

Vehicle Standard (Australian Design Rule) Lighting Standards Amendment Instrument 2022 (No. 1)

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

Explanatory Statement

Issued by the authority of the Assistant Minister to the Minister for Infrastructure, Transport, Regional Development, Communications and the Arts

2022

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1. LEGISLATIVE AUTHORITY

1.1. National Road Vehicle Standards

Vehicle Standard (Australian Design Rule) Lighting Standards Amendment Instrument 2022 (No. 1) is made under the *Road Vehicle Standards Act 2018* (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 12 which empowers the Minister to "determine vehicle standards for road vehicles or 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

Vehicle lighting Australian Design Rules (ADRs) are exempt from the sunset provisions of the *Legislation Act 2003*. It is appropriate that standards made under section 12 of the Road Vehicle Standards Act (RVSA), also known as the 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 Exception

A standard made under section 12 of the RVSA is not subject to the sunset 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 Vehicle Lighting ADRs referred in paragraph 3.3. below continues 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 vehicles standards such as Vehicle Lighting ADRs are harmonised 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. ADR 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. To this end, Section 6 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, Section 7 provides for the acceptance of certain alternate

standards that have equivalent requirements to the appendix. For instance, a vehicle covered by a type approval under the UN Regulation would be deemed to comply with the ADR

2. PURPOSE AND OPERATION

2.1. Overview of the Act and ADRs

The RVSA establishes a regulatory framework to regulate the importation and first supply of road vehicles to the market in Australia. The core principle of this framework is that vehicles that comply with appropriate standards are suitable for importation and supply to the market in Australia. The Australian Design Rules have set out those standards since the early 1970s. At that time, they were applied cooperatively by the Australian Motor Vehicle Certification Board representing the Commonwealth and State and Territory Governments. In 1989, this arrangement was replaced by the MVSA and the ADRs were determined as national standards. On 1 July 2021, the MVSA was repealed by the *Road Vehicles Standards (Consequential and Transitional Provisions) Act 2018*.

Once a vehicle has been supplied to the market, responsibility for regulation passes to the relevant state or territory government. States and territories have adopted model law into their own legislation that requires vehicles to maintain compliance with the ADRs that were applicable to the vehicle at the time it was originally manufactured and supplied to the market in Australia. For this reason, it is important that the ADRs are maintained, even though the ADR may have been superseded by a new ADR with more stringent requirements.

3. CONTENT AND EFFECT OF ADRs FOR VEHICLE LIGHTING AND THE AMENDMENT

3.1. Overview of amendments to ADRs – Vehicle Lighting

The function of ADRs for vehicle lighting prescribes requirements for the number and mode of installation of lighting and light signalling devices on road vehicles. This includes main-beam and dipped-beam headlamps, fog, direction indicator, position, stop, reversing, parking, daytime running and cornering lamps, hazard warning signals and retroreflectors. The ADRs include the technical content of several lighting related United Nations (UN) Regulations.

3.2. Effect of ADR Amendments

This amendment corrects typographical and layout errors and amendments to ADRs associated with vehicle lighting requirements, with the aims of addressing the general lighting requirements more explicitly and clearly, and improving the quality of the lighting standards of the vehicle.

3.3. ADR – Vehicle Lighting Omnibus Instrument 2022 (No. 1).

This omnibus instrument is intended to amend the following instruments.

1. Vehicle Standard (Australian Design Rule 1/00 – Reversing Lamps) 2005.
2. Vehicle Standard (Australian Design Rule 6/00 – Direction Indicators) 2005.
3. Vehicle Standard (Australian Design Rule 13/00 – Installation of Lighting and Light Signalling Devices on other than L-Group Vehicles) 2005.

