

Vehicle Standard (Australian Design Rule 38/04 – Trailer Brake Systems) 2013 Amendment 2

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

Explanatory Statement

Issued by the authority of the Minister for Urban Infrastructure and Cities

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1. LEGISLATIVE CONTEXT

Vehicle Standard (Australian Design Rule 38/04 – Trailer Brake Systems) 2013 Amendment 2 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 been amended once before.

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 Amendment

This amendment implements transition arrangements from this vehicle standard to a later vehicle standard. Under these arrangements, compliance to the new standard ADR 38/05 exempts a manufacturer from having to comply with ADR 38/04.

This change does not affect the original intent of the standard but is essential to allow its correct operation in conjunction with ADR 38/05.

3. BEST PRACTICE REGULATION

3.1. Benefits and Costs

There is no expected increase in cost to manufacturers, as the proposed amendments do not affect the requirements 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 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, 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 Technical Liaison Group (TLG) and the Australian Motor Vehicle Certification Board (AMVCB), the Strategic Vehicle Safety and Environment Group (SVSEG) and the Safe Vehicles Theme Group (SVTG), the Transport and Infrastructure Senior Officials' Committee (TISOC) and the Transport and Infrastructure Council (the Council).

- 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 of representative organisations of consumers and road users (particularly through the Australian Automobile Association). AMVCB consists of the government members of TLG.
- SVSEG consists of senior representatives of government (Australian and state/territory), the manufacturing and operational arms of the industry and of representative organisations of consumers and road users (at a higher level within each organisation as represented in TLG). SVTG consists of the government members of SVSEG.
- TISOC consists of state and territory transport and/or infrastructure Chief Executive Officers (CEOs) (or equivalents), the CEO of the National Transport Commission, 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, Regional Development and Cities. 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 *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

This amendment is related to the introduction of ADR 38/05. As it is minor in nature, and does not affect the requirements of the ADR, further consultation was not considered necessary and so not carried out.

As the amendment is purely administrative in nature and does not increase the stringency of the ADR, a RIS is not required.

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 allows for a transition between ADR 38/04 and the later version ADR 38/05. It does not affect the original intent or operation of the standard.

4.2. Human Rights Implications

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