

Vehicle Standard (Australian Design Rule 35/04 – Commercial Vehicle Brake Systems) 2013

Made under section 7 of the Motor Vehicle Standards Act 1989

Explanatory Statement

Issued by the authority of the Minister for Road Safety

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CONTENTS

| | | |
|------|--|---|
| 1. | LEGISLATIVE CONTEXT | 3 |
| 2. | CONTENT AND EFFECT OF ADR 35/04 | 3 |
| 2.1. | Overview of the ADR | 3 |
| 2.2. | Effect of the ADR | 3 |
| 3. | BEST PRACTICE REGULATION | 4 |
| 3.1. | Business Cost Calculator | 4 |
| 3.2. | General Consultation Arrangements | 4 |
| 3.3. | Specific Consultation Arrangements for this Vehicle Standard | 5 |
| 4. | STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS | 5 |
| 4.1. | Overview of the Legislative Instrument | 5 |
| 4.2. | Human Rights Implications | 5 |
| 4.3. | Conclusion | 5 |

1. LEGISLATIVE CONTEXT

Vehicle Standard (Australian Design Rule 35/04 – Commercial Vehicle Brake Systems) 2013 is made under the *Motor Vehicle Standards Act 1989* (the Act). The Act enables the Australian Government to establish nationally uniform standards that apply to new 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 imported.

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".

Vehicle Standard (Australian Design Rule 35/04 – Commercial Vehicle Brake Systems) 2013 (ADR 35/04) is being made to replace Vehicle Standard (Australian Design Rule 35/03 – Commercial Vehicle Brake Systems) 2009 (ADR 35/03), which was originally determined in 2009. It is necessary to make a new standard rather than an amendment as the requirements have increased in stringency and the text as last determined has been substantially altered.

2. CONTENT AND EFFECT OF ADR 35/04 – COMMERCIAL VEHICLE BRAKE SYSTEMS

2.1. Overview of the ADR

The function of this vehicle standard is to ensure safe braking for commercial vehicles and large passenger vehicles under normal and emergency conditions. The standard also contains provisions for some light passenger vehicles.

2.2. Effect of the ADR

This vehicle standard is being made to implement part of Phase I of the National Heavy Vehicle Braking Strategy (NHVBS). It mandates Antilock Brake Systems (ABS) for new heavy trucks and buses.

ABS is a driver assistance system designed to prevent wheels from locking when the vehicle is braked in an emergency situation. Research has shown that ABS increases the directional stability of heavy vehicles under braking and so reduces crash related fatalities and injuries, with an estimated effectiveness of between 3 and 8 per cent.

Under the ADR, ABS will be mandated for medium to heavy trucks and heavy buses (Australian vehicle categories NB1, NB2, NC, MD4 and ME). This standard will require ABS to be fitted to new commercial vehicles starting from 1 July 2014 for new vehicle models and 1 January 2015 for all vehicle models.

Overall, this new standard is expected to reduce road trauma and associated costs from crashes involving heavy commercial vehicles.

3. BEST PRACTICE REGULATION

3.1. Business Cost Calculator

There are costs associated with mandating ABS but the related Regulation Impact Statement (RIS), which considers changes to both ADR 35 and ADR 38 - Trailer Braking Systems, shows that there will be positive net benefits. Overall, the standard will provide towards a reduction in road trauma, estimated at a total of 36-57 lives over a period of 30 years for ADR 35 and ADR 38 combined. This includes 4 years of operation of the standards before the next Phase of the NHVBS, with around \$46-73 million in net benefits.

3.2. General Consultation Arrangements

It has been longstanding practice to consult widely on proposed new or amended vehicle standards. For many years there has been active collaboration between the Federal 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, depend on the degree of impact the new or amended standard is expected to have on industry or road users.

Depending on the nature of the proposed changes, consultation could involve the Strategic Vehicle Safety and Environment Group (SVSEG), Technical Liaison Group (TLG), Transport and Infrastructure Senior Officials' Committee (TISOC) and the Standing Council on Transport and Infrastructure (SCOTI).

- SVSEG consists of senior 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 of representative organisations of consumers and road users (particularly through the Australian Automobile Association).
- TLG consists of technical representatives of government (Australian and state/territory), the manufacturing and operational arms of the industry and of representative organisations of consumers and road users (the same organisations as represented in SVSEG).
- TISOC consists of state and territory transport and/or infrastructure Chief Executive Officers (CEO) (or equivalents), the CEO of the National Transport Commission, New Zealand and the Australian Local Government Association.
- SCOTI consists of the Australian, state/territory and New Zealand Ministers with responsibility for transport and infrastructure issues.

Editorial changes and changes to correct errors are processed by the Department of Infrastructure and Transport. This approach is only used where the amendments do not vary the intent of the vehicle standard.

Proposals that are regarded as significant need to be supported by a RIS meeting the requirements of the Office of Best Practice Regulation (OBPR) as published in *Best Practice Regulation Handbook* and the Council of Australian Governments *Principles and Guidelines for National Standard Setting and Regulatory Action for Ministerial Councils and Standard-Setting Bodies*.

3.3. Specific Consultation Arrangements for this Vehicle Standard

The consultation process has been ongoing in nature. It has followed on from a full review of ADRs 35 and 38 beginning in 2006, with one of the outcomes being the NHVBS. A detailed public consultation process was carried out initially in the forming of the NHVBS and this was subsequently supported through the public comment process for the National Road Safety Strategy 2011-20. The proposal has been discussed a number of times at SVSEG and TLG meetings and no objections were raised regarding ADR 35.

A consultation RIS and draft ADRs were released for industry comment in June 2013. The RIS conforms to the requirements established by the OBPR in relation to regulatory proposals where the decision maker is the Australian Government's Cabinet, the Prime Minister, minister, statutory authority, board or other regulator. The OBPR reference number for the RIS is 14546.

4. STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

4.1. Overview of the Legislative Instrument

ADR 35/04 is being made to replace ADR 35/03. It introduces requirements for ABS to be fitted to heavy commercial vehicles.

4.2. Human Rights Implications

ADR 35/04 does not engage any of the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

4.3. Conclusion

ADR 35/04 is compatible with human rights as it does not raise any human rights issues.