

**Vehicle Standard (Australian Design Rule 42/04 –
General Safety Requirements) 2005 Amendment
5**

Made under section 7 of the *Motor Vehicle Standards Act 1989*

Explanatory Statement

Issued by the authority of the Minister for Territories, Local Government and Major
Projects

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CONTENTS

1.	LEGISLATIVE CONTEXT.....	3
2.	CONTENT AND EFFECT OF ADR 42/04 AND THE AMENDMENT	3
2.1.	Overview of the ADR	3
2.2.	Effect of the ADR Amendment	3
3.	BEST PRACTICE REGULATION	3
3.1.	Business Cost Calculator	3
3.2.	General Consultation Arrangements.....	4
3.3.	Specific Consultation Arrangements for this Vehicle Standard	5
3.4.	Regulation Impact Statement.....	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 42/04 — General Safety Requirements) 2005 Amendment 5 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 (ADR) 42/04 – General Safety Requirements) 2005 was originally determined under subsection 7 (1) of the *Motor Vehicle Standards Act 1989* on 29th November 2005, and has subsequently been amended in 2007, 2011, and 2014.

2. CONTENT AND EFFECT OF ADR 42/04 AND THE AMENDMENT

2.1. Overview of the ADR

The function of ADR 42/04 is to specify general design and construction requirements to ensure the safe operation of motor vehicles. These requirements cover exhaust outlets, wheel guards (mudguards), windows and ventilation, and tyre and rim selection.

2.2. Effect of the ADR Amendment

The proposed amendment will permit the use of Canadian Motor Vehicle Safety Standard (CMVSS) 505 – Vehicle Stability as an alternative standard for motor tricycle (LE vehicle category) stability, as well as include an alternative test method for demonstrating stability.

The inclusion of the CMVSS 505 standard within this amendment was requested by the industry to reduce the regulatory burden as some manufacturers that supply vehicles to other markets would be required to modify their vehicles before they entered the Australian market. The inclusion of the alternative test method was requested by a member of the Australian Motor Vehicle Certification Board (AMVCB).

This amendment also includes editorial changes to correct errors which do not vary the intent of the vehicle standard.

This amendment is minor in nature. It will remove a cost impost on some motorcycle manufacturers and consumers, without reducing safety.

3. BEST PRACTICE REGULATION

3.1. Business Cost Calculator

Using the Commonwealth's Regulatory Burden Measurement framework, it is not possible to consider the cost savings associated with the proposed amendment, as they represent an opportunity cost to the motor tricycle manufacturers currently not able to supply to the Australian market.

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 Government 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), AMVCB, Technical Liaison Group (TLG), Transport and Infrastructure Senior Officials' Committee (TISOC) and the Transport and Infrastructure Council (The 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, Ministry of Transport in New Zealand and the Australian Local Government Association.
- The 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 Government's *Best Practice Regulation: A Guide for Ministerial Councils and Standard-Setting Bodies*.

3.3. Specific Consultation Arrangements for this Vehicle Standard

The request for inclusion of CMVSS 505 – Vehicle Stability was first tabled at AMVCB in August 2012, and the alternative test procedure was tabled in early 2015 for discussion at AMVCB meeting 221 in October 2015. After discussion amongst the jurisdictions, and following full consideration of technical issues and more detailed consultation, the proposal was agreed in November 2015.

3.4. Regulation Impact Statement

As the proposed amendment does not increase the stringency of the ADR, a Regulation Impact Statement is not required.

Since the decision is made by the Minister for Territories, Local Government and Major Projects without reference to the 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 19654).

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 permits CMVSS 505 as an alternative standard for LE category vehicle stability.

4.2. Human Rights Implications

This amendment to ADR 42/04 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

This amendment to ADR 42/04 is compatible with human rights as it does not raise any human rights issues.