



Motor Vehicle Standards Amendment Act 2001

No. 155, 2001



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**An Act to amend the *Motor Vehicle Standards Act
1989*, and for related purposes**

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An Act to amend the *Motor Vehicle Standards Act 1989*, and for related purposes

[Assented to 1 October 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Motor Vehicle Standards Amendment Act 2001*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Transitional—old approvals

Section 10A approvals that cease to be in force

- (1) If, immediately before the commencement of this Act, an approval (the **old approval**) was in force under section 10A of the *Motor Vehicle Standards Act 1989* in respect of used imported vehicles of a particular type, then, immediately after the commencement of this Act:
 - (a) the old approval ceases to be in force; and

-
- (b) the Minister is taken to have granted an approval (the ***transitional approval***) under subsection 16(2) of that Act in respect of used imported vehicles of that type.

Section 10A approvals that remain in force

- (2) The amendments made by Schedule 1 do not affect the validity of:
 - (a) any other approval given under section 10A of the *Motor Vehicle Standards Act 1989* before the commencement of this Act; and
 - (b) any condition determined under that section, before the commencement of this Act, in respect of such an approval.

Section 14A approvals

- (3) If, immediately before the commencement of this Act, an approval (the ***old approval***) was in force under section 14A of the *Motor Vehicle Standards Act 1989* in respect of a used imported vehicle, then, immediately after the commencement of this Act:
 - (a) the old approval ceases to be in force; and
 - (b) the Minister is taken to have granted an approval (the ***transitional approval***) under subsection 16(2) of that Act in respect of the vehicle.

Period transitional approvals in force

- (4) A transitional approval is taken to be in force for a period worked out in accordance with the regulations. The regulations may provide for transitional approvals to be in force for different periods (having regard to the old approvals that ceased to be in force).

Conditions

- (5) All transitional approvals are subject to the conditions prescribed by the regulations.

Variation, cancellation or suspension of transitional approvals

- (6) Section 16A of the *Motor Vehicle Standards Act 1989* applies to a transitional approval in the same way as it does to any other approval granted under section 16 of that Act.

Making regulations

- (7) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this section to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this section.

Definition

- (8) In this section:

used imported vehicle means an imported vehicle that has been used in transport outside Australia.

5 Application—breach of conditions on identification plate approvals

Subsection 10A(6) of the *Motor Vehicle Standards Act 1989* applies to conditions determined under section 10A of that Act before or after the commencement of this Act.

6 Application—supply of used imported vehicles

Section 16 of the *Motor Vehicle Standards Act 1989* applies to used imported vehicles supplied to the market after the commencement of this Act (regardless of whether the vehicles were imported before or after the commencement of this Act).

Schedule 1—Amendments

Motor Vehicle Standards Act 1989

1 Section 3

Repeal the section, substitute:

3 Objects of Act

The main objects of this Act 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.

2 Subsection 4(1)

Omit “sections 12 and 14 and subsections 16(1) and (3), the first reference in subsection 16(2), and the reference in subsection 21(2),”, substitute “sections 12, 13G, 14 and 16”.

3 Subsection 5(1) (definition of *imported vehicle*)

Omit “whether or not the vehicle has been used in transport outside Australia”.

4 Subsection 5(1)

Insert:

new imported vehicle means an imported vehicle that has not been used in transport outside Australia.

5 Subsection 5(1) (definition of *new vehicle*)

Omit “an imported vehicle” (wherever occurring), substitute “a new imported vehicle”.

6 Subsection 5(1)

Insert:

registered automotive workshop means a corporation in respect of which an approval is in force under section 21B.

7 Subsection 5(1)

Insert:

used import plate, in relation to a used imported vehicle, means a plate approved to be placed on the vehicle by an approval in force under section 13D.

8 Subsection 5(1)

Insert:

used imported vehicle means an imported vehicle that has been used in transport outside Australia.

