

EXPOSURE DRAFT



Road Vehicle Standards (Additional Matters Relating to Eligibility for a Road Vehicle to be Entered on the Specialist and Enthusiast Vehicles Register) Determination 2020

I, Michael McCormack, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, make the following determination.

Dated

2020

Michael McCormack [**DRAFT ONLY—NOT FOR SIGNATURE**]

Deputy Prime Minister and Minister for Infrastructure, Transport and Regional
Development

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Part 1—Preliminary

1 Name

This instrument is the *Road Vehicle Standards (Additional Matters Relating to Eligibility for a Road Vehicle to be Entered on the Specialist and Enthusiast Vehicles Register) Determination 2020*.

2 Commencement

This instrument commences at the same time as section 136 of the *Road Vehicle Standards Rules 2019*.

3 Authority

This instrument is made under section 136 of the *Road Vehicle Standards Rules 2019*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Rules, including the following:

- (a) campervans and motorhomes criterion;
- (b) environmental criterion;
- (c) gross vehicle mass;
- (d) performance criterion;
- (e) vehicle category;
- (f) SEVs Register.

In this instrument:

electric-only vehicle does not include a petrol-electric or other hybrid vehicle.

L-group vehicle has the same meaning as in the *Vehicle Standard (Australian Design Rule—Definitions and Vehicle Categories) 2005*.

Rules means the *Road Vehicle Standards Rules 2019*.

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Part 2 Significant differences in design characteristics

Division 1 Preliminary

Section 5

Part 2—Significant differences in design characteristics

Division 1—Preliminary

5 Simplified outline of this Part

Division 6 of Part 4 of the Rules provides for the entry of road vehicles on the SEVs Register. A person may apply for a make and model, or one or more variants of a model, of a road vehicle to be entered on the Register.

Subsection 128(1) of the Rules defines ‘variant’. It provides that road vehicles of a particular kind constitute a variant of a model of a road vehicle if their design characteristics are significantly different from those of other vehicles of that model of road vehicle. Without limiting that definition, subsections 128(3) and (5) specify particular kinds of differences in design characteristics that are significant for that purpose.

This Part sets out further differences in the design characteristics of road vehicles that will be significant for the purposes of subsection 128(1) of the Rules. Neither section 128 of the Rules nor this instrument provides an exhaustive list of the differences that are significant for that purpose.

This Part also clarifies when a combination of individual differences that are not, themselves, significant, can nonetheless render the design characteristics of road vehicles of a particular kind significantly different from those of other vehicles of the same model for the purposes of subsection 128(1) of the Rules when considered together.

6 Purpose of this Part

For the purposes of paragraph 136(2)(c) of the Rules, this Part sets out when differences in the design characteristics of road vehicles will, or will not, be significant for the purposes of subsection 128(1) of the Rules.

- Note 1: Subsection 128(1) of the Rules provides that road vehicles of a particular kind constitute a variant of a model of road vehicle if their design characteristics are significantly different from those of other vehicles of that model.
- Note 2: Subsections 128(3) and (5) of the Rules provide that differences in certain kinds of design characteristics are significant for the purposes of subsection 128(1), while subsections 128(4) and (6) prescribe differences that are not significant. Without limiting subsection 128(1), this instrument specifies further cases in which differences in the design characteristics of vehicles will, or will not, be significant for that purpose.

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Significant differences in design characteristics **Part 2**

Prescription of significant differences **Division 2**

Section 7

Division 2—Prescription of significant differences

7 Significant differences—L-group and MA, MB and MC category vehicles

Application of this section

- (1) This section applies to:
 - (a) L-group vehicles; and
 - (b) vehicles in the following vehicle categories:
 - (i) passenger car (MA);
 - (ii) forward-control passenger vehicle (MB);
 - (iii) off-road passenger vehicle (MC).

Note: These groups and vehicle categories are defined in *Vehicle Standard (Australian Design Rule—Definitions and Vehicle Categories) 2005*.

