

# **Vehicle Standard (Australian Design Rule) Amendment Instrument 2022 (No.1) – Explanatory Statement**

Made under section 12 of the *Road Vehicle Standards Act 2018*

## **Explanatory Statement**

Approved by Senator the Hon Carol Brown,  
Assistant Minister for Infrastructure and Transport

**October 2022**

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## 1. LEGISLATIVE AUTHORITY

### 1.1. National Road Vehicle Standards

Vehicle Standard (Australian Design Rule) Amendment Instrument 2022 (No.1) (the Amendment Instrument) is made under section 12 of the *Road Vehicle Standards Act 2018* (RVSA). The RVSA enables the Australian Government to establish nationally uniform standards that apply to new road vehicles or road vehicle components when they are provided to the market in Australia. The RVSA applies to vehicles or components whether they are manufactured in Australia or imported.

The making of the vehicle standards necessary for the RVSA's effective operation is provided for in section 12, which empowers the Minister to “*determine standards for road vehicles or road vehicle components*”.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides, in part, that the power to amend instruments is conferred by the same power to make the instrument.

### 1.2. Exemption from Sunsetting

The amendments made to the Australian Design Rules (ADRs) by the Amendment Instrument are exempt from the sunsetting provisions of the *Legislation Act 2003*. It is appropriate that standards made under section 12 of the RVSA, also known as the Australian Design Rules (ADRs), remain enduring and effective to regulate ongoing road worthiness of vehicles throughout their useful life and reduce regulatory burden on vehicle manufacturers.

#### *Source of the Exemption*

A standard made under section 12 of the RVSA is not subject to the sunsetting provisions of section 50 of the *Legislation (Exemptions and Other Matters) Act 2003* through section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (table item 56C). A similar exemption was previously granted in respect of national road vehicle standards made under section 7 of the *Motor Vehicle Standards Act 1989* (MVSA) (item 40, section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). This exemption is important to ensure that the amendments made by the Amendment Instrument continue to remain in force, and available to regulators and industry.

#### *Intergovernmental Dependencies*

The exemption concerns ADRs which facilitate the establishment and operation of the intergovernmental vehicle standard regime that Commonwealth, State and Territory governments rely on to regulate the safety of vehicles on public roads.

The Commonwealth uses the ADRs as the basis on which approvals to supply types of road vehicles to the market are granted under the *Road Vehicle Standards Rules 2019*. States and territories use the ADRs as the primary criteria on which vehicles are assessed for road worthiness. This ‘in-service’ aspect is dependent on the date of manufacture, which determines the applicable version of the ADRs against which the vehicle can be assessed. The ability to rely on national standards is particularly relevant given the long service life of vehicles – the average age of vehicles in Australia is 12.1 years.

While the ADRs are regularly updated to reflect changes in technology, it is not possible to apply these new standards retrospectively to vehicles that are already in use. With former ADRs kept on the Federal Register of Legislation, State and Territory governments can use them to ensure vehicles continue to comply with the ADRs that were in force when they were first supplied to the market.

In the event that the Commonwealth could not justify the maintenance of the ADRs, State and Territory governments would be compelled to create their own vehicle standards. Whilst this could mean adopting the substance of the lapsed ADRs as an interim measure, the differing needs and agendas of each State and Territory government may result in variations to in-service regulations. Having different vehicle standards across the states and territories would make the scheme operate contrary to the underlying policy intent of the RVSA which is to set nationally consistent performance based standards.

#### *Commercial Dependencies*

The effect on vehicle manufacturers to redesign existing models to comply with new ADRs would present a burden and be a costly and onerous exercise. Manufacturers should not be expected to continually go back to redesign existing vehicles. Furthermore, ongoing product recalls to comply with new ADRs would undermine consumer confidence with significant financial impact to manufacturers. This exemption allows vehicle manufacturers to focus their efforts to ensure new models supplied to the market continue to comply.