9 After section 6

Insert:

6A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to offences against the following provisions of this Act:

- (a) subsection 10A(6);
- (b) subsection 13D(6);
- (c) section 13G;
- (d) subsections 16(1) and (7);
- (e) subsection 21D(2).

10 Paragraph 9(1)(c)

Omit “paragraph (a) or (ba)”, substitute “paragraph (a), (b) or (ba)”.

11 Paragraph 9(1)(d)

Omit “or testing”, substitute “, testing or inspection”.

12 Before section 10

Insert:

Division 1—Identification plates

13 Paragraph 10(2)(h)

Omit “this section”, substitute “section 10A”.

14 Subsection 10A(1)

Omit “road vehicles or vehicle components of a particular type”, substitute “new vehicles of a particular type, or vehicle components of a particular type,”.

15 Paragraph 10A(2)(a)

Omit “road vehicles or vehicle components of a particular type”, substitute “new vehicles of a particular type, or vehicle components of a particular type,”.

16 Subsection 10A(3)

Repeal the subsection, substitute:

(3) If:

(a) new vehicles of a particular type:

(i) are covered by an entry in the Register referred to in section 21; or

(ii) are prescribed by the regulations for the purposes of this subparagraph; and

(b) the vehicles of that type do not comply with the national standards; and

(c) the Minister is satisfied that the non-compliance is not only in minor and inconsequential respects; and

(d) the Minister is satisfied that the vehicles of that type comply with the national standards to an extent that makes them suitable for supply to the market;

the Minister may give written approval for identification plates to be placed on vehicles of that type.

17 Subsection 10A(4)

Repeal the subsection, substitute:

(4) An approval under subsection (1), (2) or (3) may be subject to written conditions determined by the Minister.

- (5) In relation to an approval under subsection (3), those conditions may include a condition that the holder not place more than a specified number of identification plates on a specified class of vehicles during a specified period.
- (6) If:
- (a) the holder of an approval under subsection (1), (2) or (3) intentionally takes an action or omits to take an action; and
 - (b) the action or omission contravenes a condition of the approval; and
 - (c) the holder knows that the action or omission contravenes the condition or is reckless as to whether or not the action or omission contravenes the condition;
- the holder is guilty of an offence punishable, on conviction, by a fine not exceeding 60 penalty units.

18 Paragraph 10B(1)(a)

Repeal the paragraph, substitute:

- (a) gives approval for the placement of identification plates on new vehicles, or on vehicle components, under subsection 10A(1); and

19 Paragraph 10B(2)(a)

Omit “road vehicles or vehicle components under subsection 10A(2) or (3)”, substitute “new vehicles under subsection 10A(2) or (3) or on vehicle components under subsection 10A(2)”.

20 Subsection 10B(4)

Omit “road vehicle or a vehicle component”, substitute “new vehicle”.

21 Paragraph 11(1)(a)

Omit “authorised”, substitute “approved”.

Note: The heading to section 11 is altered by omitting “**authority**” and substituting “**approval**”.

22 Paragraph 11(1)(a)

Omit “authority”, substitute “approval”.

23 Subparagraph 11(1)(b)(v)

Omit “authority”, substitute “approval”.

24 Subsection 11(1)

Omit “person’s authority”, substitute “person’s approval”.

25 Paragraph 11(2)(a)

Omit “authority”, substitute “approval”.

26 Paragraph 11(2)(b)

Omit “authority”, substitute “approval”.

27 Paragraph 12(a)

Omit “authority”, substitute “approval”.

28 Paragraph 12(d)

Omit “authority”, substitute “approval”.

29 Section 13

Omit “authority”, substitute “approval”.

