

Australian Capital Territory

Road Transport (Vehicle Registration) Amendment Regulation 2021 (No 1)

Subordinate law SL2021–18

made under the

Road Transport (Driver Licensing) Act 1999, section 26 (Regulation-making power)

Road Transport (General) Act 1999, section 233 (General regulation-making power)

Road Transport (Vehicle Registration) Act 1999, section 13 (General regulation-making power), section 14 (Regulations to establish registration system) and section 15 (Regulations to establish system for vehicle standards and inspections)

EXPLANATORY STATEMENT

The purpose of this Regulation is to provide for the consideration and registration of vehicles approved to be imported and supplied to market under the *Road Vehicle Standards Act 2018* (Cth) (RVSA), the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* (Cth) that commenced on 1 July 2021. This regulation also takes account of the repeal of the *Motor Vehicle Standards Act 1989* (Cth) (MVSA).

This Regulation amends the *Road Transport (Vehicle Registration) Regulation 2000* (the vehicle registration regulation). It also makes consequential amendments to the *Road Transport (Driver Licensing) Regulation 2000* (the driver licensing regulation) and *Road Transport (Offences) Regulation 2005* (the offences regulation).

The authority to make this Regulation is contained in the:

- *Road Transport (Driver Licensing) Act 1999*;
- *Road Transport (Vehicle Registration) Act 1999*; and
- *Road Transport (General) Act 1999*.

Section 26 of the *Road Transport (Driver Licensing) Act 1999* provides the Executive the power to make regulations for that Act.

Section 13 of the *Road Transport (Vehicle Registration) Act 1999* provides the Executive the power to make regulations for that Act.

Section 14 of the *Road Transport (Vehicle Registration) Act 1999* requires that the regulations provide a system of registration of registrable vehicles used on roads or road related areas that provides a means of authorising the use of registrable vehicles on roads or road related areas; and enables the identification of each registrable vehicle used on a road or a road related area, and of the person responsible for it.

Section 15 of the *Road Transport (Vehicle Registration) Act 1999* allows for regulations to make provisions in relation to vehicle standards, inspection or testing of registrable vehicles and the production of registrable vehicles for inspection and testing.

Section 233 of the *Road Transport (General) Act 1999* provides the Executive the power to make regulations for that Act.

The RVSA and its associated legislation regulates the first supply of road motor vehicles into Australia. The RVSA was fully implemented on 1 July 2021, commencing a 12-month transition from the MVSA that is no longer in force.

The registration regulation contains a number of references to the MVSA and its requirements. The registration regulation needs to reflect the transition from the MVSA to the RVSA requirements that affect ACT registered vehicles. Road vehicles will continue to be supplied to the market under the MVSA until 30 June 2022 through the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* (Cth). Road vehicles approved for import and supply to market through the repealed MVSA will continue to be allowed to be registered in the ACT so references to the MVSA in the registration regulation also need to remain in effect.

A number of technical amendments have been made to the registration regulation, driver licensing regulation and offences regulation, to reflect the changes in Commonwealth legislation. The amendments are detailed in the clause notes below.

Retrospectivity

The amendment regulation, apart from items contained in Schedule 1, is taken to have commenced on 1 July 2021. The amended Schedule 1 of the registration regulation commences on the day after the registration regulation is notified.

Taking the amendment regulation to have commenced on 1 July 2021 is not considered to be prejudicial to any person. It is not considered to operate to the disadvantage of any person who has purchased a road vehicle approved for supply to market under the RVSA and has applied for registration of that vehicle in the ACT. It serves to legitimise the registration of those vehicles for which applications for registration have been considered and granted by the road transport authority from 1 July 2021 to the day after notification of the amendment regulation on the ACT Legislation Register.

Human rights implications

There are not considered to be any human rights implications arising from this amendment regulation. The amendments to the registration regulation are technical amendments to align provisions with Commonwealth legislation. The amendments allow for additional pathways to use a registerable vehicle and do not remove existing pathways to use a registerable vehicle.

Climate change implications

There are not considered to be any climate change implications arising from these amendments.

CLAUSE NOTES

Clause 1 **Name of regulation**

This is a technical clause that states the name of the amendment regulation as the *Road Transport (Vehicle Registration) Amendment Regulation 2021 (No 1)*.

Clause 2 **Commencement**

This clause provides that the amendment regulation (other than Schedule 1) is taken to have commenced on 1 July 2021 and that Schedule 1 commences on the day after this Regulation's notification day.

