

# Draft Explanatory Statement

Competition and Consumer (Industry  
Codes – Franchising) Amendment (New  
Vehicle Dealership Agreements)  
Regulations 2020

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## Contact Information

For more information about this Explanatory Statement or the consultation process please contact the department.

You can submit your comments using our online survey.

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# Introduction

This draft Explanatory Statement accompanies the Exposure Draft of the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2020 (Exposure Draft Regulation). The Exposure Draft Regulation proposes to amend the *Competition and Consumer (Industry Codes – Franchising) Regulation 2014* (Franchising Code).

The Department of Industry, Science, Energy and Resources (DISER) invites interested parties to provide feedback on the Exposure Draft Regulation and this Explanatory Statement.

DISER is seeking comments on the Exposure Draft Regulation, in particular on any unintended consequences of this regulation or questions with the drafting, rather than on the policy that underpins the amendments as this has already been agreed to by the Government.

Please note that the draft Explanatory Statement is still being developed and is intended only as a guide to assist with the interpretation of the draft regulation. DISER will undertake further editorial review post consultation once the final version of the regulation is settled.

## Background

In its 2017 market study of new car retailing (market study), the Australian Competition and Consumer Commission (ACCC)<sup>1</sup> made a number of recommendations aimed at addressing concerns within the new car retailing market which were leading to suboptimal outcomes for consumers and hindering effective competition.

As part of its market study, the ACCC examined the inter-relationships between the three key groups of entities in the car retailing supply chain – large multi-national car manufacturers (who are often represented by locally based distributors); new car dealers; and independent businesses that service and repair cars (the Australian car retailing industry is further discussed at Appendix 1).<sup>2</sup> The ACCC noted that some of the competition concerns within the new car retailing market stem from the power imbalance in the commercial relationships between the large car manufacturers and the other two groups of entities – new car dealers and independent repairers.<sup>3</sup>

On 20 December 2018, Minister for Industry, Science and Technology, the Hon Karen Andrews MP and Minister for Employment, Skills, Small and Family Business, Senator the Hon Michaelia Cash, released a Regulatory Impact Statement, *Franchise relationships between distributors and new car dealers*, for consultation (draft RIS).<sup>4</sup> In undertaking public consultation on the draft RIS, the Department of Industry, Science, Energy and Resources (DISER) met one-on-one with 21 stakeholders and received 15 written submissions. Meetings were held with a wide range of stakeholders, including industry associations, small rural dealerships, larger dealers and car

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<sup>1</sup> Australian Competition and Consumer Commission, [New car retailing industry market study - final report, 2017, ACCC](#).

<sup>2</sup> ACCC 2017 (Ibid footnote 1).

<sup>3</sup> ACCC 2017 (Ibid footnote 1).

<sup>4</sup> <https://www.minister.industry.gov.au/ministers/karenandrews/media-releases/supporting-competitive-new-car-retailing-sector>

manufacturers. On 8 February 2019, DIIS held a roundtable with key industry bodies to discuss and refine the proposed reforms within the draft RIS.

On 14 March 2019, the Parliamentary Joint Committee on Corporations and Financial Services released its' *Fairness in Franchising* report – the comprehensive report following its inquiry into the operation and effectiveness of the Franchising Code of Conduct. The *Fairness in Franchising* report examined the existing regulatory framework for franchises and the suitability of the protections provided to franchisees. It made a number of recommendations for franchising generally, with two relevant to the automotive industry.<sup>5</sup> The *Fairness in Franchising* report also recommended<sup>6</sup> that the Government consider 'establishing a core franchising code that applies generally, with industry-specific aspects in schedules or sub-codes.'

Following the release of the *Fairness in Franchising* report, DIIS undertook targeted consultation with industry representatives on its updated proposed reforms and the different implementation options, such as a standalone code, amending the Franchising Code and a voluntary code. In consideration of the *Fairness in Franchising* report and feedback received from stakeholders during the RIS consultation, the final RIS supported implementation of the reforms through industry specific amendments to the Franchising Code in line with the recommendations.

The final RIS identified four options with a positive net benefit and address the concerns raised by stakeholders regarding end of term arrangements, capital expenditure disclosure and access to dispute resolution:

1. Requiring manufacturers and dealers to provide at least 12 months' notice when not renewing a dealer agreement. It will also require manufacturers and dealers to discuss, plan and agree end of term arrangements when not renewing an agreement.
2. Requiring manufacturers and dealers to provide a statement to the other party outlining why a dealer agreement is not being renewed.
3. Requiring pre-contractual disclosure of significant capital expenditure to have a greater degree of specificity.
4. Expressly allowing multi-franchisee dispute resolution.