30 After section 13

Insert:

Division 2—Standard vehicles not to be made nonstandard

31 After section 13A

Insert:

Division 3—Used import plates

13B Placement of used import plates

- (1) The Minister may, by writing, determine procedures and arrangements relating to the placement of used import plates on used imported vehicles.
- (2) The procedures and arrangements may relate to one or more of the following:
 - (a) the categories of used import plates to be used;

- (b) the content, form and function of used import plates;
 - (c) the nature, content and sources and form of evidence to be presented to establish to what extent a road vehicle complies with the national standards;
 - (d) the analysis, verification and supplementation of that evidence;
 - (e) the manufacture and supply of used import plates;
 - (f) the placement of used import plates;
 - (g) the retention of records and information relevant to applications for, and the giving of, approvals under section 13D.
- (3) Subsection (2) does not limit subsection (1).
- (4) Determinations under subsection (1) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

13C Application for approval to place a used import plate

- (1) A registered automotive workshop may apply to the Minister for an approval to place a plate on a used imported vehicle.
- (2) The application must be made in accordance with the regulations and can only be made in respect of a single used imported vehicle.

Further information

- (3) The Minister may, by writing, request the applicant to give the Minister, within the period specified in the request, further information about the application.
- (4) The Minister may refuse to consider the application until the applicant gives the Minister the information in accordance with the request.

13D Grant of approval

Grant

- (1) The Minister may, by writing, grant a registered automotive workshop an approval to place a plate on a used imported vehicle if, having regard to a report in relation to the vehicle that is given

to the Minister by the workshop, the Minister is satisfied that it is appropriate to grant the approval.

Determinations

- (2) A report referred to in subsection (1) must be in such form, and contain such information, as is determined in writing by the Minister.
- (3) The Minister must, by writing, determine guidelines that apply to the making of decisions under subsection (1). The Minister must comply with these guidelines in making such decisions.

Approval a matter of public record

- (4) An approval under subsection (1) must specify that it is a matter of public record.

Conditions of approval

- (5) An approval under subsection (1) is subject to any conditions specified in the approval.

Breach of conditions

- (6) The holder of an approval under subsection (1) is guilty of an offence if:
 - (a) the holder intentionally takes an action or omits to take an action; and
 - (b) the action or omission contravenes a condition of the approval; and
 - (c) the holder knows that the action or omission contravenes the condition or is reckless as to whether or not the action or omission contravenes the condition.

Penalty: 60 penalty units.

Refusal

- (7) If the Minister refuses to grant the approval, the Minister must give written notice of the refusal to the workshop. The notice must include a statement of the reasons why the approval was refused.

Disallowable instruments

- (8) A determination under subsection (2) or (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

13E Number limits on placement of used import plates

The regulations may provide that the number of used import plates that a registered automotive workshop may be approved, under subsection 13D(1), to place on used imported vehicles of a specified class during a specified period must not exceed a specified number.

13F Variation, cancellation or suspension of approval

- (1) The Minister may vary, cancel or suspend an approval that a registered automotive workshop holds under subsection 13D(1) if the Minister is satisfied that:
- (a) the workshop has placed the used import plate on the used imported vehicle otherwise than in accordance with the procedures and arrangements referred to in section 13B; or
 - (b) the workshop has made a false or misleading statement in the application for the approval; or
 - (c) the workshop has failed to observe procedures and arrangements determined under section 9; or
 - (d) the workshop has contravened a condition of the approval.

Procedure

- (2) If the Minister considers that there may be grounds to vary, cancel or suspend the approval, the Minister must:
- (a) give the workshop written notice of the Minister's opinion specifying the reasons for that opinion; and
 - (b) invite the workshop to make a written submission to the Minister about the matter within a reasonable period specified in the notice.
- (3) In deciding whether to vary, cancel or suspend the approval, the Minister must consider the matters raised in any submission received within the period specified in the notice.

Effect of suspension

- (4) If the approval is suspended, it ceases to be in force while suspended. It may be cancelled or varied even while it is suspended.

