

Vehicle Standard (Australian Design Rule 80/03 – Emission Control for Heavy Vehicles) 2006 Amendment 4

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

Explanatory Statement

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Development and Local Government

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1. LEGISLATIVE AUTHORITY

1.1. National Road Vehicle Standards

Vehicle Standard (Australian Design Rule 80/03 – Emission Control for Heavy Vehicles) 2006 Amendment 4, also referred to as ADR 80/03 Amendment 4, is made under section 12 of the *Road Vehicle Standards Act 2018* (the Act). Section 12 of the Act allows the Minister to determine National Road Vehicle Standards.

1.2. Exemption from Sunsetting

ADR 80/03 Amendment 4 is exempt from the sunseting provisions of the *Legislation Act 2003*.

1.2.1. Source of the Exemption

A standard made under section 12 of the Act is not subject to the sunseting 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 ADR 80/04 continues to remain in force, and available to regulators and industry.

1.2.2. Justification

It is appropriate that standards made under section 12 of the Act, 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.

1.2.2.1. 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 Act which is to set nationally consistent performance based standards.

1.2.2.2. 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.

1.2.3. Effect on parliamentary oversight

Despite the exemption from sunseting, ADRs are subject to regular reviews, when developments in vehicle technology necessitate 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, reducing regulatory burden.

The Act 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 Act applies to vehicles or components 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 standards for road vehicles or road vehicle components".

2. PURPOSE AND OPERATION

2.1. Overview of the Regulatory Framework

The Act establishes a framework to regulate the importation and first provision of road vehicles to the market in Australia. The core principle of this framework is that vehicles which comply with appropriate standards are suitable for provision to the market in Australia. The Australian Design Rules (ADRs) 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 *Motor Vehicle Standards Act 1989* (the MVSA) and the Australian Design Rules were determined as national standards. As of 2018, the MVSA has been replaced by the Act.

A majority of Australian road vehicle standards such as ADR 80/04 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. 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 Act. 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 comply with the ADR.

Under the Act, the ADRs are National Road Vehicle Standards intended to make vehicles safe to use, control the emission of gas, particles or noise, secure vehicles against theft, provide for the security marking of vehicles and promote the saving of energy. The ADRs are applied to vehicles as criteria for approval under various regulatory pathways set out in the Road Vehicle Standards legislation. Vehicles approved under these regulatory pathways can be provided to the market in Australia for use in transport. ADRs apply equally to imported and locally manufactured vehicles

2.2. Overview of the ADR 80/03 Amendment 4

ADR 80/03 prescribes the exhaust and evaporative emissions requirements for light vehicles in order to reduce air pollution.

Schedule 1 adds an additional clause 2.5, which automatically exempts vehicles that comply with the new, more stringent requirements in ADR 80/04 from the requirements of this standard.

3. CONSULTATION

3.1. 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 cooperation 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*.

3.2. Specific Consultation Arrangements

A draft RIS ‘Heavy Vehicle Emission Standards for Cleaner Air’ was posted on the then Department of Infrastructure, Transport, Regional Development and Communications’ website for public comment from 20 October 2020 to 26 February 2021. The RIS conforms to the requirements established by the OBPR in relation to regulatory proposals where the decision maker is the Australian Government’s Cabinet, the Prime Minister, minister, statutory authority, board or other regulator. The OBPR reference number for the RIS is 21-01252.

Formal feedback to the RIS was received from members of the public, government agencies, industry bodies, health and environmental organisations. A majority of the feedback strongly or conditionally supported the implementation of a new ADR mandating Euro VI for heavy vehicles from the mid-2020s.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts also circulated an exposure draft of ADR 80/03 Amendment 4 and the new ADR 80/04 the Technical Liaison Group (TLG) and the Strategic Vehicle Safety and Environment Group (SVSEG) for review and comment in October 2022.

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).

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).

4. REGULATORY IMPACT

ADR 80/03 Amendment 4 is an administrative change arising from the adoption of the new ADR 80/04.

There are costs associated with meeting the new ADR 80/04. The related RIS ‘Heavy Vehicle Emission Standards for Clean Air’ found the implementation of ADR 80/04 will result in a net benefit of \$6,428 million by 2050 and a benefit-cost ratio of 3.52. The estimated health benefits and fuel savings from this measure (\$8,977 million by 2050) were found to outweigh any expected increases in capital costs for heavy vehicle manufacturers (\$1,488 million over the same period) or possible increases in operating costs for heavy vehicle operators and road managers (\$843 million over this period). The OBPR reference number for the RIS is 21-01252.

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

ADR 80/03 Amendment 4 amends ADR 80/03, which specifies minimum performance based requirements for exhaust emissions produced by heavy vehicles to reduce air pollution and its associated health impacts.

5.2. Human Rights Implications

ADR 80/03 Amendment 4 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*.

5.3. Conclusion

ADR 80/03 Amendment 4 is compatible with human rights, as it does not raise any human rights issues.