

Vehicle Standard (Australian Design Rule 79/04 – Emission Control for Light Vehicles) 2011 Amendment 3

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

Vehicle Standard (Australian Design Rule 79/04 – Emission Control for Light Vehicles) 2011 Amendment 3, also referred to as ADR 79/04 Amendment 3, 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 79/04 is exempt from the sunseting provisions of the *Legislation Act 2003*.

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 79/04 continues to remain in force, and available to regulators and industry.

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.

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.

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.

Review of Australian Design Rules

Despite exemption from sunseting, ADRs are subject to regular reviews, as resources permit, and 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. This enables a rapid introduction of the latest 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 such as ADR 79/04 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.

2. PURPOSE AND OPERATION

ADR 79/04 prescribes the exhaust and evaporative emissions requirements for light vehicles in order to reduce air pollution.

Schedule 1 amends Vehicle Standard (Australian Design Rule 79/04 — Emission Control for Light Vehicles) 2011, by:

- Adding a new clause 2.3 to automatically exempt vehicles that comply with the new, more stringent requirements in ADR 79/05 from the requirements of this standard.
- Amending Appendix A to indicate that the document has been compiled by the Department, using the current name of the Department

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 an Impact Analysis meeting the requirements of the Office of Impact Analysis (OIA) as published in the *Australian Government Guide to Policy Impact Analysis* where the decision maker is the Australian Government's Cabinet, the Prime Minister, minister, statutory authority, board or other regulator.

The Impact Analysis evaluating the costs and benefits of the ADR package mandating Euro 6d equivalent standards and associated changes to fuel quality standards conform to the requirements established by the OIA. The reference number for this Impact Analysis is OBPR22-02515.

3.2. Specific Consultation Arrangements

A draft Impact Analysis 'Light Vehicle Emission Standards for Cleaner Air' was posted on the Department's website for public comment from 20 October 2020 to 26 February 2021.

Formal feedback was received from members of the public, government agencies, industry bodies, health and environmental organisations. A majority of the feedback received strongly or conditionally supported the implementation of new ADRs mandating Euro 6d for light vehicles from the mid-2020s.

4. STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

4.1. Overview

ADR 79/04 Amendment 3 amends ADR 79/04, which specifies minimum performance-based requirements for exhaust emissions produced by light vehicles to reduce air pollution and its associated health impacts.

4.2. Human Rights Implications

ADR 79/04 Amendment 3 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*.

4.3. Conclusion

ADR 79/04 Amendment 3 is compatible with human rights, as it does not raise any human rights issues.