Notice

- (5) The Minister must give the workshop written notice of a decision under subsection (1) specifying the reasons for the decision. The decision takes effect:
 - (a) on the day on which it is made; or
 - (b) if the notice specifies a later day as the day on which the decision takes effect—on that later day.

13G Offence in relation to the placement of used import plates

A person is guilty of an offence if the person:

- (a) manufactures or supplies a device purporting to be a used import plate and the person has not been authorised under an agreement between the Commonwealth and the person to manufacture and supply used import plates; or
- (b) places a device purporting to be a used import plate on a road vehicle; or
- (c) places a used import plate on a road vehicle in relation to which no approval for the placement of that plate on that vehicle is in force.

Penalty: 120 penalty units.

32 Before section 14

Insert:

Division 1—Supply of new vehicles etc.

33 After section 15

Insert:

Division 2—Supply of used imported vehicles

16 Supply of used imported vehicles

Supply offence

- (1) A person is guilty of an offence if:
 - (a) the person supplies to the market a used imported vehicle;
and
 - (b) the vehicle does not have a used import plate; and
 - (c) the vehicle has not previously been supplied to the market;
and
 - (d) the supply is not made in circumstances prescribed by the regulations; and
 - (e) the supply is not made with the approval of the Minister under subsection (2).

Penalty: 120 penalty units.

Application for approval

- (2) The Minister may, by writing, grant a person an approval to supply to the market a used imported vehicle that does not have a used import plate.
- (3) An application for such an approval must be made in accordance with the regulations. The application can only be made in respect of a single used imported vehicle.
- (4) The Minister may, by writing, request the applicant to give the Minister, within the period specified in the request, further information about the application.
- (5) The Minister may refuse to consider the application until the applicant gives the Minister the information in accordance with the request.

Approval subject to conditions

- (6) An approval under subsection (2) is subject to any conditions specified in the approval.

Breach of conditions

- (7) If:
- (a) the holder of an approval under subsection (2) intentionally takes an action or omits to take an action; and
 - (b) the action or omission contravenes a condition of the approval; and
 - (c) the holder knows that the action or omission contravenes the condition or is reckless as to whether or not the action or omission contravenes the condition;
- the holder is guilty of an offence punishable, on conviction, by a fine not exceeding 60 penalty units.

16A Variation, cancellation or suspension of approval

- (1) The Minister may vary, cancel or suspend an approval that a person holds under subsection 16(2):
- (a) if the Minister is satisfied that the person has contravened a condition of the approval; or
 - (b) if the Minister is satisfied that the person has made a false or misleading statement in the application for the approval; or
 - (c) in any other circumstances that the Minister considers appropriate.

Procedure

- (2) If the Minister considers that there may be grounds to vary, cancel or suspend the approval, the Minister must:
- (a) give the person written notice of the Minister's opinion specifying the reasons for that opinion; and
 - (b) invite the person to make a written submission to the Minister about the matter within a reasonable period specified in the notice.
- (3) In deciding whether to vary, cancel or suspend the approval, the Minister must consider the matters raised in any submission received within the period specified in the notice.

Effect of suspension

- (4) If the approval is suspended, it ceases to be in force while suspended. It may be cancelled or varied even while it is suspended.

Notice

- (5) The Minister must give the person written notice of a decision under subsection (1) specifying the reasons for the decision. The decision takes effect:
- (a) on the day on which it is made; or
 - (b) if the notice specifies a later day as the day on which the decision takes effect—on that later day.

34 Before section 17

Insert:

Division 3—Import of new and used vehicles

35 Paragraph 17A(2)(b)

Omit “section 19 or 20 in respect of the vehicle”, substitute “section 19, or under regulations referred to in subsection 20(3), in respect of the vehicle”.

36 After subsection 20(3)

Insert:

- (3A) The regulations may provide that the number of used vehicles of a specified class that a specified person may be approved to import during a specified period must not exceed a specified number.
- (3B) For the purposes of subsection (3A), *used vehicle* means a road vehicle that has been used in transport outside Australia.

