle Standards Act 1989* and policy options for its repeal and replacement with the Act and the Rules. The RIS is included in the Explanatory Memorandum to the Road Vehicle Standards Bill 2018. The Office of Best Practice Regulation (OBPR) reference number for the RIS is 17240. OBPR has advised that no further RIS is required.

## **ATTACHMENT A—STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Road Vehicle Standards (Model Reports) Determination 2021***

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Disallowable Legislative Instrument**

The *Road Vehicle Standards (Model Reports) Determination 2021* (the Determination) is made under section 88 of the *Road Vehicle Standards Rules 2019* (the Rules).

The *Road Vehicle Standards Act 2018* (the Act) and the Rules provide a modern framework for the Australian Government to regulate the importation of road vehicles into Australia, and the first provision of road vehicles in Australia. It includes measures to manage the risks associated with road vehicles and road vehicle components, and to ensure that road vehicles and approved road vehicle components provided in Australia meet certain safety, anti-theft and environmental standards. It achieves this by regulating road vehicle importation into, and the first provision of road vehicles in, Australia. The Act also gives effect to Australia's obligations regarding the international harmonisation of road vehicle standards.

The purpose of the Determination is to set out the form and content of a Model Report. A Model Report may be approved in relation to:

- a road vehicle entered on the Specialist and Enthusiast Vehicles (SEVs) Register
- a used two or three-wheeled vehicle that is not on the SEVs Register
- a trailer with an aggregate trailer mass more than 4.5 tonnes, or
- a road vehicle that has been entered on the Register of Approved Vehicles (RAV) through the type approval pathway and will be subject to a second stage of manufacture.

#### **Human rights implications**

This disallowable instrument supports the regulatory framework of the Act and the Rules to ensure that vehicles on public roads meet safety and environmental standards to support the human right to life and health. The Determination does not engage any human rights beyond those addressed in the Explanatory Statement for the Rules.

#### **Conclusion**

This disallowable instrument is compatible with human rights because it promotes the protection of human rights and, to the extent that it may limit human rights, those limitations are considered to be reasonable, necessary and proportionate.

**Deputy Prime Minister and Minister for Infrastructure, Transport and Regional  
Development**

**The Hon Michael McCormack MP**

## ATTACHMENT B—OVERVIEW OF PROVISIONS

### Section by section explanation of the *Road Vehicle Standards (Model Reports) Determination 2021*

#### Part 1—Preliminary

##### Section 1—Name

Section 1 provides that the name of this legislative instrument is the *Road Vehicle Standards (Model Reports) Determination 2021* (the Determination).

##### Section 2—Commencement

Section 2 provides that the Determination is to commence on the date specified.

##### Section 3—Authority

Section 3 provides that the Determination is made under section 88 of the *Road Vehicle Standards Rules 2019* (the Rules).

##### Section 4—Definitions

Section 4 sets out new definitions for the Determination. Notes are provided on some key definitions below.

Many of the definitions indicate the section of the Determination where the term is defined, or provide that the definitions are the same in the Rules or other instruments. This ensures consistency of terminology and intent across the range of instruments supporting the *Road Vehicle Standards Act 2018* (the Act).

The definition of ‘**applicable ADR**’ has the same meaning given by section 9(1) of the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021*, made under subsection 89(2) of the Rules, which provides an overarching standard requiring road vehicles that are manufactured or modified in accordance with a Model Report to comply with the applicable Australian Design Rules (ADRs).

The definition of ‘**body alignment test**’ has the same meaning given by the *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021*, made under section 107 of the Rules.

The definition of ‘**body shape**’ means the vehicle shape description applicable to the vehicle under the *Vehicle Shape Codes Guide* (June 2013) issued by the New South Wales Government Department of Transport, Roads and Maritime Services, as in existence at the time the Determination commenced.

The definition of ‘**source market**’ is included because a Model Report must require the user to identify (and, in some circumstances, rectify) any recalls issued in a relevant vehicle’s source market. The definition is designed to identify the market for which the vehicle has been originally manufactured, irrespective of where in the world the vehicle was manufactured. For example, where a vehicle is manufactured in Japan, but sold on the Australian market then Australia is that vehicle’s source market. As the consumers and suppliers in the source market will be informed of recalls, this definition is intended to provide surety that those recalls will be identified during the modification process. This adds to the assurance that the vehicle is safe for use in the Australian market.

The definition of ‘*user*’ is included as a shorthand for the holder of a registered automotive workshop (RAW) approval or a road vehicle type approval, given a Model Report may be used by the holder of a RAW approval or a holder of a vehicle type approval.

Subsection 4(2) lists the expressions that have the same meaning as in the *Vehicle Standard (Australian Design Rule—Definitions and Vehicle Categories) 2005*, as in force from time to time.