The recommendations broadly align with the recommendations made in the *Fairness in Franchising* report.

On 14 August 2019, Minister Andrews and Minister Cash announced that the Government would consult on draft automotive regulations.<sup>7</sup> The draft regulations have now been released for public consultation and regulate in the areas identified in the final RIS.

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<sup>5</sup> The Government's Franchising Taskforce is considering the general recommendations through a separate process and are outside this process.

<sup>6</sup> Recommendation 17.2, Parliamentary Joint Committee on Corporations and Financial Services 2019, *Fairness in Franchising*, March 2019, pp. 235.

<sup>7</sup> <https://www.minister.industry.gov.au/ministers/karenandrews/media-releases/delivering-fair-and-competitive-car-retailing-sector>

# Outline

The purpose of the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2020 (the Regulation) is to address the effects on commercial arrangements arising from the power imbalance between car manufacturers as franchisors and new car dealers as franchisees.

The Regulation is divided into two Schedules.

Schedule 1 proposes to amend the Franchising Code to introduce two new Parts – Part 5 and Part 6 which apply only to new vehicle dealership agreements (Division 1).

Part 5 introduces amendments which address:

- end of term obligations (Division 2);
- capital expenditure requirements (Division 3); and
- resolving disputes through multi-franchisee dispute resolution (Division 4).

Part 6 provides the application, savings and transitional provisions for the amendments introduced in new Part 5.

Schedule 2 introduces updates to the definition list within the Franchising Code following the inclusion of the term 'new vehicle' by Schedule 1 of the Regulation.

Please note, except where otherwise stated in the Regulation, the remainder of the Franchising Code will continue to apply to new car dealership agreements.

## Notes on clauses

### Clause 1: Name

Upon enactment, the Regulation will be known as the *Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2020*.

### Clause 2: Commencement

Sections 1 to 4 of the Regulation will commence the day after the Regulation is registered.

Schedule 1 of the Regulation will commence on 1 July 2020. The commencement provisions specify a fixed date to give stakeholders certainty. The commencement date of 1 July 2020 will provide stakeholders with approximately 12 months' notice from the release of the Exposure Draft Regulation.

Schedule 2 will commence at the same time as section 15 of the *Road Vehicle Standards Act 2018*.

### Clause 3: Authority

Authority to make the Regulation is provided for under section 51AE of the *Competition and Consumer Act 2010* (Cth).

It is appropriate that the amendments made in the Regulation be implemented by delegated legislation rather than parliamentary enactment. The Regulation does not fundamentally change the law. It adjusts existing requirements to better suit the new car retailing sector and does not implement radical changes. The Regulation is not lengthy nor is it complex.

## Clause 4: Schedules

The Franchising Code is to be amended as set out below in Schedule 1 and Schedule 2 to the Regulation.

### Schedule 1: Amendments

#### **Item 1: Subclause 4(1) of Schedule 1**

This item inserts a new definition for 'new light goods vehicle,' new passenger vehicle,' 'new vehicle' and 'new vehicle dealership agreement' into the list of definitions at subclause 4(1) of the Franchising Code.

In accordance with subsections 14(1)(a) and 14(3) of the *Legislation Act 2003* (Cth) and section 10 of the *Acts Interpretation Act 1901* (Cth) (as applied by paragraph 13(1)(a) of the *Legislation Act 2003* (Cth)) the reference to the *Motor Vehicle Standards Act 1989* (Cth) and the Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005 should be taken to be references to the Act and instrument as in force from time to time.

#### **Item 2: Subclause 4(1) of Schedule 1**

This item repeals the existing definition of 'significant capital expenditure' and inserts a new definition of 'significant capital expenditure.' This amendment is consequential to new clause 51(2) inserted under item 7 of this Regulation.

#### **Item 3: Subdivision B of Division 2 of Part 3 of Schedule 1 (heading)**

This item repeals the heading of Subdivision B of Division 2 of Part 3 Schedule 1 and replaces it with 'Subdivision B – Notification of obligations (other than for new car dealership agreements with a term of 12 months or longer).' This amendment is consequential to new Division 2 of Part 5 inserted under item 7 of this Regulation.