37 After section 20

Insert:

Division 4—Register of Specialist and Enthusiast Vehicles

21 Register of Specialist and Enthusiast Vehicles

- (1) The regulations may make provision for and in relation to the Minister keeping a Register of Specialist and Enthusiast Vehicles.
- (2) The regulations may provide for any one or more of the following:
 - (a) the form in which the Register is to be kept;
 - (b) the procedures to be followed before road vehicles may be entered on the Register (which may require the making of applications);
 - (c) the criteria to be satisfied before road vehicles may be entered on the Register;
 - (d) the inspection of the Register;
 - (e) the procedures to be followed for removing road vehicles from the Register;
 - (f) the transitional arrangements that are to apply if road vehicles are removed from the Register;
 - (g) the notification of decisions made under the regulations;
 - (h) the review of decisions made under the regulations.
- (3) Subsection (2) does not limit subsection (1).

38 After Part 4

Insert:

Part 4A—Registered automotive workshops

21A Application for approval

- (1) A corporation may apply to the Minister for an approval as a registered automotive workshop.
- (2) The application must be made in accordance with the regulations.

Further information

- (3) The Minister may, by writing, request the applicant to give the Minister, within the period specified in the request, further information about the application.
- (4) The Minister may refuse to consider the application until the applicant gives the Minister the information in accordance with the request.

21B Grant of approval

- (1) The Minister may, by writing, approve a corporation (the *applicant*) as a registered automotive workshop if the Minister is satisfied that:
 - (a) the applicant is a fit and proper person; and
 - (b) each of the directors, and each officer or shareholder who is in a position to influence the management of the applicant, is a fit and proper person; and
 - (c) any other criteria prescribed by the regulations are met.
- (2) The Minister may, by writing, determine guidelines that the Minister may have regard to when deciding whether the criteria in paragraphs (1)(a) and (b) are satisfied.
- (3) The criteria prescribed by the regulations for the purposes of paragraph (1)(c) may relate to:
 - (a) the relationship between the applicant and one or more other corporations; or
 - (b) the relationship one or more persons have with the applicant and one or more other corporations.
- (4) Subsection (3) does not limit paragraph (1)(c).
- (5) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Refusal

- (6) If the Minister refuses to grant the approval, the Minister must give written notice of the refusal to the applicant. The notice must include a statement of the reasons why the approval was refused.

21C Period approval in force

- (1) An approval under section 21B comes into force on the day it is granted and remains in force for a period of 2 years.

Renewal

- (2) The holder of such an approval may, not earlier than 1 month before the day (the *expiry day*) the approval is due to expire, apply to the Minister to renew the approval.
- (3) The application must be made in accordance with the regulations.
- (4) The Minister may, by writing, request the applicant to give the Minister, within the period specified in the request, further information about the application.
- (5) The Minister may refuse to consider the application until the applicant gives the Minister the information in accordance with the request.
- (6) If the Minister has not decided the application before the end of the expiry day, the approval is taken to continue in force until the Minister decides the application.
- (7) If the Minister decides to renew the approval, it is renewed for a period of 2 years starting on the day after the expiry day.
- (8) The approval may be renewed more than once under this section.

Refusal

- (9) If the Minister refuses to renew the approval, the Minister must give written notice of the refusal to the holder. The notice must include a statement of the reasons why the renewal was refused.

21D Conditions of approval

- (1) An approval under section 21B is granted:
 - (a) subject to any conditions prescribed by the regulations; and
 - (b) subject to any conditions specified in the approval.

Note: An approval may be varied under section 21E. The Minister could impose further conditions or vary or revoke existing conditions.

- (2) If:
- (a) the holder of an approval under section 21B intentionally takes an action or omits to take an action; and
 - (b) the action or omission contravenes a condition of the approval; and
 - (c) the holder knows that the action or omission contravenes the condition or is reckless as to whether or not the action or omission contravenes the condition;
- the holder is guilty of an offence punishable, on conviction, by a fine not exceeding 60 penalty units.