#### *Effect on Parliamentary Oversight*

Despite exemption from sunseting ADRs are subject to regular reviews, as resources permit, and when developments in vehicle technology necessitates updates to requirements. Comprehensive parliamentary scrutiny is available through these reviews.

Reviews of the ADRs ensure the ongoing effectiveness of a nationally consistent system of technical regulations for vehicle design, which are closely aligned, wherever appropriate with leading international standards such as United Nations Regulations. Aligning with such standards facilitates the rapid introduction of the latest safety devices and technological advances into the Australian market, while also contributing to the industry's cost competitiveness in the domestic market.

### 1.3. International Harmonisation

A majority of Australian road vehicle standards harmonise closely with international regulations. This is so that manufacturers can more easily comply with regulation, and so that regulations capture the well-developed views of the international community. This ultimately leads to safer and cheaper products for Australians. ADRs often directly incorporate United Nations (UN) Regulations as an appendix, where the appendix provides the technical requirements of the ADR and the rest of the ADR facilitates its application to Australia. ADRs will have a section that creates exemptions and alternate procedures. For instance, manufacturers are exempt from requirements that pertain to UN type approvals, and instead, need to comply with the approvals process set out in the RVSA. Likewise, the ADRs provide for the acceptance of certain alternate standards that have equivalent requirements to the

appendix. For instance, a vehicle covered by a type approval under a UN Regulation would be deemed to comply with the relevant ADR.

## **2. PURPOSE AND OPERATION**

### **2.1. Overview of the ADRs Amended**

#### **2.1.1. ADR Definitions and Vehicle Categories**

The role of this vehicle standard is to set out matters, such as definitions of key terms, which apply in common to particular Australian Design Rules. It contains material that needs to be read in conjunction with particular Australian Design Rules in order to establish rights and obligations to which those rules give rise. The amendment amends the definitions of GROUND CLEARANCE and RUNNING CLEARANCE.

#### **2.1.2. ADR 25/02 - Anti-Theft Lock**

The role of this vehicle standard is to set out the purpose of anti-theft locks where they are fitted to new vehicles, that is to:

- a) inhibit unauthorised use of the vehicle; and
- b) minimise the possibility of inadvertent adjustment of the steering locks to the anti-theft position while the vehicle is in motion.

The amendment allows manufacturers to use the new UN Regulation 161 Uniform provisions concerning the protection of motor vehicles against unauthorized use and the approval of the device against unauthorized use (by mean of a locking system), as an alternative standard to demonstrate compliance to the ADR.

#### **2.1.3. ADR 43/04 – Vehicle Configuration and Dimensions**

The role of this vehicle standard is to specify requirements for vehicle configuration and dimensions. The amendment amends the definition of ‘Ground Clearance’.

#### **2.1.4. ADR 82/00 – Engine Immobilisers**

The role of this vehicle standard is require that where engine immobilisers are fitted to new vehicles, they are closely integrated with a vehicle’s other systems and their purpose is to prevent the vehicle being driven away powered by its own engine. The amendment changes the names of the alternative standards accord to reflect the current naming convention and allows manufacturers to use the new UN Regulation 162 - UNIFORM TECHNICAL PRESCRIPTIONS CONCERNING APPROVAL OF IMMOBILIZERS AND APPROVAL OF A VEHICLE WITH REGARD TO ITS IMMOBILIZER.

### **2.2. Exemptions and Alternative Standards**

**2.2.1. ADR Definitions and Vehicle Categories** has no exemptions or alternative standards.

#### **2.2.2. ADR 25/02 - Anti-Theft Lock**

Section 5 creates exemptions from some requirements of appendix A (UN R18). This is because they are not required in the Australian context where the Commonwealth administers approvals through the RVSA and the ADRs. Consequently,

manufacturers supplying new vehicles to Australia are exempt from most administrative (non-technical) requirements of UN R18.