Differences concerning internal combustion engine

- (2) For a vehicle with an internal combustion engine, the following differences in design characteristics are significant:
 - (a) the use of a different fuel type (unless the only difference is in fuel grade);
 - (b) a difference in engine capacity of:
 - (i) 30% or more for an L-group vehicle; or
 - (ii) 20% or more for an M-group vehicle.

Example: For paragraph (2)(a), an engine that runs on diesel uses a different fuel type to an engine that runs on LPG. However, a difference in fuel grade is not captured – for example, an engine that runs on regular unleaded as compared to premium unleaded petrol.

Difference in maximum range of electric vehicle

- (3) For an electric-only vehicle, a difference of 10% or more in the maximum driving range from a single charge is significant.

Increase in maximum power

- (4) A difference that consists of an increase in maximum power of at least 30% is significant.

Difference in number of seating positions

- (5) A difference of at least 50% in the maximum number of seating positions, as compared to other vehicles of the relevant model of road vehicle that are available in Australia, is significant.

Example: A 3-seater vehicle has 50% more seats than a 2-seater vehicle available in Australia. A 2-seater vehicle has 50% fewer seats than a 4-seater vehicle available in Australia.

Difference in number of steered axles

- (6) A difference in the number of steered axles is significant.

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Part 2 Significant differences in design characteristics

Division 2 Prescription of significant differences

Section 8

8 Significant differences—MD, ME (≤ 12 tonnes), NA and NB category vehicles

Application of this section

- (1) This section applies to vehicles in the following vehicle categories:
 - (a) light omnibus (MD);
 - (b) heavy omnibus (ME), where the gross vehicle mass is 12 tonnes or less;
 - (c) light goods vehicle (NA);
 - (d) medium goods vehicle (NB).

Differences concerning internal combustion engine

- (2) For a vehicle with an internal combustion engine, the following differences in design characteristics are significant:
 - (a) the use of a different fuel type (unless the only difference is in fuel grade);
 - (b) a difference in engine capacity of 50% or more.

Example: For paragraph (2)(a), an engine that runs on diesel uses a different fuel type to an engine that runs on LPG. However, a difference in fuel grade is not captured – for example, an engine that runs on regular unleaded as compared to premium unleaded petrol.

Difference in maximum range of electric vehicle

- (3) For an electric-only vehicle, a difference of 10% or more in the maximum driving range from a single charge is significant.

Increase in maximum power

- (4) A difference that consists of an increase in maximum power of at least 50% is significant.

Difference in number of seating positions

- (5) A difference of at least 50% in the maximum number of seating positions, as compared to other vehicles of the relevant model of road vehicle that are available in Australia, is significant.

Example: A 3-seater vehicle has 50% more seats than a 2-seater vehicle available in Australia. A 2-seater vehicle has 50% fewer seats than a 4-seater vehicle available in Australia.

Difference in number of steered axles

- (6) A difference in the number of steered axles is significant.

9 Significant differences—ME (> 12 tonnes) and NC category vehicles

Application of this section

- (1) This section applies to road vehicles in the following vehicle categories:
 - (a) heavy omnibus (ME), where the gross vehicle mass exceeds 12 tonnes;
 - (b) heavy goods vehicle (NC).

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Significant differences in design characteristics **Part 2**

Prescription of significant differences **Division 2**

Section 10

Differences concerning internal combustion engine

- (2) For a vehicle with an internal combustion engine, the following differences in design characteristics are significant:
- (a) a difference in engine configuration (including a difference in the number or arrangement of cylinders);
 - (b) the use of a different fuel type (unless the only difference is in fuel grade);
 - (c) a difference in engine capacity of 50% or more.

Example: For paragraph (2)(b), an engine that runs on diesel uses a different fuel type to an engine that runs on LPG. However, a difference in fuel grade is not captured – for example, an engine that runs on regular unleaded as compared to premium unleaded petrol.

Difference in maximum range of electric vehicle

- (3) For an electric-only vehicle, a difference of 10% or more in the maximum driving range from a single charge is significant.