Subsection 4(3) sets out the meaning of ‘*final approved specification*’. Where approval of a Model Report is sought on the basis that vehicles manufactured or modified in accordance with it would comply, to a certain extent, with:

- standards determined by the Minister in the Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021, or
- the applicable national road vehicle standards, or
- both,
- a vehicle is at the ‘final approval specification’ where it complies with those standards to that extent.

Subsection 4(4) sets out when a vehicle will exceed the deterioration limit. Subsection 4(4) explains that a vehicle ‘*exceeds the deterioration limit*’, in relation to the applicable standards in column 1 of Schedule 6 - Deterioration limit, if the requirements set out in column 2 of the table in Schedule 6 are not satisfied, or the vehicle does not function as intended.

Subsection 4(5) explains that a standards is an ‘applicable standard’ for a vehicle mentioned in section 72 (a vehicle covered by entry on the SEVs Register), section 73 (used two-wheeled or three-wheeled vehicle) or section 75 (vehicles subject to second stage of manufacture) of the Rules, the standard is an applicable ADR in respect of the vehicle.

For or a vehicle mentioned in section 74 of the Rules (trailers with aggregate trailer mass of more than 4.5 tonnes), the standard is an applicable national road vehicle standard. The applicable standards are set out in column 1 of Schedule 6. This subsection also clarifies that the Schedule 6 requirements are only relevant to the extent that an ADR mentioned in column 1 applies to the vehicle.

## **Section 5—Requirements may be met by engaging third party**

Section 5 provides that, broadly speaking, the requirements in a Model Report may be met by a third party. This enables the holder of a RAW approval or the holder of a vehicle type approval to outsource where, for example, time, expertise or equipment constraints exist. However, the user of the Model Report is still ultimately responsible for ensuring that the vehicle is correctly manufactured or modified in accordance with the Model Report. For instance, where the user is a RAW, paragraph 65(1)(b) of the Rules makes it a condition of their RAW approval that they ensure that a road vehicle manufactured or modified under the approval is not presented to the holder of an authorised vehicle verifier (AVV) approval for verification unless the vehicle has been manufactured or modified in accordance with the requirements set out in an approved Model Report that applies to the vehicle. The example states that the Work Instructions must require the user to confirm that the vehicle falls within the Vehicle Scope (refer to section 16).

## **Part 2—Form of Model Report**

### **Division 1—Outline of requirements**

#### **Section 6—Purpose of this instrument**

Section 6 explains that for the purposes of section 88 of the Rules, Part 2 of the Determination sets out the form that a Model Report must take, including the information it must contain.

#### **Section 7—What a Model Report must include**

Section 7 sets out that a Model Report must include:

- a ‘Vehicle Scope’ identifying the road vehicles to which each set of Work Instructions in the Model Report applies (which must meet the requirements of Division 2)
- Work Instructions (which must meet the requirements of Division 3)
- a verification checklist (except in the case a trailer with an aggregate trailer mass of more than 4.5 tonnes), which must meet the requirements of Division 4, and
- a unique document identifier for each set of Work Instructions.

The Vehicle Scope is required to identify the vehicles that can be manufactured or modified in accordance with a particular set of Work Instructions. Among other things, it:

- allows the user to identify whether the Work Instructions apply to the vehicle to be modified, and
- allows the AVV to identify whether a vehicle has been manufactured or modified in accordance with the correct set of Work Instructions.

It does so by setting out what the specifications of the vehicle are to be before a vehicle is modified in accordance with the Work Instructions, and after it has been manufactured or modified. In providing the information, it identifies where modifications may have previously been made to the vehicle that will need to be reversed and provides assurance that any resultant vehicle will be consistent with the Model Report.

The Work Instructions provide information regarding the checks that must be conducted and the steps that must be taken to modify or manufacture a vehicle so that it complies with the same standards against which the Model Report was approved.

The verification checklist provides the AVV with the checks that must be undertaken to provide assurance that the RAW has carried out the Work Instructions correctly.

Where a Model Report relates to multiple variants, there will be a separate unique document identifier for each different set of Work Instructions. When a Model Report is varied the resulting varied Work Instructions will be included with new unique identifiers. The check of these identifiers during the AVV verification process will help to ensure that the Work Instructions used in the modification or manufacture reflect the most recent versions of the applicable standards.

### **Division 2—Vehicle Scope**

#### **Section 8—Vehicle Scope—unique identifier**

Section 8 requires that the Vehicle Scope must set out the unique document identifier of the Work Instructions to which it relates. As a Model Report may contain instructions for multiple

variants and each variant may have separate Work Instructions, this ensures that the modifications made relate to the correct variant.

### **Section 9—Vehicle Scope—road vehicles entered on the SEVs Register**

Section 9 requires that for Work Instructions that relate to a model, or one or more variants, of a road vehicle entered on the SEVs Register, the Vehicle Scope must include the information required by Schedule 1.