Section 6 sets out standards which are considered to be equivalent to ADR 25/02. If a vehicle meets the requirements of one of these standards, it also complies with ADR 25/02. These alternative standards are acceptable because they do not compromise the performance requirements set out in UN R18. Vehicle manufacturers have the flexibility to gain compliance to ADR 25/02 through clause 5 and Appendix A, or through Section 6 Alternative Standards.

Clause 6.1.1. identifies the United Nations Regulation No. 18 – UNIFORM PROVISIONS CONCERNING THE APPROVAL OF POWER-DRIVEN VEHICLES WITH REGARD TO THEIR PROTECTION AGAINST UNAUTHORIZED USE, incorporating the 01 series of amendments, as an acceptable alternate standard. This standard is also featured in Appendix A of ADR 25/02 and makes up most of the technical requirements of ADR 25/02. It is the first series of amendments to the original internationally agreed standard for anti-theft locks regarding passenger vehicles and light goods vehicles.

Clause 6.1.4 identifies the United Nations Regulation No. 116 – UNIFORM TECHNICAL PRESCRIPTIONS CONCERNING THE PROTECTION OF MOTOR VEHICLES AGAINST UNAUTHORIZED USE PART I: Approval of a vehicle of category M1 and N1 with regards to its devices to prevent unauthorized use, up to and including the 00 series of amendments, as an acceptable alternate standard for MA, MB, MC and NA category vehicles.

#### 2.2.3. ADR 43/04 – Vehicle Configuration and Dimensions

Clause 3. states that ADR 43/04 applies to vehicles as set out in clause 3.2. Applicability Table. Clause 3.2. sets out standards which are considered to be equivalent to ADR 43/04. If a vehicle meets the requirements of one of these standards, it also complies with ADR 43/04. Those standards are the acceptable prior rules of ADRs 43/01, 43/02 or 43/03.

#### 2.2.4. ADR 82/00 – Engine Immobilisers

Section 5 creates exemptions from some requirements of appendix A (UN R97) which pertain to gaining a Type Approval in the UN context. This is because they are not required in the Australian context where the Commonwealth administers approvals through the RVSA and the ADRs. Consequently, manufacturers supplying new vehicles to Australia are exempt from most administrative (non-technical) requirements of UN R97.

Clause 5. states that compliance is not required with:

- sections 2, 3, 4, 5; and 8, 9, 10, 11, 12 and 13 of Part 1 except where directly or indirectly invoked by Part III, paragraph 7.2.11
- all sections of Part II and
- the following administrative provisions of Part III and the annexes listed below:
  - o sections 27, 28, 29 and 30

- sections 34, 35, 36, 37, 38 and 39
- Annexes 1, 2, 3, 4, 5, 6, 7 and 8

Section 6 identifies procedures to which vehicles may comply, which are acceptable alternatives to those created by UN R97. These have been adapted for the Australian market to enable vehicle manufacturer to demonstrate compliance to ADR 82/00 where they have not gained a type approval in the UN context.

Clauses 4.1. states that ADR 82/00 applies to vehicles seeking to demonstrate that they meet all the technical requirements for engine immobilisers as defined in Appendix A.

Section 7 sets out standards which are considered to be equivalent to ADR 82/00. If a vehicle meets the requirements of one of these standards, it also complies with ADR 82/00. These alternative standards are acceptable because they do not compromise the performance requirements set out in UN R97. Vehicle manufacturers have the flexibility to gain compliance to ADR 82/00 through clause 4.1 and Appendix A as varied by Section 5 Exemptions and Alternative Procedures, or through Section 7 Alternative Standards:

