



Australian Government

Department of Infrastructure, Regional Development and Cities

Parliamentary Joint Committee on Law Enforcement

Inquiry into the theft and export of motor vehicles and parts

*Submission by the Department of Infrastructure,
Regional Development and Cities*

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Introduction

1. On 28 March 2018, the Parliamentary Joint Committee on Law Enforcement commenced a new inquiry into the theft and export of motor vehicles and parts, with particular reference to:
 - a. the extent of and trends in national and international trafficking and rebirthing of motor vehicles or motor vehicle parts;
 - b. the rates of and trends in motor vehicle theft and the recovery of stolen vehicles in Australia in comparison with other OECD nations;
 - c. the insurance implications of motor vehicle theft, including the impact on insurance premiums and state-based variations therein;
 - d. the possible export of stolen Australian motor vehicles and parts and the adequacy of Australian export regulations in the context of transnational organised motor vehicle crime;
 - e. international agreements and arrangements in connection with stolen Australian vehicles and parts being trafficked to and/or sold in other countries.
 - f. the role and/or involvement of serious and organised criminal groups including:
 - i. international criminal syndicates, and
 - ii. the extent to which the exportation of stolen motor vehicles and parts funds criminal activity both in Australia and internationally;
 - g. the use of Australian banking and financial systems to facilitate payments related to the exportation of stolen motor vehicles and parts; and
 - h. strategies by law enforcement and car manufacturers to reduce motor vehicle theft in Australia, including the use of new technologies.
2. This submission details the Commonwealth's current legislative framework that regulates the supply of road vehicles to the Australian market, including requirements for anti-theft features, as well as proposed new replacement legislation which is currently before Parliament.

Current legislation

3. Before a road vehicle can be supplied for use for the first time in Australia it must meet the requirements of the Motor Vehicle Standards Act 1989 (MVSA), which applies to new and used imported vehicles and locally manufactured vehicles.
4. Under the MVSA and the Motor Vehicle Standards Regulations 1989 (the Regulations), the Commonwealth maintains a system that generally requires road vehicles to meet national design and performance standards before they can be supplied to the Australian market. The MVSA also provides a legislative basis for Australia to apply international vehicle design and performance standards and meet Australia's international treaty obligations¹.

¹ Australia is a party to the United Nations Agreement concerning the Adoption of Uniform Technical Prescription for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled

5. The objects of the MVSA are:
 - a. to achieve uniform vehicle standards to apply to new vehicles when they begin to be used in transport in Australia; and
 - b. to regulate the first supply to the market of used imported vehicles.
6. In the MVSA, a vehicle standard means a standard for road vehicles or vehicle components that is designed to:
 - a. make road vehicles safe to use; or
 - b. control the emission of gas, particles or noise from road vehicles; or
 - c. secure road vehicles against theft; or
 - d. promote the saving of energy.
7. These vehicle standards are known as the Australian Design Rules (ADRs). The ADRs set requirements for vehicle safety, environmental performance and anti-theft protection in line with community expectations and international standards. Under this system, new vehicle types (models) manufactured in Australia or imported into Australia are assessed and certified as complying with current applicable ADRs. Once the vehicle type has been approved, new vehicles of that type are then authorised for manufacture or import and supply to the market.
8. Since the mid-1980s, the ADRs have been progressively harmonised with internationally based United Nations (UN) vehicle regulations, which are developed by the UN World Forum for Harmonization of Vehicle Regulations. Harmonisation ensures that vehicles built to the most recent standards are supplied to the Australian market at the least cost and that Australia has access to the latest vehicle technologies.
9. The MVSA is written around the concept that all vehicles supplied for general road use to the market in Australia are required to be fitted with an identification plate (previously known as a compliance plate). The plate contains vehicle-specific information, which typically includes the Vehicle Identification Number (VIN), approval number, make, model, and either an approval date or a date of manufacture. The identification plate is fitted when the vehicle is certified as meeting the requirements of the MVSA, including compliance with the ADRs.
10. Identification plates were mandated when bringing together State and Territory requirements to ensure vehicles were able to be registered and then used across borders. The plate indicates to the State or Territory registering authority and to future owners of the vehicle that the vehicle met the required ADRs when it was supplied to the Australian market². Identification

Vehicles, and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions of 20 March 1958 (the 1958 Agreement); and the United Nations Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles of 25 June 1998 (the 1998 Agreement).

