

EXPLANATORY STATEMENT

Approved by the Hon Barnaby Joyce MP, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

Road Vehicle Standards (Verification of Road Vehicles) Determination 2021

Summary

This Explanatory Statement accompanies the *Road Vehicle Standards (Verification of Road Vehicles) Determination 2021* (the Determination), which was made under section 106 of the *Road Vehicle Standards Rules 2019* (the Rules).

The Determination:

- sets out the requirements that apply where an Authorised Vehicle Verifier (AVV) is verifying a road vehicle that has been manufactured or modified by a registered automotive workshop (RAW) in accordance with an approved Model Report
- sets out administrative requirements that apply in relation to all verifications (such as record-keeping obligations) and addresses the kinds of supporting material that the holder of the AVV approval may rely on when deciding whether to verify a road vehicle under the approval, and
- deals with the kinds of equipment that the AVV must use when inspecting road vehicles, and sets out requirements relating to the maintenance and calibration of that equipment.

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 also 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 106 of the Rules. Section 106 of the Rules provides that the Minister may, by legislative instrument, determine any matter relating to the verification of a road vehicle by the holder of an AVV approval. The matters that the Determination may relate to include:

- the steps that must be taken to verify a road vehicle
- the circumstances, or limits on the circumstances, in which the holder of an AVV approval must or may be satisfied that the signed declaration mentioned in paragraph 65(2)(a) of the Rules is true and accurate
- the kinds of supporting material, or limits on the kinds of supporting material, that the holder of an AVV approval may rely on or take into account when determining whether to verify a road vehicle under the approval

- the technology and equipment to be used in inspecting a road vehicle
- the calibration and maintenance of that technology and equipment
- verification procedures, including verification checklists, for the verification of a road vehicle
- procedures for identifying, and assessing the degree of any damage or corrosion, or repair of damage or corrosion, on a road vehicle
- administrative matters, such as requirements relating to the keeping of reports, evidence or documents that record results of the verification of a road vehicle, and notification requirements.

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 Register of Approved Vehicles (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.

A Model Report is a document setting out how a particular make, model, variant(s) or build range of vehicle may be modified or manufactured to meet the standards that apply to it, given its vehicle category and age.

In order to satisfy the requirements of the concessional RAV entry approval pathway, certain road vehicles (or modifications thereto) must be verified by the holder of an AVV approval in accordance with section 100 of the Rules (which sets out the condition about conduct of verifications). In other cases, a condition may be imposed on an approval granted under the Rules that requires the holder of that approval to have a road vehicle (or modifications thereto) verified by the holder of an AVV approval in accordance with certain requirements.

In such cases, the holder of the AVV approval cannot verify the road vehicle (or modifications) unless it has inspected the vehicle in accordance with the relevant requirements, and is satisfied that the vehicle meets those requirements.

Purpose of the Determination

The Determination sets out requirements relating both to verifications that are required by virtue of section 48 of the Rules (which occur after the road vehicle has been manufactured or modified by the holder of a RAW approval), and to verifications required by a condition of a specific approval. The requirements include those relating to the conduct of the verification, reporting, record keeping, equipment and notification requirements.

The purpose of the Determination is to ensure that that AVVs follow a consistent approach to conducting verifications, decision-making and record keeping. The design of the verification approach is the result of internal and stakeholder consultation and takes into account the interests of a large range of interested parties.

The role of the AVV is to independently check the work of other regulated entities (mainly RAWs). The AVV is not expected to identify all instances of non-compliance with applicable standards or conditions of the road vehicles they verify; rather, they are expected to attain a reasonable level of confidence that the other party has performed its role correctly.

The design of these requirements also takes into account the need for the verification process to be achievable at a reasonable cost. This cost will be determined by each AVV, but competition between AVVs and the requirements establishing a consistent approach should ensure reasonably similar prices for verification of road vehicles involving the same level of complexity.

There are several points at which an AVV may end the verification and formally refuse to verify a road vehicle. The objective of this approach is to discourage RAWs from presenting substandard work in an effort to identify the minimum level accepted by AVVs for a road vehicle to be verified and added to the RAV, and to require the AVV to provide information to the Department of Infrastructure, Transport, Regional Development and Communications (the Department) about RAWs that are presenting unsatisfactory vehicles for verification. This information can be used for risk based compliance activities.

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 verification of road vehicles.