- Clause 7.1 identifies the technical requirements of in Part III, of United Nations Regulation No. 97 - "UNIFORM PROVISIONS CONCERNING THE APPROVAL OF VEHICLE ALARM SYSTEMS (VAS) AND OF MOTOR VEHICLES WITH REGARD TO THEIR ALARM SYSTEMS (AS)", incorporating supplement 1 and corrigenda 1 to the 00 series of amendments, as an equivalent to the technical requirements of this standard. This standard is also featured in Appendix A of ADR 82/00.
- Clause 7.2 identifies the technical requirements in Part III, of United Nations - Economic Commission for Europe Regulation No. 97 - "UNIFORM PROVISIONS CONCERNING THE APPROVAL OF VEHICLE ALARM SYSTEMS (VAS) AND OF MOTOR VEHICLES WITH REGARD TO THEIR ALARM SYSTEMS (AS)", incorporating the 01series of amendments, as an equivalent to the technical requirements of this standard.
- Clause 7.3 identifies the technical requirements in Part IV: Approval of Immobilizers and approval of a vehicle with regards to its immobilizer of United Nations Regulation No. 116 UNIFORM TECHNICAL PRESCRIPTIONS CONCERNING THE PROTECTION OF MOTOR VEHICLES AGAINST UNAUTHORIZED USE, incorporating the 00 series of amendments.

### **3. MATTERS INCORPORATED BY REFERENCE**

#### **3.1. Other Legislative Instruments**

There are no legislative instruments incorporated by reference in these amendments.

#### **3.2. Other Documents**

- 3.2.1. In ADR Definitions and Vehicle Categories there are no other documents incorporated by reference.

- 3.2.2. In ADR 25/02 - Anti-Theft Lock, the new clause 6.1.5 includes a reference to the 00 series of UN Regulation 161 Uniform provisions concerning the protection of motor vehicles against unauthorized use and the approval of the device against unauthorized use (by mean of a locking system). This is an international standard for anti-theft locks fitted to passenger vehicles (other than omnibuses) and light goods vehicles.
- 3.2.3. In ADR 43/04 – Vehicle Configuration and Dimensions there are no other documents incorporated by reference in these amendments.
- 3.2.4. In ADR 82/00 – Engine Immobilisers the new clause 7.4. includes a reference to the 00 series of United Nations Regulation 162 Uniform technical prescriptions concerning approval of immobilizers and approval of a vehicle with regard to its immobilizer. This is an international standard for engine immobilisers.

The UN Regulations (including R 161 and R 162), may be freely accessed online through the UN World Forum for the Harmonization of Vehicle Regulations (WP.29). The WP.29 website is [www.unece.org/trans/main/welcwp29.html](http://www.unece.org/trans/main/welcwp29.html).

In accordance with subsections 14(1)(b) and 14(2) of the Legislation Act 2003, the UN documents are incorporated as in force on the date this national road vehicle standard is made.

## **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.

Proposals that are regarded as significant need to be supported by a Regulation Impact Statement (RIS) meeting the requirements of the Office of Best Practice Regulation (OBPR) as published in the *Australian Government Guide to Regulatory Impact Analysis* or the *Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies*.

### **4.2. Specific Consultation Arrangements**

The Department circulated drafts of the proposed ADR amendments to the Technical Liaison Group (TLG) for review and comment in April 2022. Members endorsed the amendments and no further comments on the drafts were received.

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).

## **5. REGULATORY IMPACT**

The amendments are minor and administrative in nature. They are not expected to increase the regulatory burden but may have a minor (unquantifiable) reduction in regulatory burden.

## **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**

- 6.1.1. ADR Definitions and Vehicle Categories specifies definitions and vehicle categories to be used in other ADRs.
- 6.1.2. ADR 25/02 specifies the fitment of anti-theft locks to passenger vehicles (other than omnibuses), and to light goods vehicles, to inhibit the unauthorised use of these vehicles.
- 6.1.3. ADR 43/04 specifies requirements for vehicle configuration and dimensions.
- 6.1.4. ADR 82/00 specifies requirements for engine immobilising devices which are intended to be fitted to passenger vehicles so as to prevent the vehicle being driven away powered by its own engine.

### **6.2. Human Rights Implications**

All of the ADRs listed in 6.1. do 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**

All of the ADRs listed in 6.1. are compatible with human rights, as they do not raise any human rights issues.