#### **Item 4: Before clause 18 of Schedule 1**

This item inserts new clause 17A. This amendment is consequential to new clause 48 inserted by item 7 of this Regulation.

#### **Item 5: At the end of clause 30 of Schedule 1**

This item inserts new sub-clause 30(3). This amendment is consequential to new clause 51 inserted by item 7 of this Regulation.

#### **Item 6: At the end of clause 35 of Schedule 1**

This item inserts a new note at the end of clause 35. This amendment is consequential to new clause 53 inserted by item 7 of this Regulation.

## **Item 7: After Part 4 of Schedule 1**

This item inserts new Part 5 – New vehicle dealership agreements and new Part 6 – Application, savings transitional provisions into the Franchising Code.

Further detail and explanation of each of the Parts is provided below.

### **New Part 5 - New vehicle dealership agreements**

New Part 5 provides for four new divisions. New Division 1 addresses the application of the amendments contained in new Part 5. New Division 2 inserts new end of term obligations for new vehicle dealership agreements. New Division 3 inserts new capital expenditure provisions for new vehicle dealership agreements. New Division 4 inserts new provisions for new vehicle dealership agreements to highlight the availability of multi-franchisee dispute resolution.

#### ***New Division 1 of new Part 5: Preliminary***

New Division 1 – Preliminary contains new clause 46 (Application of Part). New clause 46 provides that new Part 5 applies to new vehicle dealership agreements.

New clause 46 introduces the term ‘new vehicle dealership agreements’ into the Franchising Code. The Regulation defines this term in amendments to subclause 4(1) contained in item 1. The new definition limits the application of the amendments contained in new Part 5 to new vehicle dealership agreements relating to a motor vehicle dealership that predominantly deals in new passenger vehicles, or new light goods vehicles (or both). For example, the provisions in new Part 5 will apply to motor vehicle dealerships which predominantly sell new cars or sell new light goods vehicles such as utility vehicles and vans or a combination of both. This definition excludes all other motor vehicles such as motorbikes and trucks. As a result, motor vehicle dealerships which sell, for example, dealerships which predominantly deal in trucks and motorbikes will not be subject to the amendments in new Part 5.

#### ***New Division 2 of new Part 5: End of term obligations for certain agreements***

New Division 2 provides for new notification obligations (new clauses 48 and 49) and a new obligation for parties to agree to and enter into a new agreement to manage the winding down of a new vehicle dealership agreement (new clause 50).

These new provisions apply to parties to a new vehicle dealership agreement if the term of the agreement is 12 months or longer (new clause 47). Current clause 18 of the Franchising Code will continue to apply to new vehicle dealership agreements with a term of less than 12 months.

#### ***12 months’ notice - franchisor***

New subclauses 48(1) and (2) introduce new requirements for franchisors of new vehicle dealership agreements to provide 12 months’ notice of their intention to (or not to) extend or enter into a new agreement.

Currently, subclause 18(1) of the Franchising Code provides that franchisors must notify the franchisee, in writing, about whether the franchisor intends to either extend the franchise agreement or enter into a new agreement. Paragraph 18(2)(a) of the Franchising Code provides that the franchisor’s notice must be given at least 6 months before the end of the term of the agreement, if the term of the agreement is 6 months or longer. However, 6 months’ notice does



not provide enough time for a franchisee of a new vehicle dealership agreement to mitigate any losses.

New subclauses 48(1) and (2) (when read in accordance with new clause 47) provide that the franchisor of a new vehicle dealership agreement, that is 12 months or longer, must provide at least 12 months' notice of their intention to extend or enter into a new agreement or to do neither. Consistent with current clause 18 of the Franchising Code, the notice must be given in writing and non-compliance with the notice provisions carries a civil penalty of 300 penalty units. New paragraph 48(2)(b) also provides that the franchisor can reduce the 12 month notice period if agreed by both parties.

This provides for flexibility in the process as well as providing sufficient time for franchisees of new vehicle dealership agreements to search for a new franchisor, sell the site, or where they operate a multi-franchise site, re-configure the site to focus on the remaining brands after the agreement expires.

Also consistent with current subclause 18(3) in the Franchising Code, new subclause 48(3) provides that a franchisor's notice must include a statement that the franchisee may request a disclosure document. A civil penalty of 300 penalty units is attached to this clause and is consistent with current subclause 18(3).

#### Reasons - franchisor

New subclause 48(4) introduces a requirement for a franchisor of a new vehicle dealership agreement to provide reasons in a notice (as per new clause 48(1)) to not enter into or extend the agreement.