4. Vehicle Standard (Australian Design Rule 19/02 – Installation of Lighting and Light Signalling Devices on L-Group Vehicles) 2017.
5. Vehicle Standard (Australian Design Rule 46/00 – Headlamps) 2006.
6. Vehicle Standard (Australian Design Rule 47/00 – Retroreflectors) 2006.
7. Vehicle Standard (Australian Design Rule 48/00 – Devices for Illumination of Rear Registration Plates) 2006.
8. Vehicle Standard (Australian Design Rule 49/00 – Front and Rear Position (Side) Lamps, Stop Lamps and End-outline Marker Lamps) 2006.
9. Vehicle Standard (Australian Design Rule 50/00 – Front Fog Lamps) 2006.
10. Vehicle Standard (Australian Design Rule 51/00 – Filament Lamps) 2006.
11. Vehicle Standard (Australian Design Rule 52/00 – Rear Fog Lamps) 2006.
12. Vehicle Standard (Australian Design Rule 53/00 – Front and Rear Position Lamps, Direction Indicators & Rear Registration Plate Lamps for L-Group Vehicles) 2006.
13. Vehicle Standard (Australian Design Rule 54/00 – Head Lamps for Mopeds) 2006.
14. Vehicle Standard (Australian Design Rule 55/00 – Head Lamps for Motor Cycles) 2006.
15. Vehicle Standard (Australian Design Rule 60/00 – Centre High Mounted Stop Lamps) 2006.
16. Vehicle Standard (Australian Design Rule 67/00 – Installation of Lighting and Light Signalling Devices on Three-Wheeled Vehicles) 2006
17. Vehicle Standard (Australian Design Rule 74/00 – Side Marker Lamps) 2006
18. Vehicle Standard (Australian Design Rule 75/00 – Headlamps Cleaners) 2006.
19. Vehicle Standard (Australian Design Rule 76/00 – Daytime Running Lamps) 2006.
20. Vehicle Standard (Australian Design Rule 77/00 – Gas Discharge Headlamps) 2006.
21. Vehicle Standard (Australian Design Rule 78/00 – Gas Discharge Light Sources) 2006.

3.4. Incorporated Documents

These amendments continue to incorporate references to a number of standards of a highly technical nature. UN regulations are typically accessed by manufacturers and test facilities as part of their professional library.

The alternative Standards clause and Appendix A of these ADRs incorporate references to the Consolidated Resolution on the Construction of Vehicles (R.E.3.)

– document ECE/TRANS/WP.29/78/Rev.3 and following UN Regulations and other standards;

- UN Regulation 1 – Headlamps (including R2 and/or HS1 lamps)
- UN Regulation 3 – Retro-reflecting devices;
- UN Regulation 4 – Illumination of rear registration plates;
- UN Regulation 5 – Sealed Beam headlamps;
- UN Regulation 6 – Direction indicators;
- UN Regulation 7 – Position, stop and end-outline lamps;
- UN Regulation 8 – Headlamps (H1, H2, H3, HB#, HB4, H7, H8, H9, H1R1 and/or H1R21);
- UN Regulation 19 – Front fog lamps;
- UN Regulation 20 – Headlamps (H4);
- UN Regulation 23 – Reversing lamps;
- UN Regulation 31 – Headlamps (Halogen sealed beam (HSB));
- UN Regulation 37 – Filament light sources;
- UN Regulation 38 – Rear fog lamps;
- UN Regulation 45 – Headlamp cleaners;
- UN Regulation 48 – Installation of Lighting and Light-Signalling Devices;
- UN Regulation 50 – Position, stop, direction indicators lamps for mopeds and motorcycles;
- UN Regulation 53 – Installation of Lighting and Light-Signalling Devices for L₃ Vehicles;
- UN Regulation 56 – Headlamps mopeds;
- UN Regulation 57 – Headlamps motorcycles;
- UN Regulation 72 – Headlamps (HS1 lamps) motorcycles;
- UN Regulation 74 – Installation of lighting and light-signalling devices (mopeds);
- UN Regulation 76 – Headlamps for mopeds;
- UN Regulation 77 – Parking lamps;
- UN Regulation 82 – Headlamps (HS2) mopeds;
- UN Regulation 87 – Daytime running lamps;
- UN Regulation 91 – Side-marker lamps;
- UN Regulation 98 – Headlamps with gas gas-discharge light sources;
- UN Regulation 99 – Gas-discharge light sources;
- UN Regulation 104 – Retro-reflective markings;
- UN Regulation 112 – Headlamps emitting an asymmetrical passing-beam;
- UN Regulation 113 – Headlamps emitting a symmetrical passing-beam;
- UN Regulation 119 – Cornering lamps;
- UN Regulation 123 – Adoptive Front-lighting Systems (AFS);
- UN Regulation 128 – Light Emitting Diode (LED) light source;
- UN Regulation 148 – Light Signalling Devices (LSD);
- UN Regulation 149 – Road Illumination Devices (RID);
- UN Regulation 150 – Retro-Reflective Devices (RRD).