This will provide the mechanism for the RAW and the AVV to check: (i) the vehicle is covered by the Model Report before any modifications are made, and (ii) after manufacture or modification the vehicle meets the expected specifications, indicating the work has been completed. It does not preclude additional checks demonstrating successful completion of individual steps in the manufacturing or modification process.

### **Section 10—Vehicle Scope—used two-wheeled or three-wheeled vehicles**

Section 10 requires that for Work Instructions relating to used two-wheeled or used three-wheeled vehicle that is not entered on the SEVs Register, the Vehicle Scope must include the information required by Schedule 2.

This will provide the mechanism for the RAW and the AVV to check: (i) the vehicle is covered by the Model Report before any modifications are made, and (ii) after manufacture or modification the vehicle meets the expected specifications, indicating the work has been completed. It does not preclude additional checks demonstrating successful completion of individual steps in the manufacturing or modification process.

### **Section 11—Vehicle Scope—trailer with an aggregate trailer mass of more than 4.5 tonnes**

Section 11 requires that for Work Instructions relating to a model, or one or more variants, of a trailer with an aggregate trailer mass of more than 4.5 tonnes, the Vehicle Scope must include the information required by Schedule 3.

This will provide the mechanism for the user of the Model Report and the AVV (where applicable) to check: (i) the vehicle is covered by the Model Report before any modifications are made, and (ii) after manufacture or modification the vehicle meets the expected specifications, indicating the work has been completed. It does not preclude additional checks demonstrating successful completion of individual steps in the manufacturing or modification process.

### **Section 12—Vehicle Scope—road vehicle on the RAV that will be subject to second stage of manufacture**

Section 12 requires that for Work Instructions relating to a road vehicle that is entered on the RAV via the type approval pathway and will be subject to a second stage of manufacture, the Model Report must include the information required by Schedule 4.

This will provide the mechanism for the user of the Model Report and the AVV (where applicable) to check: (i) the vehicle is covered by Model Report before any modifications are made and (ii) after manufacture or modification the vehicle meets the expected specifications, indicating the work has been completed. It does not preclude additional checks demonstrating successful completion of individual steps in the manufacturing or modification process.

### **Section 13—Pre-modification specifications are not required for manufacture**

Section 13 provides that where Work Instructions relate to the manufacture of a road vehicle, the Vehicle Scope need not include pre-modification specifications. This reflects that there is no 'scope' for a vehicle yet to be manufactured.

## **Section 14—Vehicle Scope—alternative specifications and permissible variations**

Subsection 14(1) states that the Vehicle Scope may set out two or more alternative specifications in relation to a vehicle characteristic. Where feasible, the Model Report may accommodate multiple variants in a single Vehicle Scope and Work Instructions.

Subsection 14(2) requires the Model Report to specify that a vehicle modified in accordance with the Work Instructions may differ from the final specifications contained in the Vehicle Scope where the variation is due to rectification of a recall (refer to section 19). The Model Report must also specify that a difference of that nature does not constitute a variation from the final specifications, and does not mean that a modification required by the Model Report has not been carried out correctly. This allows the modification and verification processes to proceed when the holder of the Model Report approval is unaware of a recall in the vehicle's source market. Allowing the modification and verification to proceed achieves a better safety outcome through rectification of the recall, without delaying the process while the Model Report is amended. Recalls and rectifications are dealt with in more detail in section 19.

## **Division 3—Work Instructions**

### **Section 15—Work Instructions—order of implementation**

Section 15 specifies that the checks of the vehicle are to be carried out before any other parts of the Work Instructions are performed. This is to prevent work being incorrectly undertaken on a vehicle that is not covered by the Work Instructions, resulting in expense to the vehicle owner.

Next, the recall checks and any required rectification action are to be completed. Where a recall requires rectification, it provides the owner of the vehicle with an opportunity to decide whether or not to proceed with the modifications. In a situation where the owner decides to not proceed with the rectification of the recall, performing this step prior to any modifications will prevent unnecessary expense for the owner.

The remainder of the steps may be performed in any order. The intent of this section is to provide maximum flexibility for the user of the Model Report, but at the same time protecting the concessional RAV approval holder.

### **Section 16—Work Instructions—check that vehicle falls within Vehicle Scope**

Section 16 sets out that the Work Instructions must require the user of the Model Report to confirm that the vehicle falls within the Vehicle Scope (pre-modification specifications) before commencing any modifications. Where the vehicle does not match the scope solely because of modifications previously undertaken, these modifications may be reversed and the vehicle reassessed against the scope. An example of previous modifications is the fitting of additional or different coloured lights. If the vehicle does not fall within the Vehicle Scope, the user is not to proceed to modify the vehicle. The 'scope check' is the check referred to in section 28 of the Determination (see below) and also referenced in section 12 of the *Road Vehicle Standards (Verification of Road Vehicles) Determination 2021* made under section 106 of the Rules.