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. The RVSA Tools Consultation Group was consulted on the proposed process of verifications by AVVs.

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* provides 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 also incorporates the following instruments:

- *Vehicle Standard (Australian Design Rule 13/00 – Installation of Lighting and Light Signalling Devices on other than L-Group Vehicles) 2005* (ADR 13/00), and
- *Road Vehicle Standards (Model Reports) Determination 2021*.

ADR 13/00, a national standard, prescribes requirements for the number and mode of installation of lighting and light signalling devices on certain motor vehicles. The *Road Vehicle Standards (Model Reports) Determination 2021*, a legislative instrument made under section 88 of the Rules, which sets out the form and content of a Model Report.

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

Model Reports – not incorporated by reference

For completeness, it is important to note that an approved Model Report is not a legislative instrument and is not incorporated by reference in this Determination. A Model Report is a document protected by copyright and available commercially to industry.

Division 3 of Part 4 of the Rules sets out the process for approving a Model Report. Each Model Report is particular to a specific model or variant of a road vehicle, and 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 RAV. The Model Report approval holder owns all associated intellectual property. The Department publishes a list of approved Model Reports and the contact details of the owner on its ROVER web site: <https://ROVER.infrastructure.gov.au> (unless the owner has requested the details not be published).

The required form and content of a Model Report is set out in the *Road Vehicle Standards (Model Reports) Determination 2021* [F2021L00831] made under section 88 of the Rules.

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 (Verification of Road Vehicles) 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 (Verification of Road Vehicles) Determination 2021* (the Determination) is made under section 106 of the *Road Vehicle Standards Rules 2019* (the Rules).

The *Road Vehicle Standards Act 2018* (the Act) provides 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 Rules set out matters that support the regulatory framework of the Act. The Rules provide for the keeping of a Register of Approved Vehicles (RAV), on which a road vehicle must generally be entered before a person may provide the vehicle for the first time in Australia. A road vehicle may be entered on the RAV if it satisfies the requirements of an entry pathway. The Rules also set out a series of 'tools' – approvals that enable road vehicles to satisfy the requirements of these entry pathways, such as approvals relating to Registered Automotive Workshops (RAWs), authorised vehicle verifiers (AVVs), Model Reports and Testing Facilities.

The Determination sets out requirements relating both to AVV verifications that are required by virtue of section 48 of the Rules (which occur after the road vehicle has been manufactured or modified by the holder of a RAW approval), and to verifications required by a condition of a specific approval. These include requirements relating to the conduct of the verification, reporting, record-keeping and equipment.

Human rights implications

This disallowable instrument supports the regulatory framework of the Act and Rules to ensure that road 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 Barnaby Joyce MP**

ATTACHMENT B—OVERVIEW OF PROVISIONS

Section by section explanation of the *Road Vehicle Standards (Verification of Road Vehicles) Determination 2021*

Part 1—Preliminary

Division 1—Preliminary

Section 1—Name

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

Section 2—Commencement

Section 2 provides that the Determination commences on the date specified.

Section 3—Authority

Section 3 provides that the Determination is made under section 106 of the *Road Vehicle Standards Rules 2019* (the Rules).

Section 4—Purpose of this instrument

Section 4 provides that the purpose of the instrument is to set out matters relating to the verification of a road vehicle by a corporation as an authorised vehicle verifier (AVV).

Division 2—Simplified outline of this instrument

Section 5—Simplified outline of this instrument

Section 5 provides a simplified outline of the Determination.

The simplified outline explains that the instrument sets requirements that apply where the holder of an AVV approval is conducting two broad kinds of verifications.

First, it sets out requirements that apply to verifications required by virtue of section 48 of the Rules. That section sets out a condition that applies to all concessional RAV entry approvals granted under section 37 of the Rules. It provides that a road vehicle covered by such an approval cannot be entered on the Register of Approved Vehicles (RAV) until:

- the holder of a Registered Automotive Workshop (RAW) approval has modified or manufactured the road vehicle in accordance with the requirements set out in an approved Model Report that applies to the vehicle, and
- the holder of an AVV approval has verified the road vehicle, or modifications of the vehicle, in accordance with section 100 of the Rules. (Section 100 sets out a condition about the conduct of verifications.)

