

Explanatory Statement

Vehicle Standard (Australian Design Rule) Amendment Instrument 2021 (No.2)

Approved by The Hon Kevin Hogan MP, Assistant Minister to the Deputy Prime Minister

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1. LEGISLATIVE AUTHORITY

Vehicle Standard (Australian Design Rule) Amendment Instrument 2021 (No.2) (the Amendment Instrument) is made under section 12 of the *Road Vehicle Standards Act 2018* (RVSA). Section 12 of the RVSA allows the Minister to determine vehicle standards for road vehicles or vehicle components.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides, in part, that the power to amend instruments is conferred by the same power to make the instrument.

2. PURPOSE AND OPERATION

Overview of the RVSA and Australian Design Rules

The RVSA establishes a regulatory framework to regulate the importation and first supply of road vehicles to the market in Australia. The core principle of this framework is that vehicles that comply with appropriate standards are suitable for importation and supply to the market in Australia. The Australian Design Rules have set out those standards since the early 1970s. At that time, they were applied cooperatively by the Australian Motor Vehicle Certification Board representing the Commonwealth and State and Territory Governments. In 1989, this arrangement was replaced by the *Motor Vehicle Standards Act 1989* (MVSA) and the Australian Design Rules were determined as national standards. On 1 July 2021 the RVSA came into force, replacing the MVSA.

Australian vehicle sales represent less than 1% of the global vehicle market. As a result, the Australian Government's policy has been where possible to harmonise with international regulations adopted by the United Nations. This policy provides access for Australians to the safest vehicles at the lowest price.

Once a vehicle has been supplied to the market, responsibility for regulation passes to the relevant state or territory government. States and territories have adopted model law into their own legislation that requires vehicles to maintain compliance with the Australian Design Rules that were applicable to the vehicle at the time it was originally manufactured and supplied to the market in Australia. For this reason, it is important that the Australian Design Rules are maintained, even though the Rule may have been superseded by a new Rule with more stringent requirements.

Operation of the Amendment Instrument

The amendment instrument is intended to amend the following instruments:

- Vehicle Standard (Australian Design Rule - Harmonization) 2012, clauses 3, 4 and 5, by:
 - Updating the names of international bodies, by changing references to United Nations Economic Commission for Europe (UNECE) and

- Economic Commission for Europe Regulations (ECER) to United Nations (UN) and UN Regulations (UNR).
- Updating the definition of the '**1958 Agreement**' to be the *Agreement Concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these United Nations Regulations*.
- Vehicle Standard (Australian Design Rule - Definitions and Vehicle Categories) 2005, by:
 - Amending the definition of 'COMPONENT TYPE APPROVAL NUMBERS 38/...' to include Sub Assembly Registration Numbers given under the *Motor Vehicle Standards Act 1989* to make it clear that they should be included on vehicle marking plates under Vehicle Standard (Australian Design Rule 61/03 – Vehicle Marking) 2020, for manufacturers who have opted in to the transitional provisions under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*.
 - Amending the definition of 'ECE REGULATION - (UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE REGULATION)' to point to United Nations Regulations.
 - Amending the definition of 'ECE REGULATION - (UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE REGULATION)' to remove reference to a non-existent part of the ADR (Part 3).
 - Amending the definitions of 'ELECTRICALLY POWER-ASSISTED CYCLE (EPAC)' and, 'POWER-ASSISTED PEDAL CYCLE' in order to align with the Road Vehicle Standards (Classes of Vehicles that are not Road Vehicles) Determination 2021. The primary difference is that human pedal power is not needed until the vehicle reaches 6 km/hr.
 - Correcting a typographical error where 'continued' is used instead of 'continuous' in the 'ELECTRICALLY POWER-ASSISTED CYCLE (EPAC)' definition.
 - Inserting a definition for 'UN REGULATION - (UNITED NATIONS REGULATION)'.
 - Inserting a note immediately after clause 5.7 clarifying that vehicle category 'GVM' limits are inclusive in order to alleviate confusion at the jurisdiction level.
 - Vehicle Standard (Australian Design Rule 30/01 — Smoke Emission Control for Diesel Vehicles) 2006, by:
 - Inserting a new clause 2.5 in clause 2. Applicability and Implementation, to exclude vehicles which already comply with the requirements of - Vehicle Standard (Australian Design Rule 79/04 — Emission Control for Light Vehicles) 2011; and Vehicle Standard (Australian Design Rule

- 80/03 — Emission Control for Heavy Vehicles) 2006; as these standards are more stringent.
- Amending Appendix A to indicate that the document has been compiled by the Department, using the current name of the Department.
- Vehicle Standard (Australian Design Rule 31/04 – Brake Systems for Passenger Cars) 2017, by:
 - Amending clause 3. Applicability, to make it clearer that LEP vehicles are not required to comply with ADRs 88 and 89.
 - Amending clause 3. Applicability, to use full citations for ADRs.
 - Inserting a footnote explaining that ellipses (...) are used in ADR names to substitute for the version number.
- Vehicle Standard (Australian Design Rule 79/04 — Emission Control for Light Vehicles) 2011, by:
 - Amending clause 3.1 to align the definition of ‘date of manufacture’ with the ADR Definitions.
 - Amending Appendix A to indicate that the document has been compiled by the Department, using the current name of the Department.
- Vehicle Standard (Australian Design Rule 80/03 - Emission Control for Heavy Vehicles) 2006, by:
 - Amending clause titles to account for further amendments to the ADR.
 - Amending clause 3.1 to align the definition of ‘date of manufacture’ with the ADR Definitions.
 - Amending the title pages of Appendixes A, B, C and D.
- Vehicle Standard (Australian Design Rule 81/02 — Fuel Consumption Labelling for Light Vehicles) 2008, by:
 - Amending clause titles to account for further amendments to the ADR.
 - Amending clause 3.1 to align the definition of date of manufacture with the ADR Definitions.
 - Amending Appendix C to indicate that the document has been compiled by the Department, using the current name of the Department.

3. MATTERS INCORPORATED BY REFERENCE

Nil

4. CONSULTATION

It has been a longstanding practice to consult widely on proposed new or amended vehicle standards. For many years, there has been an active collaboration between the Commonwealth and the state/territory governments, as well as consultation with industry and consumer groups. Much of the consultation takes place within institutional arrangements established for this purpose. The analysis and documentation prepared in a

particular case, and the bodies consulted, depending on the degree of impact the new or amended standard is expected to have on industry or road users.

In this case, the Department consulted on the proposed amendments through the Technical Liaison Group. TLG consists of technical representatives of government (Australian and state/territory), the manufacturing and operational arms of the industry (including organisations such as the Federal Chamber of Automotive Industries and the Australian Trucking Association) and representative organisations of consumers and road users (particularly through the Australian Automobile Association).

On 29 July 2021, the Department presented the proposed amendments to a meeting of the TLG seeking endorsement. The proposed amendments were endorsed without change.

5. REGULATORY IMPACT

The Department considered these amendments to be minor in nature and consulted with the OBPR on the requirement for a RIS. The OBPR advised that the Amendment Instrument does not warrant the preparation of a RIS because the proposed regulatory changes in the Amendment Instrument are minor and machinery in nature. The reference number for OBPR's assessment is OBPR ID 43171.

6. STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

The following Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Department has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

The amendment instrument does not raise any human rights issues.