### **Section 17—Work Instructions—component checks**

Section 17 sets out that the Work Instructions must require the user of the Model Report to confirm that the vehicle is fitted with the same components as those identified by the Model Report author when providing compliance information, in keeping with subsection 68(2)(c) of the Rules, before commencing any modifications.

## **Section 18—Work Instructions—damage or corrosion checks**

Subsection 18(1) provides that the Work Instructions must set out the steps the RAW must take to inspect the road vehicle that is to be modified in accordance with the Model Report for damage or corrosion, and repair of damage or corrosion. This is particularly relevant to subsections 65(3)-(5) of the Rules, which require the RAW, before modifying a vehicle, to:

- inspect the vehicle for damage or corrosion, or repair of damage or corrosion, and
- assess whether the level of damage, corrosion or repair exceeds the damage or corrosion limit (if such a limit has been determined under section 107 of the Rules) or has reduced the vehicle's structural integrity.

The limits of acceptable damage or corrosion are set out in the *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021* (made under section 107 of the Rules). The damage and corrosion checks provide the RAW with steps to determine if the vehicle exceeds these limits.

Where the RAW finds evidence of repair of damage or corrosion on the vehicle, the Work Instructions must require the RAW to conduct a body alignment test and seek information about the vehicle's history (see subsection 18(2)). Pursuant to subsection 18(3), the Work Instructions must set out how the RAW is to conduct the test and how to seek information about the vehicle's history.

## **Section 19—Work Instructions—recall checks and rectification action**

Pursuant to subsection 19(1), the Work Instructions must set out the checks that the RAW must perform in relation to a vehicle to identify applicable recalls issued in its source market, and explain how to locate information to confirm whether the vehicle has been rectified in accordance with such recalls. Paragraph 19(2)(a) provides that where an unrectified recall is identified, the RAW is required to advise the holder of the concessional RAV approval in writing that an unrectified recall applies to the vehicle. This will allow the holder of the approval to determine how they wish to proceed. The vehicle cannot be presented for verification if all recalls are not rectified. Subsection 19(3) provides that the Work Instructions must require the RAW to carry out (if instructed by the customer) and check the rectification action. The RAW cannot proceed to the next stage of the Work Instructions unless and until the vehicle is verified (paragraph 19(3)(c)).

Allowing the holder of the concessional RAV approval to determine how to proceed provides flexibility to seek alternate arrangements to rectify the recall, for example if specialist knowledge or equipment is required. It also allows the holder of the approval to instruct the RAW to not proceed with the rectification and the manufacture or modification of the vehicle; for example, if proceeding with the rectification means the modification is no longer financially viable.

Paragraph 19(2)(b) requires the RAW to notify the holder of the Model Report approval and the Department in writing where the rectification of any recall would require the RAW to depart from the Work Instructions or would result in the vehicle not meeting the final specifications in the Model Report scope (were it not for subparagraph 14(2)(b)(i), which would otherwise require such departures from the final specifications to be disregarded). This is to ensure that the holder of the Model Report approval is aware of the recall and may take action to incorporate any changes in the Model Report.

## **Section 20—Work Instructions—steps required to manufacture or modify the vehicle**

Subsection 20(1) provides that the Work Instructions must set out each step that the user must take to manufacture or modify a road vehicle to the final approved specification (defined in

subsection 4(3)). Subsections 20(2) and (3) require the Work Instructions to set out the order in which the manufacture or modification steps are to be undertaken and the minimum equipment and qualifications required to carry out each step. They must also set out what the relevant specifications will be before (where applicable) and after each step is carried out.

The inclusion of this information is to support the completion of the steps in a manner that will be compliant with standards and to reduce the risk of steps undertaken out of sequence affecting the modifications or manufacture already undertaken.

For a Model Report applying to a model, or one or more variants, of a road vehicle that is entered on the SEVs Register under the ‘rarity criterion’, the Work Instructions must also state that the vehicle is exempt from compliance with certain standards. The exemptions are set out in the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules. Including reference to them in the Work Instructions is intended to prevent the RAW from undertaking any additional modifications that may affect the rare nature of the vehicle.

### **Section 21—Work Instructions—manufacture or modification checks required**

Subsection 21(1) provides that the Work Instructions must set out the checks that the user of the Model Report must perform in relation to the manufacture or modification process.

Subsection 21(2) provides that the checks must set out each step required to make sure each modification or stage of manufacture required by the Model Report has been carried out correctly, and all the vehicle’s systems are functioning correctly.

Subsection 21(3) provides that the Work Instructions must require the user of the Model Report to advise the holder of the Model Report approval and the Department in writing where a vehicle manufactured or modified in accordance with the Model Report does not meet the final approved specification. This is because, where the Work Instructions have been followed correctly, the vehicle should meet the final approved specification (as defined in subsection 4(4)). A divergence from that specification may indicate that there is an error in the Model Report. The intent of requiring such divergences to be reported is to allow errors in the Model Report to be identified and corrected. It is expected that users of the Model Report will thoroughly check the work they have undertaken to ensure that the problem identified is not a result of user error.