Clause 3 **Legislation amended**

This clause lists the regulations that are being amended by this Regulation. This Regulation amends the *Road Transport (Vehicle Registration) Regulation 2000*. This section notes that this regulation also amends other legislation. The other legislation being amended is the *Road Transport (Driver Licensing) Regulation 2000* and the *Road Transport (Offences) Regulation 2005*.

Clause 4 **Section 5A (2), example 1**

This clause replaces 'national Standard' with 'an ADR' as an example of an instrument to which section 47 (6) of the Legislation Act 2001 does not apply.

This amendment is consequential on changes made because of clause 12 of this regulation.

An explanation of why an ADR does not need to be notified is provided at clause 12 below.

Clause 5 **Section 20, note**

This clause replaces the note in section 20 about vehicles that are not bicycles, replacing the reference to the MVSA with a reference to the RVSA, and updating the note in line with current drafting practices. The amendments align the note with the definition of bicycle in the *Road Transport (General) Act 1999* that was amended prior to the RVSA commencing.

Clause 6 **Section 32B (5)**

This clause amends the subsection to clarify that the age of a taxi is to be measured from 6 months after the end of the month a vehicle is entered on the RAV aligning the requirement with how the age of a vehicle fitted with a identification plate is measured and retains that requirement for a vehicle fitted with identification plates for vehicles not on the RAV.

Clause 7 **Section 33 (1) (a), new note**

This clause inserts a note that evidence of compliance with applicable vehicle standards is dealt with in section 112.

Clause 8 **New section 33 (2) (aa)**

This clause inserts a new provision providing that the road transport authority may refuse to register a vehicle conditionally if the vehicle is not on the RAV because it does not satisfy the approval pathway under the RVSA. This provision preserves existing arrangements where the road transport authority may refuse to register a vehicle conditionally if it does not meet all the ADRs applicable to the vehicle, that entry on the RAV through the type approval pathway would demonstrate. It does not preclude conditional registration from being provided, but allows the road transport authority to refuse that registration if the road transport authority so decides.

Clause 9 **Section 33 (2) (a), new note**

This clause inserts an additional note in section 33 (2) (a) which clarifies that identification plates include compliance plates placed or taken to be placed on vehicles as early as 1972. The change in terminology from compliance plates to identification plates incorporates the use of that term in the MVSA since 1992.

Clause 10 **Sections 112 and 113**

This clause replaces existing sections 112 and 113.

New section 112 expands the evidence the road transport authority may accept that a vehicle complies with the applicable vehicle standards to include an entry on the RAV through the type approval pathway. The amendment retains the allowance that the road transport authority may accept an identification plate as similar evidence and adds a note specifying that the term 'identification plates' includes compliance plates.

This clause also amends section 113 to provide that a registrable vehicle that does not comply with the applicable standards may be conditionally registered if it is on the RAV, and its entry satisfies the requirements of the concessional approval pathways under the RVSA, section 15. As with new section 33 (2) (aa) the provision does not mandate registration being provided but allows the road transport authority to register a vehicle entered on the RAV through the concessional approved pathway if the road transport authority so chooses.

Clause 11 **Schedule 1, section 1.9**

This clause amends section 1.9 of schedule 1. It provides for a vehicle that is on the RAV and complies with the conditions of the approvals required for its entry onto the RAV as an allowance for not meeting a provision of parts 1.5 to 1.12 other than sections 1.24 (1) and (2). Sections 1.24 (1) and (2) require a vehicle to be in right hand drive form if it is under 30 years of age. Section 1.9 has also been restructured in line with current drafting practices.

Clause 12 **Schedule 1, division 1.3.1**

This clause remakes Division 1.3.1 about the interpretation of what the Australian Design Rules (ADRs) are. It restructures the division in line with current drafting practices, reflects that the ADRs are national standards now

made under the RVSA, but preserving ADRs that were in force under the MVSA immediately before the repeal of that Act. It also adds notes to explain that the ADRs in force before the repeal of the MVSA continue to be in force as if it were a national standard made under the RVSA.

The notes under sections 1.11 and 1.12 also advise that the ADRs do not need to be notified and identifies where those ADRs can be accessed.