The Consolidated Resolution on the Construction of Vehicles (R.E.3.) – document ECE/TRANS/WP.29/78/Rev.3, and the UN Regulations mentioned above are 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.

- Federal Motor Vehicle Safety Standards (FMVSS) 108 is freely accessed on line through Unites States department of transportation, National Highway Safety Administration (NHTSA) website: www.nhtsa.gov/fmvss.
- Society of Automotive Engineers SAE J579 Dec 1978, SAE J573 Dec1989, SAE J584 Dec 1983, SAE J584 April 1964, JIS D500-1995 and JIS C7506-1994 are available for purchase only through SAE International or SAI Global. Vehicle manufacturers and test facilities access these standards as part of their professional library. Compliance to these standards is an option to other standards, including the freely available UN regulations and FMVSS 108 standards specified as alternative standards in the ADRs.

4. BEST PRACTICE REGULATION

4.1. Business Cost Calculator

There is no significant cost or saving associated with these ADR amendments proposed, as it has no significant effect on stringency.

4.2. 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 Federal Government 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 Strategic Vehicle Safety and Environment Group (SVSEG), Australian Motor Vehicle Certification Board (AMVCB), Technical Liaison Group (TLG) and Infrastructure and Transport Senior official Committee (ITSOC).

- 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 of representative organisations of consumers and road users (particularly through the Australian Automobile Association).
- AMVCB consists of technical representatives of government regulatory authorities (Australian and state/territory) that deal with ADR and other general vehicle issues, and the National Transport Commission and the National Heavy Vehicle Regulator.
- TLG consists of technical 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 and of

representative organisations of consumers and road users (the same organisations as represented in SVSEG).

- ITSOC consists of state and territory transport and/or infrastructure Chief Executive Officers (CEO) (or equivalents), the CEO of the National Transport Commission, New Zealand and the Australian Local Government Association.

Editorial changes and changes to correct errors are processed by 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* or the *Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies*.

4.3. Specific Consultation Arrangements for this Omnibus Instrument.

As the amendments are minor in nature, and does not increase the stringency of the ADRs concerned, there is no need for further consultation through ITSOC or the public comment process.

4.4. Regulation Impact Statement

As the proposed amendment does not increase the stringency of these ADRs, a Regulation Impact Statement is not required.

The department consulted with the Office of Best Practice Regulation (OBPR) within the department of Prime Minister and Cabinet on this Omnibus Instrument. A Regulation Impact Statement (RIS) is not required, as the decision maker is not the Australian Government's Cabinet, and this Vehicle Lighting Instrument will have a neutral regulatory impact. The OBPR reference number is 22-03187.

5. STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

5.1. Overview of the Legislative Instrument

This amendment rectifies the typographical and other errors in the previous versions, improves the quality of the ADR and incorporates the latest version of the UN Regulation.

5.2. Human Rights Implications

The amendments to these ADRs 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*.

5.3. Conclusion

The amendments to these ADRs are compatible with human rights as it do not raise any human rights issues.