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## Contents

|  |          |
|--|----------|
| <b>1. Introduction.....</b>                        | <b>3</b> |
| <b>2. Australian Trucking Association .....</b>    | <b>3</b> |
| <b>3. Recommendations.....</b>                     | <b>3</b> |
| <b>4. Outcomes and objectives of the Act .....</b> | <b>4</b> |
| <b>4.1 Outcomes of the Act.....</b>                | <b>4</b> |
| <b>4.2 Policy objectives.....</b>                  | <b>4</b> |

## 1. Introduction

The *Motor Vehicle Standards Act 1989* (MVSA) was introduced to set a minimum standard for safety and related matters (such as vehicle emissions) in order for a motor vehicle to enter the market in Australia. The Act also prevents importation of used vehicles, unless these are shown to meet equivalent standards of safety to that of the Australian Design Rules (ADR). The Act provides the regulatory framework to control supply and importation of heavy vehicles into Australia.

As the Act covers both domestic and international vehicle manufacturing and vehicle providers, it can achieve strict compliance with the appropriate administration.

The Act established national uniformity for ADR applications and prevents inconsistent state legislation. This alone was a vast improvement on the previous situation of myriad rules; inspections, approvals and certification regimes in each jurisdiction.

The Act strongly supports a broader public policy of reducing fatalities and injuries on Australia's roads. Since 1989, this piece of legislation appears to have been quite effective in ensuring that vehicles inferior in design or build quality are not provided to the market for later use on public roads.

## 2. Australian Trucking Association

The Australian Trucking Association (ATA) is the peak body that represents the trucking industry. Its members include state and sector-based trucking associations, some of the nation's largest transport companies, and businesses with leading expertise in truck technology.

## 3. Recommendations

### ***Recommendation 1***

The foundations of the MVSA Act are sound and the Act does not need a substantial legislative review or re-assessment under a regulatory impact statement.

### ***Recommendation 2***

The MVSA addresses non-compliant road vehicles operated for special oversize and over-mass tasks under permit and notices from the National Heavy Vehicle Regulator on advice from state and territory road agencies. The MVSA should not be expected to authorise alternative vehicles that do not meet safety standards for road vehicles. Such vehicles should be addressed in combination of customs law, state road transport law and trade practices law.

### ***Recommendations 3***

The leadership potential of Australia on road safety should not be constrained by the MVSA.

### ***Recommendation 4***

A technical refinement exercise be undertaken on the MVSA in conjunction with industry stakeholders.

### ***Recommendation 5***

The MVSA is about setting minimum safety standards. While alternative entry paths may be desirable for motor vehicle enthusiasts, similar standards to those achieved by the mainstream fleet must be maintained, and importing parties should meet full cost recovery for related administrative services from the Department. Further, the Act's safety objectives must not be pushed aside for consumer choice alone. This includes in-service modifications, which are the domain of the NHVR and states and territories but worthy of mention.

### ***Recommendation 6***

Off-road vehicles may require safety regulations but these should be addressed in other legislation so that safety objectives in the Act as well as mainstream traffic flows in Australia are not compromised in any way.

## 4. Outcomes and Objectives of the Act

### 4.1 Outcomes of the Act

Section 3a of the Act achieves uniform standards for new vehicles in Australia. It reduces the regulatory burden for the automotive industry associated with complying to ADRs whereas vehicle standards were previously handled differently in each state. The Act also provides a national mechanism to meet Australia's international treaty obligations.

Part 2 of the Act provides the legislative authority for a system of vehicle design standards (ADRs). The Act allows implementation of the UN regulations to provide alternative standards. Specific ADRs have been applied under the UN 1958 agreement. Further harmonisation with international design rules (if they are not in conflict with ADRs) will promote further improvements in manufacturing efficiency and give consumers confidence vehicles they have purchased meet a certain level of safety and emissions. The fact that 90 per cent of ADRs align with UN regulations indicates there are benefits for Australia in complying with international standards. Where Australia has retained unique local requirements such as 'modularity' these have been carefully justified, usually reflecting our unique operating environment (e.g. ensuring that where appropriate vehicle components are adequately rated for multi-combination use).

Moreover, section 3b added distinction to the Act in identifying used and new vehicles. The broad coverage also provided coverage to a large number of vehicles. The Act advances safety while respecting the interests of both automotive importers and the local automotive industry, giving no preference to either.

### 4.2 Policy objectives

The overarching policy objective behind the legislation is to improve the safety, environmental performance and security of road vehicles; this is still a current policy of today's government although thanks to the emergence of effective anti-theft devices, vehicle security is less of an urgent issue than when the legislation was introduced.

This primary legislation speaks to minimum safety levels for mainstream road vehicles that form the majority of the market and the majority of traffic on Australian roads, while acknowledging that various kinds of vehicles are not true road vehicles (for example, tractors, plant and agricultural machinery) but need limited road network access. This special form of access is dealt with by states and territories under restricted/conditional registration permits.

