

# New national safety standards for quad bikes

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## AT A GLANCE

- The *Consumer Goods (Quad Bikes) Safety Standard 2019* is designed to reduce the overall rate of injury and death arising from quad bike operation.
- On 11 October 2021, phase 2 of the national standard came into effect. It addresses minimum stability criteria and operator protection devices.
- The national standard only applies to new and used imported quad bikes sold after 11 October 2021, however it is possible the new requirements will lead to a rise in negligence allegations.

## THE NEW SAFETY STANDARDS

Suppliers must adhere to the national standard in the sale of new quad bikes or imported second-hand quad bikes.

From October 2020, phase 1 required manufacturers and suppliers to provide labels and warnings about overturn risk.

Phase 2 now requires all new and imported second-hand general use quad bikes to meet minimum stability criteria and to be fitted with an operator protection device (OPD). An OPD helps protect riders in the event of a rollover and takes the form of a pole or a hoop running over the operator's position (or an alternative device that offers at least the same or better protection). An OPD must be fitted to all general use quad bikes or integrated into their design.

The requirement for an OPD only applies to quad bikes designated as 'general use'. These are quad bikes intended for recreational or utility use by a person 16 years or older. Youth and sports model quad bikes are currently not required to be fitted with an OPD.



**Suppliers must adhere to the national standard in the sale of new or used imported quad bikes sold after 11 October 2021.**

## PENALTIES

Section 106 of the Australian Consumer Law makes it an offence to supply consumer goods that do not comply with a safety standard that is in force. The maximum fine is \$500,000 for individuals and \$10 million for companies.

## IMPLICATIONS FOR INSURERS

The national standard only applies to new and used imported quad bikes sold after 11 October 2021. However, we expect personal injury plaintiffs will immediately incorporate the lack of an OPD as evidence of a supplier or operator's negligence in claims involving quad bike rollovers (whether new sale or not). That is because OPDs will be readily available and low cost, relative to the risk of injury. It may be difficult for an insured to overcome this allegation of negligence in an appropriate case.

It remains to be seen how an injury or fatality sustained on a quad bike without an OPD might interact with the uniform Work Health and Safety laws in Australia, but it is likely that statutory liability will also be impacted.

Insurers and underwriters should carefully consider the national standard's interaction with any existing or proposed policies that deal with:

1. the sale of quad bikes in Australia, or
2. any insured who incorporates quad bike use in their business (primarily recreational/tourism operators and agricultural).

It is worth considering amending policies to endorse a requirement for compliance with the national standard as a condition or indemnity, or to expressly exclude liability arising from non-compliance or the absence of an OPD.

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## Need to know more?

For more information please contact us.



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