The *Legislation Act 2001* (LA), section 47 (3) provides that a law of another jurisdiction, or an instrument incorporated by reference is applied as in force at a particular time, that is, as at the time the law incorporating the law or instrument is made. However, the LA, section 47 (4) provides that this general rule may be displaced by an authorising law. The *Road Transport (Vehicle Registration) Act 1999*, s 16 (1), displaces LA, section 47 (3). Section 16 (1) provides that 'A regulation may apply a publication of the National Transport Commission approved, or of matters approved, by the Australian Transport Council or any other instrument as in force from time to time.' Further, the LA, section 47 (6) provides that if section 47 (3) is displaced, the text of the law or instrument that is incorporated as in force from time to time (and any subsequent amendment or remake of it) is a notifiable instrument and must be published on the legislation register. However, the notification requirement under section 47 (6) may also be displaced if the LA, section 47 (7) applies. The *Road Transport (Vehicle Registration) Regulation 2000*, section 5A displaces the LA, section 47 (6) meaning that the 2nd and 3rd edition ADRs are not notifiable instruments. Section 47 (6) is displaced because the ADRs are readily accessible through the Department of Infrastructure, Transport, Regional Development and Communications website at www.infrastructure.gov.au and for the 3rd Edition ADRs are also available on the Federal Register of Legislation at www.legislation.gov.au. The ADRs, particularly the performance based 3rd Edition ADRs, can be very technical and fairly lengthy in nature and individual vehicle owners would not generally refer to the ADRs themselves to determine if their vehicle complied or not.

Clause 13 Schedule 1, sections 1.17 and 1.18

This clause replaces the existing sections 1.17 and 1.18 in schedule 1 and inserts a new section 1.16A.

The new section 1.16A, provides that a vehicle need not comply with an ADR applied in section 1.14(1) or section 1.15 (1) if the vehicle is on the RAV. This provides that a vehicle need not comply with an ADR if approval has been provided under the RVSA for the vehicle to be supplied for use on road.

The new section 1.17 provides that a vehicle need not comply with an ADR if a determination under the RVSA provides that a vehicle is not a road vehicle and preserves the existing provision that a vehicle need not comply with an ADR if there is a determination or declaration under the MVSA that the vehicle is not a road vehicle for that Act.

The new section 1.18 preserves the existing requirements that a vehicle need not comply with an ADR if approved under sections 10A (2) or (3), 14A (1) or 15 (2) and the vehicle meets any conditions imposed by the approval. The provision about an approval under section 14A (1) of the MVSA is limited to vehicles supplied to market before 1 July 2022 when the preservation of parts of the MVSA through the *Road Vehicle Standards (Consequential and Transitional Provisions Act 2018)* (Cth) expire. The provision in relation to approvals under section 15 (2) of the MVSA is limited to approvals under section 15 (2) of that Act in place immediately prior to its repeal.

The note for section 1.18 (1) has been restructured in line with current drafting practice and combines two notes into one.

Two notes have been added under section 1.18 (2) to explain that despite the repeal of the MVSA on 1 July 2021, approvals in force immediately before the repeal continue until 30 June 2022 and new approvals may be given between 1 July 2021 to 30 June 2022 and remain in force until 1 July 2022, and that approvals may be given under the MVSA section 14A (1) may also have been given under section 20 of the repealed *Motor Vehicle Standards Regulations 1989* (Cth).

A note has been added under section 1.18 (3) to explain that approvals given under section 15 (2) of the MVSA may also have been given under section 20 of the repealed *Motor Vehicle Standards Regulations 1989* (Cth).

Clause 14 Schedule 1, sections 1.19 (4)

This clause replaces section 1.19 (4) and more closely aligns the definition of personally imported vehicle with the definition of personally imported vehicle in the MVSA and RVSA and the arrangements for approval to import such vehicles under those Acts and the transition from the MVSA to the RVSA.

A note has been added to explain that despite the repeal of the MVSA, approvals in force immediately before the repeal continue to be in force until 30 June 2022, and that new approvals may be given between 1 July 2021 to 30 June 2022 and remain in force until 1 July 2022. This is because the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* (Cth), allows some of the provisions in the MVSA to still apply. A further note has been added to explain that under an approval under the MVSA the applicant must comply with any road safety requirements imposed by the Minister.

Clause 15 Schedule 1, section 1.21

This clause replaces 'a national standard' with 'an ADR' in section 1.21 and is consequential upon changes made by clause 12.

Clause 16 Schedule 1, section 1.46 (3), note 1

This clause corrects Note 1 in Section 1.46 (3), to identify that the instruments mentioned in the section do not need to be notified rather than needing to be

notified. The wording of the note has also been adjusted to bring it into line with current drafting practices.

