

# **Vehicle Standard (Australian Design Rule) Safer Freight Vehicles Amendment No. 2 2023**

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

## **Explanatory Statement**

Approved by the Hon Catherine King MP, Minister for Infrastructure, Transport,  
Regional Development and Local Government

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## 1. LEGISLATIVE AUTHORITY

### 1.1. National Road Vehicle Standards

The Vehicle Standard (Australian Design Rule) Safer Freight Vehicles Amendment No. 2 2023 (“the Amending 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 Australian Design Rules (ADRs) are exempt from the sunseting provisions of the *Legislation Act 2003*.

#### *Source of the Exemption*

A standard made under section 12 of the RVSA 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 ADRs, including those amended by the Amending 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 and the National Heavy Vehicle Regulator 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 over 10 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 vehicle models that are still being newly supplied to the market. Furthermore, ongoing product recalls to update vehicles to comply with new ADRs (where such an update is feasible) 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.

### *Reviews of Australian Design Rules*

ADRs are subject to regular reviews, as resources permit, and when developments in vehicle technology necessitates updates to requirements. 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 (UN) regulations. This method 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. Where a review results in a new or amended ADR, these changes are subject to full parliamentary scrutiny.

## **2. PURPOSE AND OPERATION**

### **2.1. Overview of the Regulatory Framework**

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 which comply with appropriate standards are suitable for provision to the market in Australia. The 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 MVSA and the ADRs were determined as national standards. The RVSA commenced in full and replaced the MVSA on 1 July 2021. A two-year transition period was provided between 1 July 2021 and 30 June 2023.

Under the RVSA, 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.

## 2.2. Overview of the Amending Instrument

The purpose of the Amending Instrument is to increase the overall width limit to 2,550 mm, for goods vehicles over 4.5 tonnes Gross Vehicle Mass (i.e. trucks), which meet the additional safety requirements in a Safer Freight Vehicles package of ADRs. It is expected that jurisdictions and the National Heavy Vehicle Regulator will be able to use existing legislation to require medium and heavy goods vehicles to comply (where applicable) with this Safer Freight Vehicles package of ADRs, to be eligible for modification after entry into service to exceed 2,500 mm in Overall Width.

Prior to the commencement of the Amending Instrument on 1 October 2023, the overall width limit in the ADRs was 2.5 m (2,500 mm) for all categories of road vehicles, except two-wheeled and three-wheeled vehicles. This width limit continues in force for passenger vehicles (ADR category MA, MB, MC, MD and ME vehicles), goods vehicles not exceeding 4.5 tonnes Gross Vehicle Mass (ADR category NA and sub-category NB1 vehicles), goods vehicles in heavier categories (ADR sub-category NB2 and category NC vehicles) that do not meet all applicable ADRs in the Safer Freight Vehicles package, and trailers (ADR category TA, TB, TC and TD vehicles).

### *Schedule 1 Amendments*

Schedule 1 of the Amending Instrument amends the Australian Design Rule 13/00 – Installation of Lighting and Light Signalling Devices on other than L-Group Vehicles (ADR 13/00), to make rear conspicuity markings mandatory for motor vehicles with a Gross Vehicle Mass over 7.5 tonnes and an Overall Width exceeding 2,500 mm; and to make side conspicuity markings mandatory for motor vehicles with a Gross Vehicle Mass over 7.5 tonnes, an Overall Width exceeding 2,500 mm, and a Total Length exceeding 6,000 mm. Exceptions apply for partially completed vehicles (e.g. chassis-cabs) and prime movers.

The purpose of ADR 13/00 is to specify requirements for the number, and mode of installation, of lighting and light signalling devices on motor vehicles other than two-wheeled and three-wheeled vehicles (e.g. motorcycles and mopeds).

Conspicuity markings are fitted to heavy goods vehicles and trailers to make them easier for drivers of other vehicles to see at night (or in low light conditions), when viewed from the side or rear (in the case of goods vehicles or trucks), by the reflection of light, typically originating from the headlamps of another vehicle. The markings are made of retroreflective material and positioned to indicate the location of the vehicle outer edges, and the vehicle size in terms of width, length and height. Conspicuity markings can (except where more specific requirements are prescribed based on the vehicle category, mass and dimensions), be arranged as either continuous horizontal and vertical lines (full contour marking), a combination of a continuous line horizontally and marking of the upper corners only (partial contour marking), or a horizontal line marking only. Rear conspicuity markings must be red or yellow, and side conspicuity markings must be yellow or white. A line marking may be installed instead of a mandatory contour marking if the shape, structure, design or operational requirements of the vehicle make it impossible to install the mandatory contour marking.