A Model Report relates to a model of road vehicle, or one or more variants of a model of road vehicle. It contains the necessary designs and steps for modification or manufacture so that a road vehicle manufactured or modified in accordance with the Model Report meets applicable standards. As such, Model Reports play a critical role for RAWs when modifying or manufacturing a road vehicle. Division 3 of Part 4 of the Rules sets out the process for approving a Model Report. The required form and content of a Model Report is set out in the

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

Model Reports provide a checklist for AVVs to use when verifying a road vehicle's modification or manufacture, and also include information to allow the RAW and the AVV to check for compliance with wider safety requirements, such as recalls.

Second, a concessional RAV entry approval, a non-RAV entry import approval or a reimportation import approval may require the road vehicle, or modifications of the vehicle, to be verified by an AVV. Some (but not all) parts of the Determination are relevant to verifications of this kind.

The Determination also sets out administrative requirements, such as record keeping obligations, and addresses the kinds of supporting material that the AVV may rely on when deciding whether to verify a road vehicle. Finally, the Determination deals with the kinds of equipment to be used in inspecting vehicles and the requirements relating to the equipment's maintenance and calibration.

Division 3—Definitions and application

Section 6—Definitions

Section 6 sets out definitions for the Determination. Notes are provided on some key definitions below. Some of the definitions provide that the terms are the same as defined 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 '**body alignment test**' is set out in the *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021*. The Determination incorporates a number of defined terms from the *Road Vehicle Standards (Model Reports) Determination 2021*, and also provides that a vehicle **exceeds the deterioration limit** in the circumstances described in subsection 4(4) of that Determination.

The definition of '**source market**' is included because the AVV must complete certain checks to determine whether the vehicle is the subject of any unrectified recalls issued in that 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 road vehicle is safe for use in the Australian market.

Section 7—Application of this instrument

Subsection 7(1) provides that the instrument applies to all verifications carried out under an AVV approval, subject to subsection 7(2).

Subsection 7(2) provides that Part 2 (Requirements for the verification of vehicles manufactured or modified by RAW) and section 22 (Requirement to keep record of declaration) only apply to verifications or modifications of road vehicles covered by a concessional RAV entry approval granted on the basis of the eligibility criterion in section 37 of the Rules. Practically speaking, these vehicles will have been manufactured or modified by a RAW in accordance with a Model Report. Subsection 7(2) narrows the application of the instrument in this way because the specified provisions of the Determination are generally irrelevant where there is no RAW

involved. For instance, the declaration mentioned in section 22 (as required under paragraph 65(2)(a) of the Rules) will not exist in such cases.

Part 2—Requirements for the verification of vehicles manufactured or modified by RAW

Division 1—Preliminary

Section 8—Simplified outline of this Part

Section 8 provides a simplified outline of Part 2.

Part 2 sets out requirements relating to the verification of road vehicles where the verification is required by virtue of section 48 of the Rules, i.e. where a RAW has manufactured or modified a road vehicle in accordance with an approved Model Report, and the AVV must verify the vehicle or modifications before the vehicle can be entered on the RAW.

The AVV verification process has three main stages:

- (a) the AVV assesses a declaration provided by a RAW under paragraph 65(2)(a) of the Rules (see Division 2);
- (b) the AVV checks certain things about the vehicle based on information provided by the RAW (see Division 3);
- (c) the AVV completes a physical inspection of the vehicle in accordance with the requirements under Division 4.

The AVV is required to complete the verification using a verification checklist from the Model Report in accordance with which the road vehicle was modified or manufactured. The verification checklist will set out a number of checks that the AVV must complete, as follows:

- (a) scope checks
- (b) manufacture or modification checks
- (c) deterioration checks
- (d) damage and corrosion checks
- (e) odometer checks, and
- (f) recall checks.

Division 2—Stage 1: confirming RAW’s declaration

Section 9—Confirming that declaration is true and accurate

Where the AVV has received the signed declaration mentioned in paragraph 65(2)(a) of the Rules from the RAW, section 9 provides that the AVV may only be satisfied that the declaration provided by the RAW is true and accurate in certain circumstances. This relates to the requirement in subparagraph 100(1)(a)(ii) of the Rules.

The first requirement of ensuring the document identifiers of the Work Instructions are the same is to ensure the RAW and the AVV are using the same version of the Model Report. As the AVV will be issued with the most recent version of the verification checklist by the Department, this will enable the AVV to check whether the RAW has also used the most recent version to complete the manufacture or modification (such that the road vehicle will have been modified or manufactured to comply with the correct standards).