#### ***Recommendation 1***

**The foundations of the MVSA Act are sound and the Act does not need a substantial legislative review or re-assessment under a regulatory impact statement.**

The Act caters for the fact that the heavy vehicle industry must at times use non-compliant road vehicles for special tasks with oversize and/or over-mass or other special loads under strict operating conditions set by road managers. Accordingly, such vehicles must be allowed to enter the market, based upon advice from the new National Heavy Vehicle Regulator that operational permits will be provided.

Dealing with requests for access to the road network for alternative vehicles where safety may be sub-standard and below the minimum requirements in the MVSA ADR system (e.g. pedestrian devices, disability devices and low emissions vehicles without appropriate safety features etc), lies outside the scope of the MVSA Act since these relate to fringe vehicles that should not enjoy easy entry to the Australian market for on-road use. Gatekeeper roles will necessarily fall to customs and road agencies and trade practice laws.

#### ***Recommendation 2***

**The MVSA addresses non-compliant road vehicles operated for special oversize and over-mass tasks under permit and notices from the National Heavy Vehicle Regulator on advice from state and territory road agencies. The MVSA should not be expected to authorise alternative vehicles that do not meet safety standards for road vehicles. Such vehicles should be addressed in combination of customs law, state road transport law and trade practices law.**

The MVSA is not all about adopting someone else's solution. Australia has proven its capacity to lead the world, with its seatbelt standards in the 1960's and currently with its global leadership on pole side impact testing and standards developments aimed at mitigating a crash-related outcome which accounts for at least 10 per cent of deaths and even higher percentages of life-long serious injury.

Australia also leads globally with the use of multi-combination freight vehicles. The MVSA recognises this.

***Recommendations 3***

**The leadership potential of Australia on road safety should not be constrained by the MVSA.**

Minor amendments and the acknowledgment of new global circumstances are required in the MVSA. For example, powered trailers are now in use in Australia which are not envisaged in the definition of 'trailer' under the Act. Similarly, vehicle width limits are 2.6 metres globally. It is not sustainable for Australia to become more restrictive with a present 2.5 metre width limit. Hence, there is a desire for some technical refinements to the MVSA to be assessed on their individual merits for the regulatory impact they may pose.

***Recommendation 4***

**A technical refinement exercise be undertaken on the MVSA in conjunction with industry stakeholders.**

We believe the regulations implemented under the Act do not limit competition, promote best practice in automotive design and allow motor vehicle enthusiasts to import safe on-road vehicles. Further, the ADR do not constrain in-service modifications, provided the process is risk-managed and modification that warrant continued compliance assurance by a suitable engineering signatory. The NHVR has further work to do in this area to address current disparities in signatory management practices by road agencies.

Concessional schemes (including the Registered Automotive Workshop or RAW scheme) allow for non-compliance of non-standard vehicles to be approved for importation. These concessions provide a legal way for people to import non-compliant vehicles. However, scheme users should also pay the full cost of the associated administration and enforcement, otherwise there will be cost transfers to other parties.

The amendment of the Act in 2001 addressed a market desire for low volume vehicles, through the creation of a new approvals regime. The RAW scheme was updated to assist low volume manufacturers of new vehicles to comply with the ADRs and compete in the domestic market. The amended approval regime provides more oversight and ADR compliance than the previous system. The regulation also provides consumers with a network of services and spare parts, creating a responsible entity to conduct safety recalls and restrict the scheme to legitimate vehicle converters. The amendment also increased allowable volumes of imported vehicles including both specialist and enthusiast vehicles.

However, the RAW's schemes is also labour intensive for current staffing levels in the Department, this has resulted in mainstream industries, such as the heavy vehicle industry, desperate to see ADR of interest to them updated and the backlog of issues resolved. Simply put, more timely services for mainstream industry, and therefore attention to the Act's core safety objectives, could be achieved if second-hand vehicle importers supplying vehicles to satisfy enthusiasts, pay fees that match full cost recovery under the MVSA.

***Recommendation 5***

**The MVSA is about setting minimum safety standards. While alternative entry paths may be desirable for motor vehicle enthusiasts, similar standards to those achieved by the mainstream fleet must be maintained, and importing parties should meet full cost recovery for related administrative services from the Department. Further, the Act's safety objectives must not be pushed aside for consumer choice alone. This includes in-service modifications, which are the domain of the NHVR and states and territories but worthy of mention.**

An emerging issue is the treatment of imported off-road use motorbikes and quad bikes (ATV). The increase in fatalities for these types of vehicles when in off highway use indicates that current safety requirements and user practice may be lacking. Seeking to apply ADR to all terrain vehicles is challenging. If made ADR-compliant such vehicles would be suitable for on-road use - a very undesirable outcome. It may be better to set minimum safety standards via other rules that clearly disallow on-road use. Consideration should be given to where such regulations would rest, e.g. in consumer law, in MVSA or another legislative framework.

***Recommendation 6***

**Off-road vehicles may require safety regulations but these should be addressed in other legislation so that safety objectives in the Act as well as mainstream traffic flows in Australia are not compromised in any way.**