### *Schedule 2 Amendments*

Schedule 2 of the Amending Instrument amends the Australian Design Rule 43/04 – Vehicle Configuration and Dimensions (ADR 43/04) to increase the Overall Width limit for goods vehicles over 4.5 tonnes Gross Vehicle Mass (ADR sub-category NB2 and category NC vehicles) from 2,500 mm to 2,550 mm; and cross-reference each of the additional ADRs in the Safer Freight Vehicles package that apply (i.e. are mandatory) for vehicles made (or modified after entry into service) to exceed 2,500 mm in Overall Width (note: some exceptions apply for vehicles with four or more axles, vehicles designed for off-road use, prime movers, and based on Gross Vehicle Mass).

The purpose of ADR 43/04 is to specify requirements for vehicle configuration and dimensions, including limits on vehicle width and length as a function of vehicle type. The amendments to ADR 43/04, with reference to schedule 2 item numbers from the Amending Instrument, are required to:

[1] amend the existing clause 6.1.5.1 as a result of a new clause per item [3], in order to list the categories of motor vehicle (other than two-wheeled and three-wheeled vehicles) that are not subject to the new clause at item [3] and therefore have an unchanged limit for Overall Width.

[2] renumber existing clauses as a result of a new clause per item [3].

[3] insert a new clause to increase the ‘Overall Width’ limit from 2,500 mm to 2,550 mm for sub-category NB2 and category NC vehicles, meeting the Safer Freight Vehicles package of ADRs.

[4], [5] and [6]; add new clauses to refer to the ADRs (or ADR requirements) in the Safer Freight Vehicle package that are mandatory for sub-category NB2 and category NC vehicles with an ‘Overall Width’ exceeding 2,500 mm (2.50 m). The applicability sections of each ADR listed in these new clauses also set mandatory compliance for wider medium and heavy goods vehicles, however the amendments per items [4], [5] and [6] are included to achieve two outcomes:

- The first is to consolidate in a single reference, and located in the same ADR that sets the vehicle width limit, the full package of ADRs representing the additional mandatory safety features that must be fitted to goods vehicles that exceed 2.50 m in Overall Width.
- The second outcome is to prevent a situation where a sub-category NB2 or category NC vehicle that was supplied to the market prior to the Safer Freight Vehicle regulatory reforms, is modified in-service to increase the vehicle Overall Width in accordance with an amended ADR 43/04, but without complying with the additional ADRs that are mandatory for Safer Freight Vehicles at first supply to market.

Note that the new clause for ADR 43/04 per item [5] distinguishes the ADRs that do not apply to prime movers and vehicles that are partially completed such as chassis-cab vehicles. In the case of incomplete vehicles, it is expected that the particular ADRs (or ADR requirements) would become applicable at the time the vehicle is completed, for use as a road vehicle in transport in Australia.

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

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

The amendments in Schedule 2 of the Amending Instrument include references to the following National Road Vehicle Standards:

- the Australian Design Rule 13/00 – Installation of Lighting and Light Signalling Devices on other than L-Group Vehicles (ADR 13/00);
- a new Australian Design Rule 14/03 – Devices for Indirect Vision (ADR 14/03);
- the Australian Design Rule 35/07 – Commercial Vehicle Brake Systems (ADR 35/07);
- the Australian Design Rule 97/00 – Advanced Emergency Braking for Omnibuses, and Medium and Heavy Goods Vehicles (ADR 97/00);
- a new Australian Design Rule 99/00 – Lane Departure Warning Systems (ADR 99/00);
- a new Australian Design Rule 105/00 – Blind Spot Information Systems (ADR 105/00); and
- a new Australian Design Rule 106/00 – Side Underrun Protection (ADR 106/00).

ADR 13/00 specifies requirements for the number and mode of installation of lighting and light signalling devices on motor vehicles other than two-wheeled and three-wheeled vehicles.

The new ADR 14/03 specifies requirements for devices to be fitted to vehicles to provide drivers with a clear and reasonably unobstructed view to the rear, side, or front of the vehicle; and riders with a clear and reasonably unobstructed view to the rear.

ADR 35/07 specifies braking requirements on goods vehicles, omnibuses, large passenger vehicles, and some three-wheeled vehicles to ensure safe braking under normal and emergency conditions.