### **Section 22—Work Instructions—deterioration checks and rectification action required**

Section 22 provides that the Work Instructions must set out the checks that the RAW must perform to ensure that each used vehicle modified under the Model Report does not exceed the deterioration limit (to the extent that it applies – the deterioration limit will only affect certain components, systems and aspects of the vehicle). Subsection 4(4) defines when a vehicle exceeds the deterioration limit.

Where a vehicle exceeds the deterioration limit, the Work Instructions must require the user either to:

- rectify the respect in which the vehicle exceeds that limit (for example, by replacing the deteriorated component with a new or used component that does not exceed the deterioration limit), or
- not proceed to the next stage of the Work Instructions (for example, because it is not possible to rectify the relevant matter, or because the customer instructs the RAW not to attempt rectification because it would be unduly expensive to do so).

The deterioration checks recognise that vehicles undergoing modification are often used vehicles and allows for ‘fair wear and tear’, while providing assurance of safe operation.

### **Section 23—Work Instructions—odometer checks required**

Subsection 23(1) requires the Work Instructions to set out checks relating to the odometer that the user of the Model Report must complete. This is to ensure the odometer accurately reflects the distance travelled and has not been tampered with.

Subsection 23(2) provides that the Work Instructions must require the user to obtain supporting material when the user replaces the odometer in order to demonstrate that the new odometer accurately reflects the distance travelled by the vehicle. This requirement does not apply to road vehicles that are manufactured without an odometer (as provided in subsection 22(3)), such as trailers.

The purpose of these requirements is to provide a degree of certainty for the consumer that the vehicle's mileage is correctly represented.

The monetary value of a road vehicle is often strongly influenced by the distance the vehicle has travelled as it is a good indication of the expected deterioration of the vehicles parts and overall condition. A vehicle that has travelled a higher distance will generally have more wear on its componentry and it can be expected to have higher maintenance and running costs. Vendors of used vehicles could tamper with the odometer of a road vehicle to increase its monetary value, thereby obscuring its true condition.

### **Section 24—Work Instructions—consumer information notice for certain vehicles**

Where a vehicle covered by the Model Report is modified by a RAW, subsection 24(1) provides that the Work Instructions must require the RAW to prepare and present a consumer information notice (CIN) with the vehicle. It sets out where the CIN is to be placed on the vehicle and that the RAW is not to remove it from the vehicle.

The content of the CIN is set out in Schedule 5. It informs the consumer about the modifications that have been made to the vehicle and any relevant warnings in relation to service, warranty, compliance with national road vehicle standards and suitability for use on Australian roads. This notice enables consumers to make more informed decisions about the purchase of a modified vehicle.

### **Section 25—Work Instructions—records that must be kept**

Subsection 25(1) provides that the Work Instructions must specify the records that the user must keep in relation to each vehicle manufactured or modified under the Model Report. Pursuant to subsection 25(2), the records must include the name of the person who performed each step set out in the Work Instructions, and evidence to establish whether or not the user carried out the Work Instructions in the manner and order required by the Model Report. Subsection 25(3) clarifies that the evidence may be, but is not limited to, photographs and results of testing.

This requirement will ensure that the records kept will provide assurance of work correctly completed and may be used by the AVV in the verification process.

### **Division 4—Verification checklist**

Division 4 of Part 2 provides for the verification checklist, which is mainly relevant to the AVV verification process (although a type approval holder might potentially use the checklist as a quality assurance mechanism). The *Road Vehicle Standards (Verification of Road Vehicles) Determination 2021* (made under section 106 of the Rules) requires the AVV to apply these checks. Broadly speaking, if the vehicle fails the checks, the vehicle cannot be verified.

## **Section 26—Definitions**

Section 26 clarifies that references to a ‘vehicle’ in Division 4 are references to a vehicle that has been manufactured or modified under the Model Report.

## **Section 27—Verification checklist—unique identifier**

Subsection 27(1) provides that the verification checklist must set out the scope check required to determine whether a vehicle is covered by the applicable Work Instructions. This provides a means of identifying where the user may not have used the most recent version of the Model Report. Subsection 27(2) provides that the scope checks must require the specifications of the vehicle to be compared to the final specifications set out in the Vehicle Scope, the contents of which are set out in Division 2 of Part 2.

## **Section 28—Verification checklist—scope checks**

Section 28 provides that the verification checklist is to set out each scope check required to determine whether a vehicle is covered by the applicable set of Work Instructions. The scope checks must require the specifications of the vehicle to be compared to the final specifications set out in the Vehicle Scope.

This will provide the mechanism for ensuring the vehicle has been manufactured or modified in accordance with the correct set of Work Instructions, and that, after the manufacture or modification is complete, the vehicle meets the expected specifications (indicating the work has been completed).

