

Vehicle Standard (Definitions and Vehicle Categories) 2005 Amendment 11

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

Explanatory Statement

Approved by the Hon Kevin Hogan MP
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1. LEGISLATIVE AUTHORITY

Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005 Amendment 11 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 provided 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 road vehicle components”.

2. PURPOSE AND OPERATION

2.1. Overview

The Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005 (the Australian Design Rule – Definitions and Vehicle Categories) sets out definitions for many terms used in the Australian Design Rules (ADRs), including the vehicle categories used in ADR applicability tables.

This vehicle standard was originally determined in 2005 and has since been amended by ten separate legislative instruments.

2.2. Effect of the Amendment

This amendment includes the removal and replacement of definitions supporting the amendment of the Motor Vehicle (Road Vehicle) Amendment Determination (No.1) 2020 (the Determination). Changes include the removal of the definition of a Pedalec, as well as the inclusion of definitions for Electrically Power Assisted Cycles and Power Assisted Pedal Cycles. Changes also include removal of vehicle categories Pedal Cycle (AA) and Power-Assisted Pedal Cycle (AB).

These changes do not vary the intent of the Determination or the ADRs but provide clarity to vehicle manufacturers, importers and members of the public about vehicle classes which are not required to meet the Act. The amendment is essential to ensure consistency with changes to the Determination.

Pedalec/Electrically Power Assisted Cycle

This amendment replaces the definition of ‘pedalec’ with ‘electrically power-assisted cycle’ (EPAC). This is because the term ‘Electrically power-assisted cycle’ links it directly with the European Committee for Standardization EN15194:2009 or EN15194:2009+A1:2011 or EN15194:2017, which was the international standard referenced in the previous Determination.

The reason to replace the term ‘pedalec’ with a definition of ‘Electrically power-assisted cycle’ is that since the definition of ‘pedalec’ was first included in the Determination the term EPAC has settled as the official term for the class of vehicle intended to be covered. Whereas the term ‘pedalec’ is used for a variety of classes of vehicles, including some that are pedal assisted power cycles, as opposed to power assisted pedal cycles.

Power-Assisted Pedal Cycle and Mopeds

The amendment reflects a broadened focus in the definition from relying solely on the

power output rating to include certain design features. This clarifies that the policy intent of the definition relates to bicycles of a traditional build, albeit assisted by electric motor power, but not to take in other types of two wheeled vehicles designed with pedals that may assist propulsion, such as certain types of mopeds, more appropriately deemed as LA category vehicles according to the Australian Design Rule - Definitions and Vehicle Categories.

Pedal Cycle (AA)/Power-Assisted Pedal Cycle (AB)

Removing vehicle categories for Pedal Cycle (AA) and Power-Assisted Pedal Cycle (AB) from the Australian Design Rule – Definitions and Vehicle Categories is appropriate because it is not sensible to have a vehicle category for classes of vehicles that have been defined as not being road motor vehicles for the purpose of the Act.

3. MATTERS INCORPORATED BY REFERENCE

N/A.

4. CONSULTATION

4.1. 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 matters.

Editorial changes and changes to correct errors are processed by the Department of Infrastructure, Transport, Regional Development and Communications (the Department). 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 Regulatory Impact Analysis* and the Council of Australian Governments' *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*.

5. REGULATORY IMPACT

5.1. Benefits and Costs

This amendment will have a neutral regulatory impact, both in terms of the benefits and costs of regulation. The amendments to the definitions concerned will only clarify the operation and application of ADRs.

5.2. Regulation Impact Statement

A Regulation Impact Statement is not required, as the decision maker is not the Australian Government's Cabinet, and this amendment will have a neutral regulatory impact.

6. STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

6.1. Overview

This amendment includes the removal and replacement of definitions supporting the amendment of the Motor Vehicle (Road Vehicle) Amendment Determination (No.1) 2020 (the Determination). Changes include the removal of the definition of a Pedalec, as well as the inclusion of definitions for Electrically Power Assisted Cycles and Power Assisted Pedal Cycles.

6.2. Human Rights Implications

This amendment to the Australian Design Rule – Definitions and Vehicle Categories 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*.

6.3. Conclusion

This amendment to the Australian Design Rule – Definitions and Vehicle Categories is compatible with human rights, as it does not raise any human rights issues.