The RAW must provide the AVV with supporting material showing that the RAW is authorised to use the Model Report. A Model Report may only be used by the RAW with the permission of the holder of the Model Report approval. This requirement is intended to assist the holder of a Model Report approval to manage their intellectual property.

Section 10—How to proceed if AVV is not satisfied that declaration is true and accurate

Section 10 provides that if the AVV is not satisfied that the declaration is true and accurate, the AVV must make a record of the reasons it is not satisfied and must not proceed to the next stage in the verification process. In such circumstances, the requirement in subparagraph 100(1)(a)(ii) of the Rules will not be met, and the road vehicle or modifications cannot be verified.

Division 3—Stage 2: checking information provided by the RAW

Section 11—AVV must check information provided by the RAW

Section 11 provides that the AVV must examine all relevant information and documents provided by the RAW to ascertain whether the RAW has completed each check specified in the Work Instructions of the Model Report.

The AVV must perform documentation checks before continuing with verification of the road vehicle. Documentation checks allow an AVV to examine checklists that the RAW is required to complete when undertaking the checks and modifications specified in Work Instructions.

Those checks will enable the AVV to ascertain the matters listed in subsection 11(2) of the Determination – for example, whether the RAW has completed each check specified in the Work Instructions of the Model Report. Broadly speaking, where a circumstance listed in subsection 11(2) of the Determination exists, this will mean that a requirement in subparagraph 100(1)(b) of the Rules will not be met, and the road vehicle or modifications cannot be verified. Accordingly, subsection 11(2) provides that the AVV must not proceed to the next stage of the verification process in such circumstances. This is intended to prevent an AVV from undertaking an unnecessary verification and incurring additional costs for the RAW or vehicle owner.

Under subsection 100(4) of the Rules, the AVV must notify the Department where the vehicle, or any modifications of the vehicle, are not verified. This is intended to assist the Department in assessing overall compliance with legislative requirements. The RAW may consider whether it is appropriate to either repeat or rectify the manufacture or modification, or advise the concessional RAV entry approval holder that the road vehicle is not eligible for entry on the RAV.

Division 4—Stage 3: inspecting the road vehicle

Section 12—Scope check—is the road vehicle covered by the Work Instructions?

Section 12 provides that the AVV must complete each scope check set out in the verification checklist to determine whether the road vehicle is covered by the Work Instructions of the relevant Model Report. Broadly speaking, this involves checking the specifications of the vehicle against the final specifications listed in the ‘Vehicle Scope’ section of the Work Instructions.

Checks on the Vehicle Scope are intended to ensure that the road vehicle has been modified or manufactured in accordance with a Model Report that has been specifically designed for it. Where a vehicle is modified using a Model Report intended for a different vehicle, the modified vehicle may not meet required applicable standards. However, paragraph 12(2)(b) provides

some latitude for minor dimensional variations from the specifications set out in the Vehicle Scope.

Subsection 12(3) provides flexibility to accommodate situations where the Vehicle Scope sets out two or more alternative specifications for a characteristic of the vehicle. Where there are alternative specifications, it is sufficient that the relevant characteristic of the vehicle falls within one of those alternatives.

Subsection 12(4) provides that, where it is necessary to rectify a vehicle in accordance with a recall and that rectification results in a vehicle that differs from the specifications in the Vehicle Scope, the vehicle is not considered to fall outside the Vehicle Scope. This allows the AVV to verify the vehicle if it passes all other verification checks, with improved safety outcomes.

Where the AVV is not satisfied that the vehicle is covered by the relevant Work Instructions, subsection 12(5) provides that the AVV must record the reasons for this on the verification checklist. The AVV is required to complete the verification inspection regardless of any instances of the vehicle not meeting requirements set out in the verification checklist. The intention is that the AVV will report on all failing aspects of the verification in one report. (However, subsection 100(1)(b)(i) of the Rules will still ensure that the vehicle cannot ultimately be verified if it falls outside of the Vehicle Scope. In such circumstances, the vehicle will not have been manufactured or modified in accordance with the latest version of an approved Model Report that applied to the vehicle at the time it was manufactured or modified.)

This approach ensures that the RAW and holder of the concessional RAV entry approval are provided with all relevant information to make a decision about whether to proceed with further attempts to make the vehicle eligible for entry on the RAV.