² Hence the original term “Compliance Plate”. This was subsequently revised to “Identification Plate” reflecting the fact that there could be various levels of “compliance” under the different available certification schemes. “Compliance Plate” still appears in the ADRs and is cross-referenced in definitions to “Identification Plate”.

plates also identify the method in which the vehicle came into Australia, with different coloured plates for personally imported vehicles, letter of compliance vehicles, low volume vehicles and used import vehicles.

11. Once vehicles are supplied to the market, responsibility passes to the States and Territories to regulate vehicle registration, in-service standards and operations. This is principally done through legislation based on the Australian Light Vehicle Standards Rules and the Australian Road Rules, which is managed by the National Transport Commission, and the Heavy Vehicle National Law, which is administered by the National Heavy Vehicle Regulator. Both the Australian Vehicle Standards Rules and the Heavy Vehicle National Law have as a general principle that vehicles will continue to comply with relevant ADRs.

Anti-theft ADRs

12. In line with other developed economies, Australia mandates UN based national standards for anti-theft features. These are ADR 25/02 – Anti-Theft Lock, based on UN regulation 18 (Protection Against Unauthorized Use) and the later UN regulation 116, as well as ADR 82/00 – Engine Immobilisers, based on Part III of UN regulation 97 (Vehicle Alarm Systems) and the later UN regulation 116.
13. ADR 25 is applicable to light three and four-wheeled vehicles (motor tricycles, cars, vans, sports utility vehicles, light commercial vehicles and small buses), while ADR 82 is applicable to light four-wheeled passenger vehicles (cars, vans and sports utility vehicles).
14. ADR 25 requires the fitting of device(s) to prevent the unauthorised starting of the engine as well as steering and/or driving of the vehicle. This typically comprises an ignition lock, steering lock and/or a lock on the gear selector of an automatic transmission. ADR 82 requires the fitting of a device to prevent the operation of the vehicle under its own power. It must do this by disabling engine or control unit circuits. This typically comprises an electronic lock on the fuel and/or ignition circuits or vehicle management systems more generally.
15. In addition to above requirements and in common with most other markets, ADR 61/02 – Vehicle Marking also requires a unique 17-digit number, the VIN, to be allocated to and marked on each vehicle. Under the ADR, the structure and physical application of the VIN must meet at least one of a choice of national and/or international technical standards. For light vehicles (cars, sport utility vehicles, vans and some light commercial vehicles) the VIN is usually marked on a plate which is then permanently attached to the vehicle bodywork, while for heavy vehicles (trucks, buses and heavy trailers) it is usually engraved, etched or welded onto the main chassis.
16. Under ADR 61 certain types of heavy vehicles and all trailers are also required to fit a “Vehicle Plate”. This contains information on the vehicle’s configuration but also includes the VIN and other information in a similar arrangement to the identification plate. The Vehicle Plate and identification plate may be combined, provided all the necessary information is provided.

New legislative framework

Review of the MVSA

17. Since 1989, the Australian Government has relied on the MVSA to control the safety, environmental and anti-theft performance of road vehicles entering the Australian market for the first time. Last reviewed in the year 2000, the MVSA and its regulations have become outdated with high regulatory costs as significant changes in global and domestic vehicle markets and vehicle technologies have occurred.
18. The current review of the MVSA has involved significant and ongoing consultation with industry and the community. An initial public consultation process in 2013 identified the need for a review of the currency and operation of the MVSA, and its regulations, to determine whether it remained effective and efficient. Feedback received indicated that the legislation's safety, environmental and consumer protection objectives were still relevant but aspects of the MVSA were outdated and compliance and enforcement options were limited.