Currently, a franchisor of a new vehicle dealership agreement is not required under the Franchising Code to provide reasons for their decision to not enter into or extend the agreement. This has made it difficult for the franchisee to assess whether the franchisor has exercised its right to issue a notice in good faith, as required by clause 6 of the Franchising Code.

New subclause 48(4) provides that the franchisor must provide reasons to the franchisee within the notice to not extend or enter into a new agreement. This allows the franchisee to better assess whether the franchisor has acted in good faith. Failure by the Franchisor to provide a reason can incur a civil penalty of 300 penalty units.

#### 12 months' notice – franchisee

New clause 49 (when read in accordance with new clause 47) requires franchisees of a new vehicle dealership agreement to provide the franchisor with 12 months' notice of their intention to extend or enter into a new agreement, when the term of the agreement is for 12 months' or longer.

Currently, franchisees of a new vehicle dealership agreement are not required to provide notice of their intention to extend or enter into a new agreement. In circumstances where the franchisee provides limited notice it can create difficulties for the franchisor in managing their dealership network, particularly in ensuring that consumers have access to repair services.

New subclause 49(1) provides that the franchisee of a new vehicle dealership agreement must notify the franchisor of whether the franchisee intends to extend or enter into a new agreement.

This notice must be provided in writing. Further, new subclause 49(2) requires that the notice must be given 12 months before the end of the agreement. However, it also allows the franchisee to reduce the 12 month notice period if agreed by both parties.

This provides for flexibility in the process as well as providing sufficient time for the franchisor of a new vehicle dealership agreement to manage and facilitate any adjustments to its dealership network to ensure that consumers have access to services provided by the branded dealership.

#### Managing the winding down of agreement

New clause 50 introduces requirements for parties to a new vehicle dealership agreement to develop and agree to a plan to end the agreement.

Currently, the Franchising Code does not require parties to manage the winding down of a new vehicle dealership agreement. Generally, franchisors of new vehicle dealership agreements will work with dealers to co-operatively manage stock levels after a notice to not extend or not enter a new agreement is provided. However, in the absence of an agreed plan it can lead to a fire sale by the franchisee of excess stock at the end of the agreement which could potentially result in brand damage and devaluation of existing customers vehicles.

New subclause 50(2) (when read in accordance with clause 47) requires that the parties to a new vehicle dealership agreement to agree to a plan for managing the winding down of the agreement. As per subclause 50(1) the requirement to develop and agree a plan is triggered when a party provides notice to not extend or enter into a new agreement under new clauses 48 or 49. The plan will be written and contain milestones specifically including how stock (including new vehicles, spare parts and service and repair equipment) will be managed. Further, new subclause 50(3) requires parties to work together to reduce the stock over the remaining term of the agreement. However, this does not preclude the plan including other matters which the parties consider relevant. In accordance with clause 6 of the Franchising Code, parties will need to act in good faith when undertaking the requirements under clause 50.

This process will assist parties to openly communicate and negotiate appropriate arrangements for the benefit of both parties.

#### ***New Division 3 of New Part 5: Capital expenditure***

New Division 3 provides new requirements for franchisors of new vehicle dealership agreements when requesting capital expenditure.

#### Significant capital expenditure

New clause 51 provides for new capital expenditure provisions for new vehicle dealership agreements in place of current clause 30 of the Franchising Code.

Currently, subclause 30(1) of the Franchising Code provides that a franchisor must not require a franchisee to undertake significant capital expenditure in relation to a franchised business during the term of the franchise agreement.

Subclause 30(2) of the Franchising Code outlines the exclusions to the term significant capital expenditure, which include:

- (a) expenditure that is disclosed to the franchisee in the disclosure document provided to the franchisor prior to entering or renewing the agreement or extending the term or scope of the agreement;
- (b) if expenditure is incurred by all or a majority of franchisees the expenditure needs to be approved by a majority of those franchisees;
- (c) expenditure incurred by the franchisee to comply with legislative obligations;
- (d) expenditure agreed by the franchisee;
- (e) expenditure that the franchisor considers is necessary.

Capital expenditure requested by the franchisor of a new vehicle agreement for site establishment and upgrades can be substantial. This can place significant pressure on the franchisee, particularly when the expenditure is unexpected.

New subclause 51(1) (when read in conjunction with new clause 46) provides that a franchisor of a new vehicle agreement must not require significant capital expenditure during the term of the agreement. This is consistent with existing clause 30(1) of the Franchising Code.