Section 13—Manufacture or modification checks—has the vehicle been correctly manufactured or modified?

Section 13 provides that the AVV must complete each manufacture or modification check set out in the verification checklist to determine whether (broadly speaking) the RAW has correctly carried out the modification or manufacture required by the Model Report, and whether each system of the vehicle affected by the manufacture or modification is functioning properly. Where the AVV is not satisfied of one or more of those matters, it must record the reasons on the verification checklist and continue with the inspection in accordance with this Determination. (However, subsection 100(1)(b)(i) of the Rules will still ensure that the vehicle cannot ultimately be verified if it fails these checks. In such circumstances, the vehicle will not have been manufactured or modified in accordance with the relevant Model Report.)

This ensures that each system of the road vehicle affected by the manufacture or modification is functioning correctly and that the vehicle will meet the applicable standards.

Section 14—Deterioration checks—does the vehicle pass the deterioration checks?

Section 14 provides that the AVV must complete each deterioration check set out in the verification checklist to determine whether the road vehicle exceeds the deterioration limit. Where the vehicle exceeds the deterioration limit, it will not meet the applicable standards. The AVV must record each respect in which the vehicle exceeds that limit, and the reasons for which it exceeds the limit, and continue with the inspection. (However, subsection 100(1)(b)(i) of the Rules will still ensure that the vehicle cannot ultimately be verified where it does not pass these checks.)

The purpose of this section is to ensure that the road vehicle's components are not worn or otherwise deteriorated to an extent that may compromise the safety of the vehicle.

Section 15—Damage or corrosion checks—does the vehicle exceed the damage or corrosion limit?

Section 15 applies where a damage or corrosion limit has been determined under section 107 of the Rules. The AVV must complete certain checks for damage or corrosion, and repair of damage or corrosion, and assess any damage, corrosion or repair so identified against the limit. (The Minister has determined a limit in the *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021*).

Where the AVV is satisfied that the level of any damage or corrosion, or repair of damage or corrosion, exceeds what is set out in the *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021*, the AVV must record on the verification checklist the reasons why the damage, corrosion or repair exceeds the damage or corrosion limit, and continue with the inspection. (However, subsection 100(1)(b)(ii) of the Rules will still ensure that the road vehicle cannot ultimately be verified where it exceeds the damage or corrosion limit.)

The purpose of this section is to ensure that levels of damage or corrosion, or repair thereof, do not affect the safety of the vehicle.

Section 16—Damage or corrosion checks— has structural integrity been reduced?

Section 16 applies where a damage or corrosion limit has not been determined under section 107 of the Rules. The AVV must complete certain checks for damage or corrosion, and assess whether any damage or corrosion so identified has reduced the road vehicle's structural integrity.

Where the damage or corrosion limit has reduced the vehicle's structural integrity, the AVV must record reasons for that assessment and continue with the inspection. (However, subsection 100(1)(b)(iii) of the Rules will still ensure that the vehicle cannot ultimately be verified in such cases.)

The purpose of this section is to ensure that levels of damage or corrosion, or repair thereof, do not affect the safety of the road vehicle.

Section 17—Damage or corrosion checks—body alignment test

Section 17 applies where a damage or corrosion limit has been determined under section 107 of the Rules, and the AVV finds evidence of repair of damage or corrosion on the road vehicle. The AVV must conduct a body alignment test, unless there is information about the vehicle's history and results of any body alignment test conducted by the RAW that demonstrates the RAW has conducted such a test.

The AVV must consider either the results of a body alignment test conducted by the AVV, or the test results and vehicle history information provided by the RAW (as applicable), in determining whether the vehicle exceeds the damage or corrosion limit.

If that evidence shows the vehicle exceeds the damage or corrosion limit in the *Road Vehicle Standards (Limit of Acceptable Damage or Corrosion) Determination 2021*, the AVV must record the reasons for failure on the verification checklist and continue with the inspection. (However, subsection 100(1)(b)(ii) of the Rules will still ensure that the vehicle cannot ultimately be verified where it exceeds the damage or corrosion limit.)

Section 18—Odometer checks—is the odometer accurate?

Section 18 provides that the AVV must complete each odometer check set out in the verification checklist.

