

Explanatory Statement

Vehicle Standard (Australian Design Rule 83/00 – External Noise) Amendment Instrument
2021 (No.1)

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 83/00 - External Noise) Amendment Instrument 2021 (No.1) (the Amendment Instrument) is made under section 7 of the *Motor Vehicle Standards Act 1989* (MVSA). Section 7 of the MVSA 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 MVSA and Australian Design Rules

The MVSA 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 MVSA and the Australian Design Rules were determined as national standards.

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 For this reason, it is important that the Australian Design Rules are maintained, even though the Rule may have been superseded by a new Rule with more stringent requirements.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 Vehicle Standard (Australian Design Rule 83/00 – External Noise) 2005 (ADR 83/00). ADR 83/00 sets limits for the emission of external noise for all motor vehicles. It does this by adopting a number of internationally harmonised vehicle regulations published by the United Nations. The main purpose of this amendment is to add an additional UN regulation to the acceptable alternative standards covering three wheeled vehicles. This change further harmonises the ADR with international standards and removes the need for some manufacturers to undertake additional testing for supply to Australia.

The amendment instrument reformats the applicability requirements to make them easier to understand and more consistent with the approach used in other ADRs.

The amendment instrument clarifies the definitions of some terms used in the ADR by adding additional defined terms to the ADR and referencing other defined terms set out in Appendices to the ADR and used in the Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005. For example it clarifies the terms M category vehicles, N category vehicles and L category vehicles to remove ambiguity about which vehicles are covered by the ADR. It also clarifies the definition of Rated maximum net power which is a term used in the body of the ADR but only defined in one of the appendices.

The amendment instrument expands the versions of acceptable alternative standards to include the latest UN Regulations applicable to Passenger Vehicles, Goods Vehicles and two wheeled vehicles. This change allows vehicle manufacturers to optionally comply with a later version of a UN regulation, it does not mandate the later version.

The effect of the proposed changes will be to reduce regulatory burden on some vehicle manufacturers and importers. This will be achieved by making it easier for vehicle manufacturers to supply vehicles complying with the latest international noise standards without the need for further testing.

Matters Incorporated By Reference

Section 7A of the MVSA provides for the incorporation of documents setting out standards. The Amendment Instrument only references documents setting out standards published by the United Nations Economic Commission for Europe. The documents will be incorporated as at the time of commencement of the Amendment Instrument.

The Amendment Instrument includes references to the following documents incorporated by reference:

- United Nations Regulation No. 51 - UNIFORM PROVISIONS CONCERNING THE APPROVAL OF MOTOR VEHICLES HAVING AT LEAST FOUR WHEELS WITH REGARD TO THEIR NOISE EMISSIONS
- United Nations Regulation No. 41 UNIFORM PROVISIONS CONCERNING THE APPROVAL OF MOTOR CYCLES WITH REGARD TO NOISE
- United Nations Regulation No. 63 UNIFORM PROVISIONS CONCERNING THE APPROVAL OF TWO-WHEELED MOPEDS WITH REGARD TO NOISE
- United Nations Regulation No. 9 UNIFORM PROVISIONS CONCERNING THE APPROVAL OF L2, L4 AND L5 WITH REGARD TO NOISE

United Nations Regulations may be freely accessed online through the UN World Forum for the Harmonization of Vehicle Regulations (WP.29). The WP.29 website is www.unece.org/trans/main/welcwp29.html.

3. 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 30 September 2020, the Department presented the proposed amendments to a meeting of the TLG seeking endorsement. The proposed amendments were endorsed without change.

4. 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 43264.

5. 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.