Increase in maximum power

- (4) A difference that consists of an increase in maximum power of at least 50% is significant.

Difference in other design characteristics

- (5) Differences in the following design characteristics are significant:
- (a) the number or position of powered axles;
 - (b) the number of steered axles;
 - (c) the vehicle category.

Example: For paragraph (5)(a), the powered axles of a front-wheel drive vehicle are in a different position to the powered axles of a rear-wheel drive vehicle. The number of powered axles of an all-wheel drive vehicle is different to the number of powered axles of a rear-wheel drive vehicle.

10 Circumstances in which combinations of differences are significant

- (1) Differences in the design characteristics of road vehicles are significant for the purposes of subsection 128(1) where multiple differences that are not, of themselves, significant, are significant when considered in combination.

Note: Subsections 128(4) and (6) of the Rules set out differences in design characteristics of road vehicles that, considered individually, are not significant.

- (2) Without limiting subsection (1), the significance of differences, when considered in combination, must be assessed by reference to:
- (a) their impact on:
 - (i) the vehicle as a whole; and
 - (ii) the operational performance of the vehicle; and
 - (b) the following principles:

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Part 2 Significant differences in design characteristics

Division 2 Prescription of significant differences

Section 11

- (i) hardware or mechanical differences are more likely to be significant than differences in software and tuning; and
- (ii) differences in software and tuning are more likely to be significant than cosmetic differences; and
- (iii) differences are more likely to be significant if they materially relate to the eligibility criteria on the basis of which entry on the SEVs Register is sought.

Example: For subparagraph (2)(b)(iii), where a person applies for the entry of road vehicles of a particular kind on the SEVs Register on the basis of the environmental criterion in section 131 of the Rules, the differences are more likely to be significant if they improve the emissions performance of the road vehicles in question.

- (3) ***Operational performance*** means any of the following:
- (a) acceleration and braking;
 - (b) energy efficiency;
 - (c) lateral adhesion or roadholding;
 - (d) vehicle safety rating or crashworthiness;
 - (e) in relation to road vehicles of a particular kind for which entry on the SEVs Register is sought under the mobility criterion—ability to assist people with a disability.

11 Differences in design characteristics that are not significant

- (1) Subject to subsection (2), this instrument does not limit the kinds of differences in design characteristics that could be considered significant for the purposes of subsection 128(1).
- (2) For the purposes of paragraph 136(2)(c), differences in the design characteristics of road vehicles will not be significant where they result only from the use of different:
 - (a) reference standards; or
 - (b) marketing specifications; or
 - (c) measurement or testing methods;to measure, test, describe or classify a road vehicle or element thereof.

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Matters relating to entry on the SEVs Register **Part 3**

Preliminary **Division 1**

Section 12

Part 3—Matters relating to entry on the SEVs Register

Division 1—Preliminary

12 Simplified outline of this Part

This Part prescribes additional matters relating to the performance criterion, environmental criterion and campervans and motorhomes criterion for the purposes of subsection 136(1) of the Rules.

In respect of the performance criterion (section 130 of the Rules), it sets out a formula for calculating the power to weight threshold of a variant of a model, or a make and model, of a road vehicle.

This Part also limits the categories of road vehicle that can be entered on the SEVs Register under one of the pathways within the environmental criterion. Further, it specifies emissions standards that are comparable to the national road vehicle standards mentioned in subparagraph 131(a)(i) of the Rules for the purposes of the environmental criterion.

Finally, this Part provides additional guidance on when a vehicle will be a campervan or a motorhome for the purposes of section 134 of the Rules.

13 Purpose of this Part

For the purposes of subsection 136(1) of the Rules, this Part sets out additional matters relating to the eligibility criteria in sections 130, 131 and 134 of the Rules.