This section provides the requirements for an AVV's check of the vehicle's odometer. The inspection is to identify if the odometer has been replaced, and whether it accurately reflects the distance travelled by the vehicle. If the odometer has been replaced, the AVV must be satisfied that the new odometer's reading accurately reflects the distance travelled by the vehicle. The AVV might not be satisfied that the odometer accurately reflects the vehicle's mileage where, for instance, the odometer has been tampered with. If the odometer has not been replaced, the AVV must be satisfied that it reflects the distance that the vehicle has travelled.

If:

- the odometer has been replaced, and the AVV is not satisfied that the odometer reading accurately reflects the distance the vehicle has travelled, or,
- the odometer has not been replaced, but the AVV is satisfied that it does not reflect the distance that the vehicle has travelled,

the AVV must record the reasons for failure on the verification checklist and continue with the inspection.

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

Section 19—Recall checks—is the vehicle the subject of an unrectified recall?

Section 19 provides that the AVV must complete each recall check set out in the verification checklist.

Under the Work Instructions and verification checklists, the RAW is required to identify any recalls applying to the vehicle in the market for which it was originally manufactured.

If the AVV is not satisfied that the RAW has correctly identified all applicable recalls issued in the vehicle's source market and/or that the vehicle has been rectified to address the issues that led to each recall, the AVV must record the reasons for failure on the verification checklist. The purpose of the AVV check is to ensure that vehicles are not provided to the Australian market with outstanding recalls.

Part 3—Administrative matters

Section 20—Simplified outline of this Part

Section 20 provides a simplified outline of Part 3 of the Determination.

Part 3 of the Determination sets out administrative matters relating to the verification of road vehicles by the holder of an AVV approval. It imposes certain reporting obligations on AVVs with regard to verifications conducted under an approval, and includes guidance on supporting material that may be relied on in determining whether to verify a road vehicle, or modifications of a road vehicle, under an approval.

Section 21—Reporting requirements

Section 21(1) provides for mandatory reporting requirements where the AVV suspects that the vehicle was stolen. That is, as soon as practicable after forming a reasonable suspicion that the vehicle was stolen the AVV must report the theft to police in the relevant State or Territory in which the AVV operates, as the appropriate authority to pursue the matter.

Subsection 21(2) provides that within three business days of an AVV completing a verification to which Part 3 applies, the AVV is required to notify the completion of the verification to the Department. The verification is considered complete when the AVV has completed the checks

required by the verification checklist and has made a decision on whether or not the vehicle has been successfully verified. Subsection 21(3) explains that a reference to ‘completing a verification’ does not include completing a verification report.

Subsection 100(4) of the Rules requires the AVV to complete a verification report, and where the vehicle does not meet the verification requirements, to provide a copy to the Department within one business day of completion of the report. The purpose of these reporting requirements is to ensure that finalisation of the verification is not unduly delayed and that the Department becomes aware of any compliance issues as they arise.

Section 22—Requirement to keep record of declaration

Section 22 provides that the AVV must keep a record of declarations provided by RAWs under paragraph 65(2)(a) of the Rules for each vehicle, or modifications of each road vehicle, presented to an AVV. Section 103 of the Rules requires such a record, or a copy of such a record, to be kept for a period of 7 years starting on the day the record is made.

Section 23—Requirement to keep records of verification

Subsection 23(1) provides that the AVV must keep certain records in relation to each verification carried out under the approval. These records include all correspondence between the AVV and the RAW (where applicable – there may be no RAW involved, in some cases), all correspondence between the AVV and the owner of the vehicle, digital images of certain elements of the vehicle, and the name and qualifications of each inspector involved in the verification.

Subsection 23(2) provides that the AVV is not required to keep records mentioned in subsection 23(1) to the extent that subparagraph 103(a)(i) or (ii) of the Rules already requires the AVV to keep that record.

Section 103 of the Rules relevantly provides that it is a condition of an AVV approval that the holder of the approval must, after conducting a verification of a road vehicle or modifications of a road vehicle under the approval, retain:

- the verification report completed for the vehicle, including, where applicable, the verification checklist completed for the vehicle (subparagraph 103(a)(i) of the Rules); and
- a record of any information that an applicable Model Report mentioned in subparagraph 100(1)(b)(i) of the Rules requires the holder of the approval to review (subparagraph 103(a)(ii) of the Rules). Subparagraph 100(1)(b)(i) of the Rules mentions the latest version of an approved Model Report that applied to the vehicle at the time the vehicle was manufactured or modified.