Clause 17 **Schedule 1, section 1.63**

This clause replaces the existing section 1.63 about certain light vehicles needing to be fitted with compliance plates.

The amendments are consequential on provisions in the RVSA that instead of requiring a vehicle to be fitted with an identification (compliance) plate require the vehicle to instead be entered on the RAV.

The new section 1.63 requires vehicles registered for the first time after July 1972 to be on the RAV or be fitted with an identification plate unless the vehicle was supplied to the market, approved for use in transport or imported under approvals under the MVSA without an identification plate and the vehicle complies with any conditions of that approval.

Notes have been inserted to identify that identification plate includes compliance plates placed or taken to have been placed on vehicles as early as 1972, that some approvals under the MVSA may continue to be in force until 30 June 2022 and may continue to be given between 1 July 2021 to 30 June 2022, and that approvals given under the MVSA may also have been given under the *Motor Vehicle Standards Regulations 1989* (Cth).

Clause 18 **Schedule 1, section 1.141 (3)**

The clause replaces the existing section 1.141 (3) in schedule 1 to take account of the change through the RVSA from fitting identification plates to vehicles to having vehicles entered on the RAV. It provides that the date a vehicle is taken to be manufactured is the month stated on the vehicle's identification plate if the vehicle is not entered on the RAV, or the month stated in the vehicle's date of entry on the RAV.

The section has been restructured in line with current drafting practices and a note has been added indicating that identification plates include compliance plates placed or taken to be placed on vehicles as early as 1972 under the MVSA.

Clause 19 **Schedule 1, section 1.144**

This clause replaces the existing section 1.144 in schedule 1 to take account of the change through the RVSA from fitting identification plates to vehicles to having vehicles entered on the RAV. It provides that a vehicle is certified to ADR 83/00 if the vehicle is on the RAV under a pathway that includes certification to ADR 83/00 or if approval to place identification plates showing compliance with ADR 83/00 was given under section 10A of the MVSA for vehicles of that type. It also inserts a definition of 'entry pathway' for the section directing people to section 15 (2) of the RVSA.

Clause 20 **Dictionary, note 3**

This clause inserts RAV into the list of terms in note 3 of the dictionary identifying that the meaning of RAV in the vehicle registration regulation has the same meaning as in the *Road Transport (Vehicle Registration) Act 1999* and is defined in the dictionary to that Act.

Clause 21 **Dictionary, definitions of *administrator of vehicle standards and compliance plate***

This clause omits the definitions of ‘administrator of vehicle standards’ and ‘compliance plate’ from the dictionary. The omissions are consequential to other amendments by this regulation.

Clause 22 **Dictionary, definition of *identification plate***

This clause amends the dictionary definition of ‘identification plate’ to account for changes in how the term is used. The definition makes a technical amendment to its reference to the *MVSA* to indicate that it has been repealed.

A number of notes have been added to explain that:

- identification plates were approved for vehicles that complied with national standards, and vehicles that failed to comply but whose non-compliance was inconsequential,
- despite the repeal of the *MVSA* on the 1 July 2021, approvals in force immediately before the repeal continue in force until 30 June 2022,
- new approvals may be given between 1 July 2021 to 30 June 2022 and remain enforce until 30 June 2022, and
- identification plates include compliance plates.

Clause 23 **Dictionary, definitions of *motor vehicle certification board and national standard***

This clause omits definitions of ‘motor vehicle certification board’ and ‘national standard’ from the dictionary as they are not required

Schedule 1 **Consequential amendments**

Part 1.1 **Road Transport (Driver Licensing) Regulation 2000**

Clause [1.1] **Section 99 (2), note**

This clause replaces the note in section 99 (2) of the *Road Transport (Vehicle Registration) Regulation 2000*, to align the note with the definition of bicycle in the *Road Transport (General) Act 1999* that was amended prior to the *RVSA* commencing.

Part 1.2 **Road Transport (Offences) Regulation 2005**

Clause [1.2] **Schedule 1, part 1.15, item 66.31**

This clause amends the description of the offence provision and short description at item 66.31 of part 1.15 of schedule 1 of the *Road Transport (Offences) Regulation 2005* by replacing the term 'compliance plate' with 'identification plate'.

Clause [1.3] **Schedule 1, part 1.15, item 67.11**

This clause amends the description of the offence provision and short description at item 67.11 of part 1.15 of schedule 1 of the *Road Transport (Offences) Regulation 2005* by replacing the term 'compliance plate' with 'identification plate'.