

## 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 Vehicles that are not Road Vehicles) Determination 2021*

### Legislative context

The *Road Vehicle Standards (Classes of Vehicles that are not Road Vehicles) Determination 2021* is made under the authority of the *Road Vehicle Standards Act 2018* (the Act). The Act provides a modern framework for the Commonwealth to regulate, among other matters, the importation of road vehicles into Australia, and the first provision of road vehicles in Australia. The *Road Vehicle Standards Rules 2019* (the Rules) complement the Act by prescribing matters relating to the regulation of road vehicles and road vehicle components.

### Legislative authority

Section 6 of the Act provides the meaning of ‘road vehicle’. The *Road Vehicle Standards (Classes of Vehicles that are not Road Vehicles) Determination 2021* (the Determination) is made under paragraph 6(5)(b) of the Act, which provides that the Secretary may, by legislative instrument, determine classes of vehicles that are not road vehicles.

### Purpose and operation of the instrument

The Determination reduces regulatory burden by providing clarity to vehicle manufacturers, importers and members of the public about vehicle classes that are not road vehicles for the purposes of the Act. This is similar to the approach taken by the *Motor Vehicle Standards (Road Vehicles) Determination 2017*, made under the *Motor Vehicle Standards Act 1989*.

The purpose of the Determination is to determine vehicle classes that are not road vehicles. The Determination is relevant to the operation of subsection 6(4) of the Act. Under that subsection, a vehicle is not a ‘road vehicle’ if:

- the vehicle is within a class determined in an instrument under paragraph 6(5)(b) and not determined in an instrument under paragraph 6(6)(a), or
- the vehicle is specified in an instrument under paragraph 6(6)(b).

Paragraph 6(6)(a) of the Act empowers the Secretary to, by notifiable instrument, determine that a specified vehicle is a ‘road vehicle’. Under paragraph 6(6)(b) of the Act, the Secretary has a power to, by notifiable instrument, determine that a specified vehicle is not a ‘road vehicle’

The Determination identifies a range of vehicle classes that are not road vehicles because they are not considered appropriate for use on a public road. These vehicle classes are agricultural machines, golf carts, light utility vehicles, miniature motorbikes, motorised recreational devices, power-assisted pedal cycles, quad bikes, tracked vehicles, personal mobility devices and motorised mobility devices.

Including particular vehicle classes in the Determination does not provide permission for use. Vehicle use is regulated by state and territory governments and, as such, vehicle users will need to familiarise themselves with local requirements.

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](#).

## **Prescribing matters by reference to other instruments or documents**

Subparagraph 14(1)(a)(ii) and subsection 14(3) of the *Legislation Act 2003* provide that this Determination may incorporate the provisions of a disallowable legislative instrument as in force from time to time unless a contrary intention appears in the Act.

The Determination references a definition from the *Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005*, which is available without cost to the public through the Federal Register of Legislation ([www.legislation.gov.au](http://www.legislation.gov.au))

## **Consultation**

The Department established the RVSA Implementation Consultation Framework to facilitate targeted consultation with stakeholders, including some State roads authorities, major vehicle manufacturers/importers and road vehicle industry associations, between 2018 and 2020, including during design phases. Meeting papers of stakeholder consultation are available free of charge to the public on the department's website ([https://www.infrastructure.gov.au/vehicles/rvs/rvsa\\_implementation\\_consultation\\_framework.aspx](https://www.infrastructure.gov.au/vehicles/rvs/rvsa_implementation_consultation_framework.aspx)).

The Department consulted with the Strategic Vehicle Safety and Environment Group (SVSEG) about the Determination and the similar determination under the *Motor Vehicle Standards Act 1989: the Motor Vehicle Standards (Road Vehicles) Determination 2017*. 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 representative organisations of consumers and road users (particularly through the Australian Automobile Association). No objections were raised during the consultation. Additionally, the department recently consulted with Transport for NSW to resolve an outstanding issue related power assisted-pedal cycles.

## **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. The RIS is included in the Explanatory Memorandum to the Road Vehicle Standards Bill 2018. The Office of Best Practice Regulation (OBPR) reference number for the RIS is 17240. OBPR has advised that no further RIS is required.

**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 Vehicles that are not Road Vehicles) Determination 2021***

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Disallowable Legislative Instrument**

The *Road Vehicle Standards (Classes of Vehicles that are not Road Vehicles) Determination 2021* (the Determination) determines a series of vehicle classes that are not road vehicles for the purposes of the *Road Vehicle Standards Act 2018*.

The Determination identifies a range of vehicle classes that are not road vehicles because use on a public road is not considered appropriate. These vehicle classes are agricultural machines, golf carts, light utility vehicles, miniature motorbikes, motorised recreational devices, power-assisted pedal cycles, quad bikes, tracked vehicles, personal mobility devices and motorised mobility devices.

**Human rights implications**

The Determination supports the regulatory framework of the *Road Vehicle Standards Act 2018* and the *Road Vehicle Standards Rules 2019* to ensure that vehicles on public roads meet safety and environmental standards to support the human right to life and health. The instrument does not engage any human rights beyond those addressed in the Explanatory Memorandum to the Road Vehicle Standards Bill 2018 and the Explanatory Statement for the *Road Vehicle Standards Rules 2019*.

**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 Infrastructure, Transport, Regional  
Development and Communications**

**Mr Simon Atkinson**

**Section by section explanation of the *Road Vehicle Standards (Classes of Vehicles that are not Road Vehicles) Determination 2021***

**Section 1—Name**

Section 1 provides that the name of this instrument is the *Road Vehicle Standards (Classes of Vehicles that are not Road Vehicles) Determination 2021* (the Determination).

**Section 2—Commencement**

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

**Section 3—Authority**

Section 3 provides that the Determination is made under paragraph 6(5)(b) of the *Road Vehicle Standards Act 2018* (the Act).

**Section 4 — Purpose of this instrument**

Section 4 provides that the purpose of the instrument is to set out classes of vehicles that are not road vehicles for the purposes of the Act.

**Section 5 — Definitions**

Section 5 provides a number of definitions of classes of road vehicles covered by the Determination, and related terms used in the Determination.

**Section 6 — Classes of vehicles that are not road vehicles**

For the purposes of the Act, this section determines classes of vehicles that are not road vehicles. These vehicle classes are agricultural machines, golf carts, light utility vehicles, miniature motorbikes, motorised recreational devices, power-assisted pedal cycles, quad bikes, tracked vehicles, personal mobility devices and motorised mobility devices.

The purpose of this section is to capture vehicles that might otherwise be included in the definition of ‘road vehicle’ in section 6 of the Act. This provides clarity for vehicle manufacturers, importers and members of the public about what vehicles are captured by that definition.