Principles

19. In February 2016, the Minister for Urban Infrastructure and Cities, the Hon. Paul Fletcher MP, announced a package of reforms based on the extensive consultation process undertaken as part of the 2014 review.
20. The implementation of the announced reforms is guided by five principles:
 - Flexible and responsive legislation for the future of road vehicles;
 - Clear legislation for safe, secure, and environmentally friendly vehicles;
 - More choice of road vehicles for Australians;
 - Continued harmonisation with international standards; and
 - Improved compliance and enforcement powers.

What the new legislation achieves

21. The resulting Road Vehicle Standards Bill 2018, and supporting legislation, modernises and strengthens the legislative framework for the future provision of road vehicles in Australia. It replaces the physical identification plate as the marker of a vehicle's suitability for supply in Australia with an online, publicly searchable database – the Register of Approved Vehicles (further details below). It strengthens the Government's ability to monitor and enforce compliance with vehicle standards by triggering the *Regulatory Powers (Standards Provisions) Act 2014* - providing a standardised suite of monitoring, investigation and enforcement powers. The Bill also includes powers to issue recalls for all road vehicles and all non-compliance with National Road Vehicle Standards.
22. The legislation package streamlines road vehicle approvals by consolidating import and supply pathways and provides the framework for revised Specialist and Enthusiast Vehicle and

Registered Automotive Workshop arrangements - including the introduction of independent third party vehicle inspections.

23. The Road Vehicle Standards (Consequential and Transitional Provisions) Bill 2018 provides the automotive industry a twelve-month transitional period from the commencement of the Road Vehicle Standards Bill. During this period, provisions of the MVSA will continue to have effect, in order to assist entities operating under the old law to update their business operations in response to the new regulatory environment. It also provides incentives to certain approval holders to become early adopters of the new regulatory framework.

Reduced regulatory burden

24. The current regulatory framework imposes regulatory costs on industry and individuals of around \$249 million a year.
25. The changes to the regulation of road vehicles under the new package of bills will create regulatory burden reduction opportunities in the order of \$69 million per annum. Of this, almost \$20 million is derived from streamlining elements such as removal of identification plates following the introduction of the RAV and consolidation of concessional schemes. Around \$4 million of these savings accrue to small businesses like the Registered Automotive Workshops. Approximately \$49 million in savings comes from improving the ability to continue harmonisation with international standards.

Anti-theft provisions

26. The Road Vehicle Standards legislation maintains the ADRs as the national road vehicle standards, including those ADRs that specify requirements for anti-theft locks, engine immobilisers and VINs. It continues the harmonisation of ADRs with international best practice vehicle standards, which is widely supported by industry participants.
27. The legislation removes the requirement for vehicles to be fitted with identification plates. These plates are a unique Australian requirement that not only add cost and complexity to the vehicle supply process, they also represent an outmoded method of providing assurance of compliance to vehicle users and registration authorities.
28. Instead, the compliance information will be contained on the Register of Approved Vehicles (RAV) – a publicly searchable online database for all road vehicles approved for use on Australian roads. Entry of a vehicle's compliance details onto the RAV will improve the Government's ability to ensure the compliance of road vehicles as it will provide an exact point in time a vehicle supplier declares the vehicle compliant with the legislative requirements. It will also improve information available to consumers and industry as an accessible database for consumers to check a vehicle's importation and approval pathway.
29. While the core purpose of an identification plate is to identify that a vehicle met the required ADRs when it was supplied to the Australian market, it has also come to serve a de-facto secondary role as a means of identification – in addition to the VIN marking already required by ADR 61 – for State and Territory road regulators and policing agencies.

30. In response to feedback from policing agencies and the National Motor Vehicle Theft Reduction Council, this secondary role will be maintained where identification plates are no longer required to be fitted either through continued use of the Vehicle Plate, in the case of heavy vehicles and/or light trailers, or through an equivalent form of secure vehicle identification marking of the VIN for light vehicles, such as plates or labels compatible with statutory marking required in other major markets. The harmonisation of these requirements with other major markets will be essential as the majority of vehicles (and all light vehicles) are now imported into Australia.
31. This initiative will assist police and State and Territory road regulators by ensuring that the identities of road vehicles supplied in Australia continue to be protected, therefore providing a deterrent to vehicle theft activities for the purposes of vehicle re-birthing and laundering.