The purpose of this section 23 of this Determination is to assist the Department to assess the compliance of the RAW and the AVV with the requirements of the Rules and related determinations.

Section 24—Requirement to keep records of equipment

Section 24 provides that the AVV must keep certain records relating to equipment used when conducting verifications under the approval.

The Determination requires the AVV to use certain equipment when conducting verifications to which Part 3 applies. Section 24 requires the AVV to keep records of the type and the instrument number (if any) of such equipment. The AVV must keep records to demonstrate that, broadly speaking, the equipment was appropriately calibrated and maintained at the time it was used in the inspection (as required by section 30 of the Determination).

The requirements to keep records in relation to the equipment used in the inspection supports the accuracy of inspection results in a situation where, for example, such results are subsequently reviewed.

Section 25—Requirement to keep procedures up to date

Section 25 provides that an AVV must maintain up-to-date procedures designed to ensure that verifications under the approval are conducted in accordance with the Determination. This will ensure that the conduct of verifications are consistent and reflect any changes in equipment, processes and safety requirements.

Section 26—Types of supporting material the AVV may rely on

Section 26 sets out a non-exhaustive list of the supporting material that an AVV may rely on in determining whether to verify a road vehicle, or modifications of a road vehicle.

In the verification process, the AVV may be required to undertake a physical examination or testing of the vehicle. However, the AVV may also rely on other supporting material. The supporting material that the AVV may rely on when deciding whether to verify a vehicle or modifications include:

- documentation provided by the RAW
- results of testing or analysis conducted by certain parties, and
- visual or audio-visual material – for example, photographs or videos of the vehicle or its parts.

The AVV may only rely on information provided by the RAW if the AVV is satisfied that the information is true and accurate after taking reasonable steps to determine that matter. Further, it may only rely on the results of certain third-party testing or analysis if satisfied, on reasonable grounds, that the testing or analysis was carried out correctly.

Allowing the AVV to rely on this supporting material reduces the time and expense involved in conducting a verification.

Part 4—Technology and equipment

Section 27—Simplified outline of this Part

Section 27 provides a simplified outline of Part 4 of the Determination. Part 4 sets out the kinds of technology and equipment the holder of an AVV approval must use when conducting inspections under an approval, as well as requiring the AVV to ensure that such technology and equipment is appropriately maintained and calibrated. Part 4 also imposes other miscellaneous requirements in relation to the verification of vehicles.

Section 28—Technology and equipment to be used when inspecting road vehicles

Section 28 provides a table showing the requirements relating to technology and equipment used when conducting an inspection under an AVV approval. The AVV must use the technology and equipment specified in column 1 of the table wherever the AVV does something provided for in column 2 of the table. The technology or equipment must meet applicable standards specified in column 3 of the table, and may take one or more forms specified in column 4.

As an example, the section requires that audio-visual equipment must be used where the AVV takes photographs or videos of a vehicle. The equipment must have sufficiently high resolution

for areas of damage or corrosion, part numbers and similar details to be clearly visible. The equipment may be in the form of a camera, including a camera contained in a mobile phone.

The purpose of this section is to ensure that the AVV uses specific equipment required to demonstrate that the manufacture or modification of the vehicle was conducted in accordance with the Model Report and therefore compliant with the applicable] standards.

Section 29—Location of noise testing

Section 29 relates to the testing of a vehicle against applicable standards relating to the noise of the vehicle. The testing must occur at a site that meets the requirements of the applicable standard regarding stationary noise testing. This is designed to ensure that results are accurate and therefore application of the standard is consistent.

Section 30—Equipment and technology must be appropriately calibrated and maintained

Section 30 sets out requirements for maintenance and calibration of equipment and technology used for inspections, whether it is owned, borrowed or hired by an AVV. Broadly speaking, equipment or technology owned by the AVV must be properly maintained, and appropriately calibrated at the time of each inspection, to ensure that it produces accurate results. Where the equipment or technology is borrowed or hired, the AVV must be satisfied that it is fit for use and in good repair before using it in an inspection. If the equipment or technology is capable of calibration the AVV must verify that it has been appropriately calibrated and keep a copy of the calibration certificate (where available).

The purpose of this section is to ensure quality assurance of equipment and technology used during the vehicle inspection process and that the results of the verification are accurate.