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Part 3 Matters relating to entry on the SEVs Register

Division 2 Matters relating to the performance criterion

Section 14

Division 2—Matters relating to the performance criterion

14 Performance criterion—how to calculate power to weight threshold

- (1) For the purposes of subsection 130(2) of the Rules, the power to weight threshold is to be calculated according to the following formula:

$$\text{Power to weight threshold} = \frac{\text{manufacturer's nominal net engine power}}{\text{tare mass}}$$

- (2) **Manufacturer's nominal net engine power** is the value measured by the original manufacturer in accordance with an applicable standard, recognised on or after the date on which the vehicle was originally manufactured, for advertising in the Australian market.
- (3) **Tare mass** has the meaning given by the *Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005*, and includes the mass of all trim and options fitted to the vehicle.

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Matters relating to entry on the SEVs Register **Part 3**
Matters relating to the environmental criterion **Division 3**

Section 15

Division 3—Matters relating to the environmental criterion

15 Environmental criterion—limitations on eligibility

For the purposes of paragraph 136(2)(d) of the Rules, subparagraph 131(b)(ii) of the Rules (under the environmental criterion) applies only to road vehicles in the following vehicle categories:

- (a) passenger vehicles (M);
- (b) goods vehicles (N).

Note: The Rules provide that ‘vehicle category’ means a vehicle category set out in the *Vehicle Standard (Australian Design Rule—Definitions and Vehicle Categories) 2005*.

16 Environmental criterion—equivalent standards

Comparable emissions standards

- (1) For the purposes of paragraph 136(2)(f) of the Rules, this section specifies emissions standards that are comparable to the national road vehicle standards mentioned in subparagraph 131(a)(i) of the Rules.
- (2) The standards are standards that require emissions performance that is similar to or better than the performance required by the latest applicable national road vehicle standard.

What is the latest applicable national road vehicle standard?

- (3) The **latest applicable national road vehicle standard** is the most recent version of a national road vehicle standard relating to emissions that applies to the relevant model or variant.

Note: ‘Relevant model or variant’ is defined in subsection (5).

Date of SEVs Register application taken to be date of manufacture

- (4) In determining which version of a national road vehicle standard applies to the relevant model or variant, a reference in the standard to the date of manufacture of a vehicle is to be read as the date of the application for entry on the SEVs Register of the relevant model or variant.

Example: A national road vehicle standard relating to emissions applies to M-category vehicles with a gross vehicle mass of 3 tonnes or less. A relevant model or variant meets those criteria. As such, on its face, the standard applies to the model or variant.

There are two versions of the standard. The first version applies to vehicles with a ‘date of manufacture’ on or after 1 July 2017, while the later version applies to vehicles with a ‘date of manufacture’ on or after 1 July 2020.

Vehicles of the relevant model or variant were manufactured across 2018. However, the application for entry of the model or variant on the SEVs Register is made on 1 December 2020. Accordingly, 1 December 2020 is taken to be the ‘date of manufacture’, and the later version of the standard applies.

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Part 3 Matters relating to entry on the SEVs Register

Division 3 Matters relating to the environmental criterion

Section 16

As such, to be considered 'comparable' for the purposes of subparagraph 131(a)(ii) of the Rules, the alternative standard must require emissions performance that is similar to or better than the later version of the national road vehicle standard.

- (5) The *relevant model or variant* is the make and model, or variant of a model, of a road vehicle to which the application for entry on the SEVs Register relates.

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Matters relating to entry on the SEVs Register **Part 3**
Matters relating to the campervans and motorhomes criterion **Division 4**

Section 17

Division 4—Matters relating to the campervans and motorhomes criterion

17 Campervans and motorhomes criterion—vehicles that are campervans or motorhomes

- (1) For the purposes of paragraph 136(2)(h) of the Rules, this section specifies road vehicles that are not campervans or motorhomes.
- (2) A vehicle is not a campervan if it:
 - (a) has a gross vehicle mass of more than 3.5 tonnes; or
 - (b) does not have one of the following body shapes:
 - (i) van or people-mover;
 - (ii) utility vehicle;
 - (iii) cab chassis.
- (3) A vehicle is not a motorhome if it does not have one of the following body shapes:
 - (a) van or people-mover;
 - (b) utility vehicle;
 - (c) bus;
 - (d) truck;
 - (e) cab chassis.