

## Statement of Compatibility with Human Rights

Prepared in accordance with the Thirteenth Assembly Sessional Orders (part 12.3) as adopted on 27 November 2019.

### TRANSPORT LEGISLATION AMENDMENT BILL 2020

#### SERIAL NO.120

This bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

#### Overview of the bill

The Bill will amend the:

- *Motor Vehicles Act 1949*;
- *Traffic Act 1987*;
- *Motor Vehicles Regulations 1977*;
- *Motor Vehicles (Fees and Charges) Regulations 2008*;
- *Motor Vehicles (Standards) Regulations 2003*;
- *Australian Vehicle Standards Rules* (Schedule 6 to the *Motor Vehicles Standards Regulations 2003*);
- *Traffic Regulations 1999*;
- *Australian Road Rules* (Schedule 3 to the *Traffic Regulations 1999*);
- *National Environment Protection Council (Northern Territory) Act 1994*;
- *Dangerous Goods Regulations 1985*; and
- *Motor Accidents (Compensation) Regulations 1984*.

The Bill will make consequential amendments to these Territory laws to reflect the replacement of the *Motor Vehicle Standards Act 1989* (Cth) with the *Road Vehicle Standards Act 2018* (Cth). The amendments will ensure that current, nationally consistent arrangements relating to registering vehicles, driver licence classes, regulating vehicle standards, and providing motor accident compensation will continue upon commencement of the *Road Vehicle Standards Act 2018* (Cth).

The Bill will also make numerous technical consequential, maintenance, and drafting style amendments to related provisions, to ensure they are clear, effective, and remain aligned with local objectives and national approaches.

The *Motor Vehicles Act 1949* is being amended to:

- Define the arrangements that Australian Design Rules will be determined under the *Road Vehicle Standards Act 2018* (Cth), and clarify references to particular Australian Design Rules.
- Prescribe the identification markings that a vehicle approved for use in Australia under the *Road Vehicle Standards Act 2018* (Cth) must have before it is registered, and clarify the identification markings that a vehicle approved for use in Australia prior to the commencement of the *Road Vehicle Standards Act 2018* (Cth) must have before it is registered.
- Clarify the requirement not to tamper with a vehicle's identification markings.
- Clarify how a vehicle's Gross Vehicle Mass and Gross Combination Mass are determined, including upon the commencement of the *Road Vehicle Standards Act 2018* (Cth).
- Define the electronic Register of Approved Vehicles established under the *Road Vehicle Standards Act 2018* (Cth).
- Remove redundant and duplicated vehicle standards requirements from the Act where they are already provided elsewhere under regulations.
- Update outdated general vehicle safety requirements that only capture older vehicle designs, so they apply to all vehicles;
- Clarify and consolidate the safety, security and emission standards that a vehicle must comply with for registration, and when it is being used on public roads.
- Clarify the location a number plate must be affixed to a vehicle.
- Clarify the manner in which a trader's plate must be affixed to a vehicle.

The *Traffic Act 1987* is being amended to:

- Align the definition of Gross Vehicle Mass with the *Motor Vehicles Act 1949*.

The *Motor Vehicles Regulations 1977* are being amended to:

- Update the definition of a moped, so that a moped approved under the *Road Vehicle Standards Act 2018* (Cth) is still considered a moped for licensing purposes.
- Update where a vehicle's identification information is to be obtained from for the purposes of a notice of destruction or a written-off vehicle, so it includes the way information will be displayed on a vehicle approved under the *Road Vehicle Standards Act 2018* (Cth).

The *Motor Vehicles (Fees and Charges) Regulations 2008* are being amended to:

- Update an interpretation note under the definition of production vehicle, so it does not exclude vehicles approved under the *Road Vehicle Standards Act 2018* (Cth).
- Clarify where information relating to the mass of a heavy vehicle is obtained from for the purposes of registration fees.

The *Motor Vehicles (Standards) Regulations 2003* are being amended to:

- Update references to Australian Design Rules, vehicle markings, and Gross Combination Mass, consistent with amendments to the *Motor Vehicles Act 1949*.
- Clarify requirements for a vehicle to have a right-hand-drive.

The *Australian Vehicle Standards Rules* (Schedule 6 to the *Motor Vehicles Standards Regulations 2003*) are being amended to:

- Update any rules that refer to the current Commonwealth law, to ensure they refer to, and apply under the equivalent arrangements upon commencement of the *Road Vehicle Standards Act 2018* (Cth).
- Clarify requirements for a vehicle to have a right-hand-drive in conjunction with amendments to the *Motor Vehicles (Standards) Regulations 2003*.
- Update the reference to Gross Vehicle Mass consistent with amendments to the *Motor Vehicles Act 1949*.
- Clarify the circumstances under Commonwealth law, under which a personally imported vehicle can be imported into Australia, and is subsequently partially exempted from compliance with Australian Design Rules.

The *Traffic Regulations 1999* are being amended to clarify which lights a vehicle must have for the purposes of the *Australian Road Rules*.

The *Australian Road Rules* (Schedule 3 to the *Traffic Regulations 1999*) are being amended to:

- Remove two unhelpful interpretation notes referring to the Australian Design Rule category a bus is in, that will also be incorrect upon the commencement of the *Road Vehicle Standards Act 2018* (Cth).

The *National Environment Protection Council (Northern Territory) Act 1994* is being amended so that references to the legislation and the body that the Council is to develop vehicle emissions standards with continue to be applied in a nationally consistent way upon commencement of the *Road Vehicle Standards Act 2018* (Cth).

The *Dangerous Goods Regulations 1985* are being amended to update how a new vehicle manufactured with a liquid petroleum gas fuel system is approved so it includes vehicles approved under both the current Commonwealth law, as well as under the *Road Vehicle Standards Act 2018* (Cth) when it commences.

The *Motor Accidents (Compensation) Regulations 1984* are being amended to update the type of vehicle prescribed by regulation, so that intended exclusions relating to vehicles that are unregistered, and were never intended to be registered for use on public roads, are not affected by the commencement of the *Road Vehicle Standards Act 2018* (Cth) when it commences.

### **Human rights implications**

The Bill is concerned with amendments regarding technical vehicle requirements, and ensures that the current regimes can continue without involving or leading to any additional measures which will regulate or restrict the activities of members of the community.

Clauses 19 and 23 of the Bill which provide for the expansion of the Registrar of Motor Vehicle's powers to prevent the use of vehicles considered to be a danger, could potentially impact on the right to liberty of movement contained in item 12 of the International Covenant on Civil and Political Rights.

However that right relates to the ability of a person to move freely rather than the means by which they chose to do so. Denying a person to move by means of an unregistered vehicle or, in this case, an unsafe vehicle, is not considered to be a restriction on their freedom to travel to a particular destination.

If it is a restriction on a person's freedom of movement, it is a restriction that is reasonable and proportionate considering that it seeks to prevent harm to the person subject to the restriction (and harm to others), and it does not prevent travel by other means.

This bill does not engage any of the applicable rights or freedoms.

**Conclusion**

This bill is compatible with human rights as it does not raise any human rights issues.