## **Section 29—Verification checklist—manufacture or modification checks**

Section 29 relates to the verification checklist for manufacture or modification checks.

The verification checklist must set out the checks required to determine whether the user of the Model Report has correctly carried out each modification, or each stage of manufacture, required by the Model Report, and each affected system is functioning correctly. Where the user has correctly carried out the manufacture or modification, this should mean that the vehicle is at the final approved specification (as defined in subsection 4(3)) in the relevant respects. This is because (broadly speaking) Model Reports must be designed so that, if followed correctly, they will result in vehicles that fully or substantially comply with all relevant standards as set out in the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules.

The checklist must also set out the qualifications (if any) and minimum equipment (if any) required to carry out the checks.

## **Section 30—Verification checklist—deterioration checks**

Section 30 provides that the verification checklist must set out each check required to ensure that a used vehicle does not exceed the deterioration limit. Subsection 4(4) defines when a vehicle exceeds the deterioration limit. That limit is set out in Schedule 6.

The deterioration checks recognise that vehicles undergoing modification are often used vehicles and allows for ‘fair wear and tear’, while providing assurance of safe operation.

## **Section 31—Verification checklist—damage and corrosion checks**

Section 31 provides that the verification checklist must set out each step required to inspect a vehicle for damage or corrosion and repair of damage or corrosion. The checklist must also set out how to conduct a body alignment test and seek information about the vehicle’s history.

The verification checks of damage or corrosion provides a secondary assessment to the one conducted by the user.

### **Section 32—Verification checklist—odometer checks**

Section 32 provides that the verification checklist must set out checks relating to the odometer required to ensure that it accurately reflects the distance travelled and has not been tampered with.

The purpose of these requirements is to provide a degree of certainty for the consumer that the vehicle's mileage is correctly represented.

### **Section 33—Verification checklist—recall checks**

Section 33 provides that the verification checklist must set out the checks required in relation to recalls issued in the vehicle's source market. The checks will set out how to determine whether the RAW has correctly identified all applicable recalls in the vehicle's source market, and whether the vehicle has been rectified to address all issues that led to the recall.

The verification checks relating to recalls ensures that all recalls have been rectified, improving the safety of vehicles provided in the Australian market.

## **Schedule 1—Vehicle Scope: road vehicles entered on the SEVs Register**

Schedule 1 sets out the information that must be included in the Vehicle Scope for a set of Work Instructions that applies to a model, or one or more variants, of a road vehicle that is entered on the SEVs Register (see section 9 of the Determination).

### **Clause 1—Information required—pre-modification specifications**

Clause 1 of Schedule 1 provides that the Vehicle Scope must include the pre-modification specifications listed in table 1 for each model or variant of a road vehicle that may be modified in accordance with each set of Work Instructions in the Model Report.

The user of the Model Report must check these specifications to confirm that the relevant Work Instructions can be used for the modifications. The items listed in the table cover a range of identification elements as well as technical specifications, such as engine configuration, engine capacity and transmission type.

### **Clause 2—Information required—specifications following manufacture or modification**

Clause 2 of Schedule 1 provides that the Vehicle Scope must include the information set out in table 2 for each model or variant of a road vehicle to which each set of Work Instructions in the Model Report applies, as it will stand post-manufacture or modification.

A user of the Model Report and an AVV, will check the vehicle against these specifications to confirm that the manufacture or modification has resulted in the expected outcome. The items listed in the table cover a range of identification elements as well as technical specifications, such as engine configuration, engine capacity and transmission type.

This information also enables the user to confirm that the vehicle has been modified or manufactured using the correct Work Instructions.

### **Clause 3—Standard and non-standard compliance levels (item 5 of table 2)**

Clause 3 of Schedule 1 provides an explanation of the requirements in item 5 of table 2, which requires the Model Report to identify the 'compliance level' of the vehicle. The compliance

level provides an indication of the basis on which the Model Report was approved under the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules, which is a complete statement of the ADRs that apply.

It sets out that the vehicle has a ‘non-standard’ compliance level where it would, once manufactured or modified in accordance with the Model Report:

- comply with the applicable standards (ADRs) set out in the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules, and
- in all other respects, comply with the applicable national road vehicle standards, to an extent that would make the vehicle suitable for use on a public road in Australia.

The level of compliance is considered ‘standard’ when the definition of non-standard does not apply. This, broadly speaking, means that the vehicle would comply with the relevant standards once manufactured or modified in accordance with the Model Report, or any non-compliance would be in minor or inconsequential respects.

or inconsequential

## **Schedule 2—Vehicle Scope: used two-wheeled or three-wheeled vehicles**

Schedule 2 sets out the information that must be included in the Vehicle Scope for a set of Work Instructions that applies to a model, or one or more variants, of a used two- wheeled vehicle or used three- wheeled vehicle that is not entered on the SEVs Register (see section 10 of the Determination).

