

Vehicle Standard (Australian Design Rule 38/04 – Trailer Brake Systems) 2013 Amendment 1

Made under section 7 of the Motor Vehicle Standards Act 1989

Explanatory Statement

Issued by the authority of the Assistant Minister for Infrastructure and Regional
Development

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1. LEGISLATIVE CONTEXT

Vehicle Standard (Australian Design Rule 38/04 – Trailer Brake Systems) 2013 Amendment 1 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 38/04 – Trailer Brake Systems) 2013 (ADR 38/04) was originally determined in 2013 and has never been amended.

2. CONTENT AND EFFECT OF ADR 38/04 AND THE AMENDMENT

2.1. Overview of the ADR

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

2.2. Effect of the ADR Amendment

This amendment implements the following changes:

- A clarification of clause 11.1 in that the testing of brake balance of a dog trailer shall be carried out with any Antilock Brake System (ABS) disconnected.
- A relaxation to Appendix 1 clause 2.1, permitting more flexibility in ABS sensor configuration and so better alignment with United Nations (UN) Regulation 13 (UN R13).
- Deletion of clause 4.5, relaxing the requirement for trailers of 4.5 tonnes or less to be fitted with ABS or a variable proportioning brake system. This will align requirements with the alternative compliance path available through Vehicle Standards Bulletin 1.
- A typographical correction to the referenced standard in clause 5.10.

These changes do not affect the original intent or operation of the standard but are expected to improve the ease of use of the ADR.

3. BEST PRACTICE REGULATION

3.1. Business Cost Calculator

There is no expected increase in cost to manufacturers, as the proposed amendment does not increase the stringency of the ADR.

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), Australian Motor Vehicle Certification Board (AMVCB), Technical Liaison Group (TLG), Transport and Infrastructure Senior Officials' Committee (TISOC) and the Transport and Infrastructure Council.

- SVSEG consists of senior representatives of government agencies (Australian and state/territory), the National Transport Commission and the National Heavy Vehicle Regulator, 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).
- AMVCB consists of technical representatives of government regulatory authorities (Australian and state/territory) that deal with ADR and other general vehicle issues, and the National Transport Commission and the National Heavy Vehicle Regulator.
- TLG consists of technical representatives of government agencies (Australian and state/territory), the National Transport Commission and the National Heavy Vehicle Regulator, 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.
- The Transport and Infrastructure Council 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 Regional Development. 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 Regulation Impact Statement meeting the requirements of the Office of Best Practice Regulation (OBPR) as published in *The Australian Government Guide to Regulation* and the Council of Australian Governments *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*.

3.3. Specific Consultation Arrangements for this Vehicle Standard

The changes have been made in consultation and full agreement of the AMVCB and the SVSEG industry reference group formed to discuss the National Heavy Vehicle Braking Strategy (NHVBS).

3.4. Regulation Impact Statement

As the proposed amendment does not increase the stringency of the ADR, a RIS is not required.

Since the decision is made by the Assistant Minister for Infrastructure and Regional Development without reference to the Transport and Infrastructure Council and the proposal is not considered significant, the Office of Best Practice Regulation requirements have been met for this regulatory proposal (OBPR Reference ID 17329).

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

This amendment implements relaxations, clarifications and corrections to ADR 38/04. It does not affect the original intent or operation of the standard.

4.2. Human Rights Implications

This amendment 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

The amendment to the ADR 38/04 is compatible with human rights as it does not raise any human rights issues.