

# **Vehicle Standard (Australian Design Rule 38/02 – Trailer Brake Systems) 2005**

Made under section 7 of the Motor Vehicle Standards Act 1989

## **Explanatory Statement**

Issued by the authority of the Minister for Transport and  
Regional Service

**November 2005**

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## **1. LEGISLATIVE CONTEXT**

*Vehicle Standard (Australian Design Rule 38/02 — Trailer Brake Systems) 2005* is made under the *Motor Vehicle Standards Act 1989* (the Act). The Act enables the Australian Government to establish nationally uniform standards for road vehicles when they are first supplied to the market in Australia. The Act applies to such vehicles whether they are manufactured in Australia or are imported as new or second hand vehicles.

The making of the vehicle standards necessary for the Act's effective operation is provided for in section 7 which empowers the Minister to "determine vehicle standards for road vehicles or vehicle components".

Australian Design Rule (ADR) 38/02 was originally determined in *Road Vehicle (National Standards) Determination 3 of 1996* and has been amended in two subsequent determinations. ADR 38/02 is being remade to comply with the requirements of the *Legislative Instruments Act 2003* (LIA) and to enable its registration in accordance with the requirements of the Federal Register of Legislative Instruments. The remaking of ADR 38/02 has not altered the substance of the standard as last determined.

## **2. IMPACT OF THE LEGISLATIVE INSTRUMENTS ACT 2003**

Until now ADRs have been determined in “packages”, that is, a single determination will create, amend and repeal multiple ADRs. In example, Determination 1 of 1991 amended 32 ADRs and Determination 2 of 2003 created one new ADR and amended 13. The determination is the legislative instrument, not the ADR itself.

The intent of the LIA is to allow easy access to all legislative instruments and to be able to track their history and changes. The current form of determination used to create vehicle standards does not allow for this as it is difficult to isolate the change history of individual ADRs and the legislative instruments (the determinations) do not contain the information of importance to those using the ADRs – the vehicle standards.

In consultation with the Attorney General’s Department it has been agreed that the most effective solution is to remake each ADR as a separate vehicle standard determined under section 7 of the Act. In doing this, there is no need to backcapture the old determinations and the new layout better fits the intent of the LIA. With each ADR as a separate vehicle standard it will be possible for interested parties to view the ADR and its change history on the Federal Register of Legislative Instruments.

## **3. CONTENT AND EFFECT OF ADR 38/02 - TRAILER BRAKE SYSTEMS**

### **3.1. Overview of the ADR**

The function of this vehicle standard is to specify requirements for trailer braking systems under both normal and emergency conditions.

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### 3.2. Changes to the ADR

The following changes have been made to the ADR:

- Format. The ADR is now presented as a single column of text rather than two columns.
- Spelling and grammar. Several typographical errors have been corrected.
- Replace clause 1 with the following.

**“1. LEGISLATIVE PROVISIONS**

**1.1. NAME OF STANDARD**

- 1.1.1. This Standard is the Vehicle Standard (Australian Design Rule 38/02 – Trailer Brake Systems) 2005.
- 1.1.2. This Standard may also be cited as Australian Design Rule 38/02 — Trailer Brake Systems.

**1.2. COMMENCEMENT**

- 1.2.1. This Standard commences on the day after it is registered.

**1.3. REPEAL**

- 1.3.1. This Standard repeals each vehicle standard with the name Australian Design Rule 38/02 — Trailer Brake Systems that is:
  - (a) made under section 7 of the Motor Vehicles Standard Act 1989; and
  - (b) in force at the commencement of this Standard.
- 1.3.2. This Standard also repeals each instrument made under section 7 of the Motor Vehicles Standard Act 1989 that creates a vehicle standard with the name Australian Design Rule 38/02 — Trailer Brake Systems, if there are no other vehicle standards created by that instrument, or amendments to vehicle standards made by that instrument, that are still in force at the commencement of this Standard. “

- In clause 2.1 replace “... national standard ...” with “... vehicle standard ...”
- Replace the text of the Definitions clause with “Refer to Vehicle Standard (Australian Design Rule Definitions and Vehicle Categories) 2005.”

The text of clause 1 has been provided by the Attorney General’s Department to facilitate remaking each ADR as a separate legislative instrument. This text repeals and replaces each ADR as a vehicle standard independently of the Determination under which it was made. Once all ADRs made under a particular Determination have been remade, that Determination is repealed.

Changes to clause 4 have been made to reference the ADR Definitions and Vehicle Categories as remade for the LIA requirements.

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### 3.3. Documents Incorporated by Reference

This section lists documents referenced in the vehicle standard and how they can be obtained.

- Australian Design Rules can be purchased on CD-ROM from the Department of Transport and Regional Services. As the ADRs are remade, they will also be available at <http://www.comlaw.gov.au>.
  - Australian Design Rule – Definitions and Vehicle Categories
- SAI Global can provide both Australian standards and English translations of many international standards. Their website is accessible at <http://www.standards.com.au/catalogue/script/search.asp>.
  - AS D8 - 1971, “Hose Couplings for use with Vacuum and Air-pressure Braking Systems on Prime-movers, Trailers and Semi-trailers”
- UNECE Regulations are available from their website, <http://www.unece.org/trans/main/wp29/wp29regs.html>.
  - UNECE 13/05 Braking on vehicles of categories M, N and O

## 4. CONSULTATION ARRANGEMENTS

### 4.1. Specific Consultation Arrangements for this Vehicle Standard

As the changes to this vehicle standard are purely administrative (to comply with the LIA) no public consultation has been undertaken.

The Department of Transport and Regional Services has sought advice and assistance from the Office of Legislative Drafting and the Federal Register of Legislative Instruments on how best to handle the backcapture requirements of the LIA.

The Office of Regulation Review has agreed that a regulation impact statement is not required as the intent and technical content of the vehicle standard has not changed.

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