### **Clause 1—Information required—pre-modification specifications**

Clause 1 of Schedule 2 provides that the Vehicle Scope must include the pre-modification specifications listed in table 1 for each model or variant of road vehicle that may be modified in accordance with each set of Work Instructions in the Model Report.

The user of the Model Report must check these specifications to confirm that the relevant Work Instructions can be used for the modifications. The items listed in the table cover a range of identification elements as well as technical specifications, such as engine configuration, engine capacity and transmission type. The technical elements reflect criteria and requirements covered in Part 4, Division 2 of the Rules.

This information is required to identify the vehicles covered by the Work Instructions and allows the user to confirm that the vehicle to be modified will be modified using the correct Work Instructions.

### **Clause 2—Information required—specifications following manufacture or modification**

Clause 2 of Schedule 2 provides that the Vehicle Scope must include the information in table 2 relating to the specifications of each model or variant of a road vehicle to which each set of Work Instructions in the Model Report applies, as it will stand post-manufacture or modification.

A user of the Model Report and an AVV will check the vehicle against these specifications to confirm that the manufacture or modification has resulted in the expected outcome. The items listed in the table cover a range of identification elements as well as technical specifications, such as engine configuration, engine capacity and transmission type.

This information also enables the user to confirm that the vehicle has been modified or manufactured using the correct Work Instructions.

### **Clause 3—Standard and non-standard compliance levels (item 5 of table 2)**

Clause 3 of Schedule 2 provides an explanation of the requirements for item 5 of table 2, which requires the Model Report to identify the ‘compliance level’ of the vehicle.

The compliance level provides an indication of the basis on which the Model Report was approved under the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules, which is a complete statement of the ADRs that apply.

It sets out that the vehicle has a ‘non-standard’ compliance level where it would, once manufactured or modified in accordance with the Model Report:

- comply with the applicable standards (ADRs) set out in the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules, and
- in all other respects, comply with the applicable national road vehicle standards, to an extent that would make the vehicle suitable for use on a public road in Australia.

The level of compliance is considered ‘standard’ when the definition of non-standard does not apply. This, broadly speaking, means that the vehicle would comply with the relevant standards once manufactured or modified in accordance with the Model Report, or any non-compliance would be in minor or inconsequential respects.

### **Schedule 3—Vehicle Scope: trailers with an aggregate trailer mass of more than 4.5 tonnes**

Schedule 3 sets out the information that must be included in the Vehicle Scope for a set of Work Instructions that applies to a model, or one or more variants, of a trailer with an aggregate trailer mass of more than 4.5 tonnes (see section 11 of the Determination).

#### **Clause 1—Information required—pre-modification specifications**

Clause 1 of Schedule 3 provides that the Vehicle Scope must include the information in table 1 for each model or variant of road vehicle that may be modified in accordance with each set of Work Instructions in the Model Report.

The user of the Model Report must check the specifications to confirm that the relevant Work Instructions can be used for the modifications. The items listed in the table cover a range of identification elements as well as technical specifications, such as unladen trailer mass and aggregate trailer mass.

This information is required to identify the vehicles covered by the Work Instructions and allows the user to confirm that the vehicle to be modified will be modified using the correct Work Instructions.

#### **Clause 2—Information required—specifications following manufacture or modification**

Clause 2 of Schedule 3 provides that the Vehicle Scope must include the information in table 2 relating to the specifications of each model or variant of a road vehicle to which each set of Work Instructions in the Model Report applies, as it will stand post-manufacture or modification.

A user of the Model Report and an AVV will check the vehicle against the specifications to confirm that the manufacture or modification has resulted in the expected outcome. The items listed in the table cover a range of identification elements as well as technical specifications, such as unladen trailer mass and aggregate trailer mass.

This information also enables the user to confirm that the vehicle has been modified or manufactured using the correct Work Instructions.

### **Clause 3—Standard and non-standard compliance levels (item 4 of table 2)**

Clause 3 of Schedule 3 provides an explanation of the requirements for item 4 of table 2, which requires the Model Report to identify the ‘compliance level’ of the vehicle. It sets out that the vehicle has ‘standard’ compliance if it would comply with certain relevant standards once manufactured or modified in accordance with the Model Report, or any non-compliance would be in minor or inconsequential respects. The note explains that ‘full compliance’ will require the Model Report to be approved in keeping with paragraph 74(a) of the Rules. Alternatively, ‘substantial compliance’ relates to Model Report approved in keeping with paragraph 74(b) of the Rules, together with subparagraphs 76(2)(a)(i) and 76(2)(b)(i) of the Rules, where the vehicle substantially complies with the applicable national road vehicle standards.

The level of compliance is considered ‘non-standard’ where the vehicle would, once manufactured or modified, comply with the relevant standards to an extent that would make it suitable for use on a public road in Australia.

