

## EXPLANATORY STATEMENT

Approved by the Secretary of the Department of Infrastructure, Transport, Regional  
Development and Communications

*Road Vehicle Standards Act 2018*

Road Vehicle Standards (Classes of Components that are not Road Vehicle Components)  
Determination 2020

### **Legislative authority**

The *Road Vehicle Standards Rules 2019* (the Rules) allow the Secretary to grant a road vehicle component type approval in relation to road vehicle components to be used in the manufacture or modification of certain road vehicles. A road vehicle component type approval may be granted if, among other things, the road vehicle component complies or substantially complies with the applicable national road vehicle standards.

Section 7 of the *Road Vehicle Standards Act 2018* (the Act) defines a road vehicle component. Further, under subsection 7(3), it allows that the Secretary may determine classes of components that are or are not road vehicle components.

The Road Vehicle Standards (Classes of Components that are not Road Vehicle Components) Determination 2020 (the Determination) sets out classes of components that are not road vehicle components and, therefore, for which a road vehicle component type approval cannot be granted.

### **Purpose and operation of the instrument**

The purpose of the Determination is to determine the classes of components that are not road vehicle components.

The Act allows for rules to provide for or in relation to the grant of approvals relating to road vehicle components that will be used in the original manufacture of a road vehicle. These approvals are referred to as road vehicle component type approvals. Part 6 of the Rules provides for the grant of a road vehicle component type approval. A road vehicle component type approval may be granted if, among other things, the type of road vehicle component complies or substantially complies with the applicable national vehicle standards.

This Determination provides clarity about what classes of components are not road vehicle components and therefore for which a road vehicle component type approval cannot be granted.

A Statement of Compatibility with Human Rights for the Determination is at Attachment A.

A section by section explanation of the Determination is at Attachment B.

### **Consultation**

The Department has consulted with industry associations, in-service regulators and the public on the regulation of road vehicle component type approvals, including the definition of a road vehicle component.

Initially, consultation on the development of the Road Vehicle Standards Bill 2018 was conducted in three distinct phases from 2013 onward. Further information about this consultation process can be found at chapter 6, 'Consultation', in the *Review of the Motor Vehicle Standards Act 1989 Regulation Impact Statement, 6 March 2018* (<https://ris.pmc.gov.au/2018/03/06/review-motor-vehicle-standards-act-1989>).

The Department then conducted more targeted consultation with industry associations and in-service regulators on the development of the Determination, primarily through the Road Vehicle Standards Act Implementation Consultation Framework (the Framework), which established three consultation groups.

In April 2020 the Department consulted with key industry representatives on a draft Guide to Component Type Approvals. The draft guide, among other matters, outlined the scope of components that are intended to be considered road vehicle components.

### **Regulation Impact Statement**

A Regulation Impact Statement (RIS) was prepared in relation to *the Motor Vehicle Standards Act 1989* and policy options for its repeal and replacement with what would become the Act. This RIS is included in the Explanatory Memorandum for the Act. This instrument clarifies what is a road vehicle component and will not impose any further impact on business. The Office of Best Practice Regulation reference number for the RIS is 17240.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Road Vehicle Standards (Classes of Components that are not Road Vehicle Components) Determination 2020**

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Disallowable Legislative Instrument**

The Road Vehicle Standards (Classes of Components that are not Road Vehicle Components) Determination 2020 (the Determination) determines the classes of components that are not road vehicle components for the purposes of the *Road Vehicle Standards Act 2018* (the Act).

#### **Human rights implications**

This Disallowable Instrument supports the regulatory framework of the Act and the *Road Vehicle Standards Rules 2019* to ensure vehicles on public roads meet safety and environmental standards to support the realisation of the human rights to life and health.

The Statement of Compatibility with Human Rights for the Road Vehicle Standards Bill 2018 engaged the following rights:

- Right to life and health;
- Right to a fair trial and fair hearings;
- Right to the presumption of innocence;
- Right of privacy and reputation; and
- Right to minimum guarantees in criminal proceedings.

The Determination does not change the promotion or limitation of these rights from the considerations discussed in the Explanatory Memorandum to the Act.

#### **Conclusion**

This Disallowable Instrument is compatible with human rights because it promotes the protection of human rights and to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

**Secretary of the Department of Infrastructure, Transport, Regional Development  
and Communications**

**Mr Simon Atkinson**

## Section by section explanation of the Road Vehicle Standards (Road Vehicle Components) Determination 2020

### 1 — Name

1. This section provides the name of this instrument is the Road Vehicle Standards (Classes of Components that are not Road Vehicle Components) Determination 2020 (the Determination).

### 2 — Commencement

2. Section 2 provides the Determination is to commence on the day after it is registered.

### 3 — Authority

3. Section 3 identifies the Determination is made under paragraph 7(3)(b) of the *Road Vehicle Standards Act 2018* (the Act).

### 4 — Purpose of this instrument

4. Section 4 sets out that the purpose of the instrument is to determine classes of components that are not road vehicle components for the purposes of the Act.

### 5 — Classes of components that are not road vehicle components

5. The *Road Vehicle Standards Rules 2019* (the Rules) allows the Secretary to grant a road vehicle component type approval in relation to components to be used in the manufacture of modification of certain road vehicles. The approval may be granted if, among other things, the road vehicle component complies or substantially complies with the applicable national vehicle standards.
6. Section 7 of the Act defines a road vehicle component.
7. The Act further allows that the Secretary may provide clarification about what is or is not a road vehicle component.
8. Section 5 sets out the class of components that are not road vehicle components. If a component does not meet the criteria set out in subsections 5(2) or 5(3), the component is not a road vehicle component for the purposes of the Act and the Rules.
9. A component falls within subsection 5(2) if it is able to be assessed for compliance against the requirements set out in a national road vehicle standard or the requirements of an equivalent standard. What constitutes an equivalent standard is documented in the individual national road vehicle standard. An example may be an international standard that is deemed to be equivalent to a national road vehicle standard.
10. A component falls within subsection 5(3) if it is an assembly of one or more components and is able to be assessed for compliance with a national road vehicle standard or an equivalent standard.

11. Subsection 5(4) provides greater clarity on the assessment of components or assemblies against standards. The standard may be:
- A standard that directly and/or solely relates to the specific component or assembly, for example the national road vehicle standard relating to reversing lamps; or
  - A standard that relates to a broader vehicle system but includes provisions that explicitly provide for components of particular kinds. For example, the national road vehicle standard relating to trailer braking systems includes provisions for the assessment of foundation brakes, suspension systems and control systems, independent of the assessment of the trailer's braking system as a whole. In this example, foundation brakes can be assessed against foundation brake standards provided in the trailer braking system standard and therefore are a road vehicle component. A component for which there are no provisions for assessment independent of the system as a whole, are not road vehicle components.