ADR 97/00 specifies requirements for Advanced Emergency Braking Systems fitted to omnibuses, and to goods vehicles over 3.5 tonnes Gross Vehicle Mass, to avoid or mitigate the severity of rear-end in lane collisions.

The new ADR 99/00 specifies requirements for Lane Departure Warning Systems fitted to goods vehicles over 4.5 tonnes Gross Vehicle Mass, to warn a distracted or drowsy driver if the vehicle is unintentionally drifting out of its travel lane.

The new ADR 105/00 specifies requirements for Blind Spot Information Systems (BSIS) fitted to goods vehicles over 4.5 tonnes Gross Vehicle Mass, to inform the driver of a possible collision with a bicycle on the near side and therefore avoid or mitigate the severity of a collision between a turning vehicle and a bicyclist.

The new ADR 106/00 specifies requirements to reduce the risk of pedestrians and cyclists falling under the sides and being caught under the wheels of goods vehicles over 4.5 tonnes Gross Vehicle Mass, particularly during turning manoeuvres in urban areas.

In accordance with paragraph 12(2)(b) of the RVSA, each of these ADRs are incorporated as in force or existing from time to time.

The ADRs may be freely accessed online through the Federal Register of Legislation. The website is [www.legislation.gov.au](http://www.legislation.gov.au).

### 3.2. Other Documents

The Amending Instrument does not incorporate any other documents by reference.

## 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 and 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 (or package of new or amended standards) is expected to have on industry or road users.

Proposals that are regarded as significant need to be supported by an Impact Analysis (IA) meeting the requirements of the Office of Impact Analysis (OIA) as published in the *Australian Government Guide to Policy Impact Analysis* or the *Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies*.

### 4.2. Specific Consultation Arrangements

Public comment was sought on options to increase the Overall Width limit for Safer Freight Vehicles, as well as the exclusion of additional types of safety devices and sensors from vehicle width and length measurements, through the release of a discussion paper together with draft implementing ADRs, from 27 April 2021 to 30 June 2021.

The the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) provided two ways to comment: 1) Emailing the feedback form to the Vehicle Standards Section email address; or 2) Mailing the provided feedback form to the Vehicle Standards Section postal address.

An email was also sent on 27 April 2021 to inform senior representatives of state and territory governments, and representative bodies for heavy vehicle manufacturer's, operators, and road users. In addition, a notice was published in the Office of Road Safety newsletter in May 2021. The department also held two targeted consultation meetings in June 2021, to explain the proposed regulatory changes contained within the discussion paper and the draft ADRs to other government and industry stakeholders.

Formal feedback was received from members of the public, state government agencies, industry, road user groups and road safety advocates. There was broad support for the implementation of a 2,550 mm width limit for goods vehicles over 4.5 tonnes Gross Vehicle Mass (i.e. trucks), together with an additional Safer Freight Vehicles package of ADRs, and the exclusion of the additional proposed types of safety devices and sensors from vehicle width and length measurements.



Following the public consultation, the feedback and agreed outcomes from a series of ADR consultative forum meetings between July 2021 and November 2022 were used by the department to improve and refine the proposed Safer Freight Vehicles package of ADRs, including implementation related aspects. These consultative meetings involved nominated senior and technical representatives of government (Australian and state/territory), the manufacturing and operational arms of the industry and of representative organisations of consumers and road users.

## **5. REGULATORY IMPACT**

### **5.1. Impact Analysis**

An IA (refer Volume 2) was completed on options to increase the Overall Width limit for Safer Freight Vehicles meeting a package of additional ADRs harmonised with UN vehicle regulations, as well as the exclusion of additional types of safety devices and sensors from vehicle width and length measurements. The OIA reference number for the IA is 21-01048.

### **5.2. Benefits and Costs**

In the benefit-cost analysis for the IA, the Australian Road Research Board estimated that the implementation of a 2,550 mm Overall Width limit for goods vehicles over 4.5 tonnes Gross Vehicle Mass (i.e. trucks), meeting the additional safety requirements in the Safer Freight Vehicles package, would provide a net benefit of \$588 million (present value) over a 40-year period.

## **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**

The Amending Instrument increases the Overall Width limit to 2,550 mm from 1 October 2023, for goods vehicles over 4.5 tonnes Gross Vehicle Mass, which meet the additional safety requirements in the Safer Freight Vehicles package of ADRs.

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

The Amending Instrument 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**

The Amending Instrument is compatible with human rights, as it does not raise any human rights issues.