### **Schedule 4—Vehicle Scope: road vehicles subject to a second stage of manufacture**

Schedule 4 sets out the information that must be included in the Vehicle Scope for a set of Work Instructions that applies to a model, or one or more variants, of a road vehicle that is entered on the RAV via the type approval pathway and will be subject to second stage of manufacture (see section 12 of the Determination).

#### **Clause 1—Definitions**

Clause 1 of Schedule 4 provides definitions for three terms.

‘Designated seating position’ is particularly relevant for seating in campervans or motorhomes, as it refers to a seating position designed to be occupied when the vehicle is being used in transport. This has been included for consistency with the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules.

The definitions for ‘first stage vehicle’ and ‘SSM vehicle’ (the first stage vehicle once manufactured or modified in accordance with the Model Report, which could include second stage of manufacture), are required to differentiate between the vehicle before and after the second stage of manufacture has occurred.

#### **Clause 2—Standard and non-standard compliance levels (item 5 of table 2)**

Clause 2 of Schedule 4 provides an explanation of the requirements for item 5 table 2, which requires the Model Report to identify the ‘compliance level’ of the vehicle. The compliance level provides an indication of the basis on which the Model Report was approved under the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules, which is a complete statement of the ADRs that apply.

It sets out that the vehicle has a ‘non-standard’ compliance level where it would, once manufactured or modified in accordance with the Model Report:

- comply with the applicable standards set out in the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules, and
- in all other respects, comply with the applicable national road vehicle standards,

to an extent that would make it suitable for use on a public road in Australia.

The level of compliance is considered ‘standard’ when the definition of non-standard does not apply. This, broadly speaking, means that the vehicle would comply with the relevant standards once manufactured or modified in accordance with the Model Report, or any non-compliance would be in minor or inconsequential respects.

### **Clause 3—Information required—pre-modification specifications**

Clause 3 of Schedule 4 provides that the Vehicle Scope must include the information in table 1 for each model or variant of road vehicle that may be modified in accordance with each set of Work Instructions in the Model Report. The user of the Model Report must check the specifications to confirm that the Work Instructions can be used for the modifications. The items listed in the table cover a range of identification elements as well as technical specifications, such as the model of engine or electric motor of the first stage vehicle and the transmission type of the first stage vehicle. The technical elements reflect criteria and requirements covered in Part 4, Division 2 of the Rules.

This information is required to identify the vehicles covered by the Work Instructions and allows the user to confirm that the vehicle to be modified will be modified using the correct Work Instructions.

### **Clause 4—Information required—specifications following manufacture or modification**

Clause 4 of Schedule 4 provides that the Vehicle Scope must include the information set out in table 2 relating to the specifications of each model or variant of a road vehicle to which each set of Work Instructions in the Model Report applies, as it will stand post-manufacture or modification.

A user of the Model Report and an AVV will check the vehicle against the specifications to confirm that the manufacture or modification has resulted in the expected outcome. The items listed in the table cover a range of identification elements as well as technical specifications, such as the model of engine or electric motor of the SSM vehicle and transmission type of the SSM vehicle. The technical elements reflect criteria and requirements covered in Part 4, Division 2 of the Rules.

This information also enables the user to confirm that the vehicle has been modified or manufactured using the correct Work Instructions.

### **Schedule 5—Consumer information notice**

Schedule 5 sets out the content required in a consumer information notice. This includes statements identifying:

- the market for which the vehicle was originally manufactured
- whether the vehicle has undergone a second stage of manufacture
- whether the vehicle is left hand drive, advising that it may not be acceptable for registration in all States and Territories, and that it may not comply with certain national road safety standards in relation to occupant protection and advanced braking

- identification information for the vehicle, and
- the details of modifications that have been made to the vehicle to render it compliant with standards (ADRs) determined under the *Road Vehicle Standards (Model Reports—Compliance with Standards) Determination 2021* made under subsection 89(2) of the Rules.

The notice must also include warnings that:

- the vehicle may not comply with all standards that apply to new vehicles
- service and replacement parts for the vehicle may not be available from a recognised franchised dealer for the relevant make of vehicle
- the vehicle may not have been tested to show it is suitable for operation under Australian conditions, and
- warranty and repair of defects may not be available from the original manufacturer.

The declaration that appears at the end of the notice requires the RAW to confirm that it has performed the modifications in accordance with the Model Report, the vehicle does not have damage or corrosion, or repair thereof, exceeding the limits set out in the *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021* made under section 107 of the Rules, the vehicle's odometer reading is accurate, and the vehicle has been rectified to address any relevant recalls.

The notice enables consumers to make more informed decisions about the purchase of a modified vehicle.

### **Schedule 6—Deterioration limit**

Schedule 6 sets out the deterioration limit (refer to section 22 of the Determination). A vehicle exceeds the deterioration limit if (in respect of a matter dealt with in a standard set out in column 1 of the table) the requirements set out in column 2 of the table are not satisfied.