New subclause 51(2) is similar to subclause 30(2) but does not exclude expenditure that the franchisor considers necessary from the definition of significant capital expenditure. As a result, franchisees of new vehicle agreements will not be pressured to undertake undisclosed expenditure. However, the franchisor of a new vehicle agreement can still require expenditure through disclosure, with majority agreement, legislative obligation or as agreed to by the franchisee (as per paragraphs 51(2)(a)-(d)).

#### Information and discussion about capital expenditure

New subclause 52(2) (when read in light of new subclause 52(1)) outlines the type of information to be disclosed by the franchisor in the disclosure document when disclosing expenditure under new paragraph 51(2)(a). New subclause 52(3) also requires the parties to a new vehicle dealership agreement to discuss the expenditure.

Currently, under paragraph 30(2)(a) of the Franchising Code the franchisor can require the franchisee to undertake capital expenditure during the term of a franchise agreement if the expenditure is disclosed to the franchisee in the disclosure document. However, paragraph 30(2)(a) does not require the franchisor to state the exact amount of the capital expenditure in the disclosure document nor does it require the franchisor to provide details of the timing of the expenditure or to discuss the expenditure.

In practice this has resulted in franchisors of new vehicle dealership agreements disclosing extreme ranges of capital expenditure that may be required (for example, \$50 thousand to \$50 million in establishment costs), making the disclosure effectively meaningless. Further, franchisees of new vehicle dealership agreements are being compelled to upgrade dealerships towards the end of a dealership agreement. This places pressure on the franchisee to undertake the expenditure for fear of the franchisor not entering into a new agreement or extending the current agreement.

To address this concern, new subclause 52(2) requires franchisors of new vehicle agreements to provide more specific disclosure regarding the expenditure. This includes specifying, as far as practical, the amount, timing and nature of the expenditure. It is intended that the franchisor of a new vehicle agreement would not be required to precisely disclose information they do not have but would be required to disclose relevant information. This acknowledges that while the

franchisor is aware of the type of upgrade that is required the franchisor does not have oversight of the precise costs as the franchisees engage the services, such as the architect and builder.

Further, new subclauses 52(3) and (4) require the parties of a new vehicle dealership agreement to discuss the expenditure including the circumstances under which the franchisee is likely to recoup the expenditure. In accordance with clause 6 of the Franchising Code, parties will need to act in good faith when undertaking these discussions. Further, given the risk inherent in commercial arrangements, it is not intended that the franchisee will be given a guarantee that they will be able to recoup their costs. This will provide for more tailored and precise disclosure to assist the franchisee in making a clearer assessment of whether they can recoup their expenditure over the term of the agreement.

This measure does not remove the potential for the franchisor to exert pressure on the franchisee to undertake capital expenditure. However, it provides additional transparency to assist franchisees to assess their commercial and legal options.

### ***New Division 4 of New Part 5: Resolving disputes***

New clause 53 explicitly allows for parties to a new vehicle dealership agreement to utilise multi-franchisee dispute resolution.

Currently, Part 4 of the Franchising Code provides mechanisms for parties to resolve a dispute. However, the Franchising Code does not expressly state that parties may undertake multi-franchisee dispute resolution when disputes of a similar nature arise within a franchise system nor does it prevent it.

The Office of the NSW Small Business Commissioner<sup>8</sup> has identified that franchisees of new vehicle dealership agreements are reluctant to commence legal proceedings against the franchisor due to concerns that doing so could cause irreparable damage to their commercial relationship, which is their paramount concern.

New clause 53 expressly provides for multi-franchisee dispute resolution by allowing franchisees with like disputes with the same franchisor to request that their dispute be dealt with together. By expressly allowing franchisees to do so, it could empower franchisees, through strength in numbers, to formalise their complaint and seek a resolution (particularly if the problem is systemic).

### **New Part 6 – Application, savings and transitional provisions**

New Part 6 contains one Division which provides the application, savings and transitional provisions for the amendments provided in new Part 5.

### ***New Division 1 of New Part 6: Amendments made by the Competition and Consumer (Industry Codes – Franchising) Amendment (New Vehicle Dealership Agreements) Regulations 2020***

#### **New clause 54 - Definitions**

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<sup>8</sup> Office of the NSW Small Business Commissioner 2017, [Submission on the draft report of the New Car Retailing Industry Market Study](#), OSBC, 6 September 2017, p. 2.

