

Vehicle Standard (Australian Design Rule) Amendment Instrument No.2 of 2024

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

March 2024

CONTENTS

1.	LEGISLATIVE AUTHORITY	3
1.1.	National Road Vehicle Standards	3
1.2.	Exemption from Sunsetting.....	3
2.	PURPOSE AND OPERATION.....	4
2.1.	Overview of the Regulatory Framework.....	4
2.2.	Overview of the Amending Instrument.....	5
3.	MATTERS INCORPORATED BY REFERENCE.....	5
3.1.	Legislative Instruments	5
3.2.	Other Documents.....	5
4.	CONSULTATION	5
4.1.	General Consultation Arrangements	5
4.2.	Specific Consultation Arrangements.....	6
5.	REGULATORY IMPACT.....	6
5.1.	Impact Analysis.....	6
5.2.	Benefits and Costs.....	6
6.	STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS	7
6.1.	Overview	7
6.2.	Human Rights Implications.....	7
6.3.	Conclusion.....	7

1. LEGISLATIVE AUTHORITY

1.1. National Road Vehicle Standards

The Vehicle Standard (Australian Design Rule) Amendment Instrument No. 2 of 2024 (“the Amending Instrument”) is made under the *Road Vehicle Standards Act 2018* (RVSA).

The RVSA enables the Australian Government to establish nationally uniform standards that apply to road vehicles or road vehicle components when they are provided to the market in Australia for the first time. The RVSA applies to vehicles or components whether they are manufactured in Australia or imported.

The making of the national road 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”. These standards are also referred to as the Australian Design Rules (ADRs).

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 ADRs are exempt from the sunsetting provisions of the *Legislation Act 2003*.

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 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 continue to remain in force and available to regulators, industry and the public.

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 updated regularly to reflect changes in technology, it is not possible to apply these new standards retrospectively to vehicles that are already in use. With prior version 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.

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 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 that 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 Australian Design Rules 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

Schedule 1 of the Amending Instrument includes revisions to the Australian Design Rule 99/00 – Lane Departure Warning Systems (ADR 99/00).

The purpose of ADR 99/00 is to specify requirements for Lane Departure Warning Systems (LDWS) to warn a distracted or drowsy driver if the vehicle is unintentionally drifting out of its travel lane.

The Amending Instrument extends the mandatory applicability dates (refer clause 3) for omnibuses and some types of medium and heavy goods vehicles. The mandatory applicability date remains 1 October 2023 for ADR sub-category NB2 and category NC vehicles, with an ‘Overall Width’ exceeding 2,500 mm (except where an exemption applies under clause 3.2). For omnibuses and all other medium and heavy goods vehicles, ADR 99/00 will now apply from 1 September 2027 (except where an exemption applies under clause 3.2). Prior to the commencement of the Amending Instrument, ADR 99/00 would have applied to these vehicles from 1 July 2025 for new models and 1 November 2025 for all new vehicles. The associated ADR 99/01 will continue to apply to new models of omnibuses and medium and heavy goods vehicles from 1 September 2026 and 1 September 2028 (except where exemptions apply under clause 3.2 of that rule).

3. MATTERS INCORPORATED BY REFERENCE

3.1. Legislative Instruments

The Amending Instrument does not incorporate other legislative instruments by reference.

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 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 on a national road vehicle standard for Lane Departure Warning Systems for omnibuses, and medium and heavy goods vehicles was sought through a consultation IA, which included a draft version of the national vehicle standard for Lane Departure Warning Systems for heavy vehicle based on UN R130. This package also included an explanatory statement and feedback form. This package was published on the department's website in April 2022 for an eight-week public comment period, which closed 4 June 2022.

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 in April 2022 to inform senior representatives of state and territory governments, and representative bodies for heavy vehicle manufacturers, operators, and road users. In addition, a notice was published on the department's social media websites to increase public awareness and engagement.

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 new ADR mandating LDWS for all heavy vehicles.

Following the public consultation, the feedback was used by the department in the final IA submitted to the Office of Impact Analysis to ensure regulatory decisions are made on strong evidence-based analysis.

Following the registration and commencement of the Vehicle Standard (Australian Design Rule) Amendment Instrument 2024 (No. 1), which extended the applicability of ADR 99/00 to cover omnibuses and additional types of medium and heavy goods vehicles, industry groups advised that they would be unable to design/develop, change orders, and/or certify a number of vehicle models to ADR 99/00 by the 1 July 2025 applicability date for new models and 1 November 2025 applicability date for all new vehicles. Following the raising of these concerns, the department consulted further with industry to better understand these time constraints, and settle the changes to the implementation dates made through this Amending Instrument.

5. REGULATORY IMPACT

5.1. Impact Analysis

An IA was completed on options to increase the fitment of LDWS to new omnibuses and goods vehicles over 3.5 tonnes in the Australian fleet. The OIA reference number for the IA is 22-01960.

5.2. Benefits and Costs

There are both benefits and costs associated with mandating LDWS for omnibuses and goods vehicles over 3.5 tonnes GVM. The benefit-cost analysis for the IA estimated that a LDWS would save 62 lives and prevent 1,725 serious and 5,370 minor injuries over a 37-year period, as well as generating a likely net benefit of \$4.7 million, with a likely benefit-cost ratio of 1.0.

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 includes changes to extend the mandatory applicability dates of ADR 99/00 for some types of omnibuses and medium and heavy goods vehicles.

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.