New clause 54 introduces the term ‘amending regulations’ and ‘commencement date’ for use in new Division 1 of new Part 6 for the application, savings and transitional provisions provided for at new clauses 55 to 57 below.

### New clauses 55 to 57

The principles underpinning the application provisions are that the changes should:

- take effect as soon as possible, to quickly improve the operation and transparency of the amendments; and
- not unduly prejudice parties, particularly with respect to not affecting any existing or in-force contractual terms, particularly if these are agreed to by the parties.

New subclause 55(1) applies to amendments made by new Division 2 of Part 5. The amendments made by Division 2 of Part 5 relate to the new notification obligations and the new obligation for parties to agree to and enter into a new agreement to manage the winding down of a new vehicle dealership agreement. The changes are to apply to new vehicle dealership agreements that are entered into, renewed or extended on or after the commencement date.

New subclause 55(2) ensures that the existing Subdivision B of Division 2 of Part 3 will continue to apply to new vehicle dealership agreements that were entered into, renewed or extended before the commencement date.

New subclause 56(1) applies to amendments made by new clause 51. New clause 51 provides for new capital expenditure provisions for new vehicle dealership agreements. The changes apply to a new vehicle dealership agreement if the disclosure document for the agreement is created or updated on or after commencement and the agreement is then subsequently entered into, renewed or extended.

New subclauses 56(2) and (3) ensure that the existing clause 30 will continue to apply to new vehicle dealership agreements that were entered into, renewed or extended prior to commencement. As well as, where the disclosure document for the agreement is created or updated on or after commencement and the agreement is then entered into, renewed or extended on or after commencement.

New subclause 56(4) applies to amendments made by new clause 52. New clause 52 outlines the information which must be provided in the disclosure document when disclosing capital expenditure before entering into, extending or renewing a new vehicle dealership agreement. The changes apply to a disclosure document that is created or updated on or after commencement and the agreement is then subsequently entered into, renewed or extended.

New clause 57 applies to amendments made by new clause 53. New clause 53 explicitly allows for parties to a new vehicle dealership agreement to utilise multi-franchisee dispute resolution. The changes apply to new vehicle dealership agreements that are entered into, renewed or extended after the creation or updating of the disclosure document.

## Schedule 2 – Amendments relating to commencement of the Road Vehicles Standards Act 2018

Schedule 2 introduces amendments to replace references to the *Motor Vehicle Standards Act 1989* (Cth) with the *Road Vehicle Standards Act 2018* (Cth) when it commences on 1 July 2021.

### **Item 1: Subclause 4(1) of Schedule 1**

This item omits 'new vehicle' and substitutes the term for 'new road vehicle' in the definition of 'new light goods vehicle'. This amendment is consequential to the definition of 'new road vehicle' inserted by item 4 of Schedule 2 of this Regulation.

### **Item 2: Subclause 4(1) of Schedule 1**

This item omits 'new vehicle' and substitutes the term for 'new road vehicle' in the definition of 'new passenger vehicle'. This amendment is consequential to the definition of 'new road vehicle' inserted by item 4 of Schedule 2 of this Regulation.

### **Item 3: Subclause 4(1) of Schedule 1**

This item repeals the definition of 'new vehicle'. This amendment is consequential to the definition of 'new road vehicle' inserted by item 4 of Schedule 2 of this Regulation.

### **Item 4: Subclause 4(1) of Schedule 1**

This item inserts the new term 'new road vehicle' into the list of definitions in subclause 4(1) of the Franchising Code.

Item 1 of Schedule 1 of this Regulation inserts the term 'new vehicle' into the list of definitions contained at subclause 4(1) of the Franchising Code. The term 'new vehicle' has the same meaning as in the *Motor Vehicle Standards Act 1989* (Cth).

The *Motor Vehicle Standards Act 1989* (Cth) will be repealed and the relevant provisions of the *Road Vehicle Standards Act 2018* (Cth) will commence on 1 July 2021. As a result, this item ensures that the definitions remain in-force.

In accordance with subsections 14(1)(a) and 14(3) of the *Legislation Act 2003* (Cth) and section 10 of the *Acts Interpretation Act 1901* (Cth) (as applied by paragraph 13(1)(a) of the *Legislation Act 2003* (Cth)) the reference to the *Road Vehicle Standards Act 2018* (Cth) should be taken to be references to the Act and instrument as in force from time to time.