21E Variation, cancellation or suspension of approval

Variation

- (1) The Minister may, on his or her own initiative or on application by the holder of an approval under section 21B, vary such an approval.
- (2) Such an application must be made in accordance with the regulations.
- (3) The Minister may, by writing, request the applicant to give the Minister, within the period specified in the request, further information about the application.
- (4) The Minister may refuse to consider the application until the applicant gives the Minister the information in accordance with the request.

Cancellation or suspension

- (5) The Minister may cancel or suspend an approval under section 21B:
 - (a) if the Minister is satisfied that its holder has contravened a condition of the approval; or
 - (b) if the Minister is satisfied that its holder no longer complies with the criteria referred to in subsection 21B(1); or
 - (c) in any other circumstances that the Minister considers appropriate.

Procedure

- (6) If the Minister considers that there may be grounds to:
 - (a) make a decision under subsection (1) (other than at the holder's request); or
 - (b) make a decision under subsection (5);the Minister must:
 - (c) give the holder written notice of the Minister's opinion specifying the reasons for that opinion; and
 - (d) invite the holder to make a written submission to the Minister about the matter within a reasonable period specified in the notice.
- (7) In deciding whether to make a decision under subsection (1) or (5), the Minister must consider the matters raised in any submission received within the period specified in the notice.

Effect of suspension

- (8) If the approval is suspended, it ceases to be in force while suspended. It may be cancelled or varied even while it is suspended.

Notice

- (9) The Minister must give the holder written notice of a decision under subsection (1) or (5). The decision takes effect:
 - (a) on the day on which it is made; or
 - (b) if the notice specifies a later day as the day on which the decision takes effect—on that later day.

39 At the end of section 23

Add:

- ; and (f) the power to determine procedures and arrangements for the placement of used import plates on used imported vehicles under section 13B; and
- (g) the requirement to determine guidelines under subsection 13D(3); and
- (h) the power to determine guidelines under subsection 21B(2).

40 Paragraph 24(1)(b)

Repeal the paragraph, substitute:

- (b) applications under section 13A, 13C, 14A, 15 or 16 for an approval; or

41 After paragraph 24(1)(d)

Insert:

- (da) applications under section 21A for an approval, applications under section 21C to renew an approval or applications under section 21E to vary an approval; or

42 At the end of section 24

Add:

- (5) The regulations may make provision for and in relation to the refund of any fees paid under this section in respect of an application under section 21A.

43 Subsection 27(1)

Omit “section 7 or 10”, substitute “section 7, 10 or 13B”.

44 Subsection 28(1)

After “the regulations,”, insert “procedures determined under section 9,”.

45 Subsection 28(1)

Omit “section 7 or 10”, substitute “section 7, 10 or 13B”.

46 Subsection 29(1)

After “the regulations,”, insert “procedures determined under section 9,”.

47 Subsection 29(1)

Omit “section 7 or 10”, substitute “section 7, 10 or 13B”.

48 Paragraph 37(a)

After “identification plate”, insert “or a used import plate”.

49 After paragraph 39(1)(a)

Insert:

- (ab) a decision of the Minister under section 13D to refuse an application for an approval; and
- (ac) a decision of the Minister under section 13D to specify a condition in an approval; and
- (ad) a decision of the Minister under section 13F to vary, cancel or suspend an approval; and

50 Paragraph 39(1)(d)

Repeal the paragraph, substitute:

- (d) a decision of the Minister under section 16 to refuse an application for an approval; and
- (da) a decision of the Minister under section 16 to specify a condition in an approval; and
- (db) a decision of the Minister under section 16A to vary, cancel or suspend an approval; and

51 After paragraph 39(1)(f)

Insert:

- (fa) a decision of the Minister under section 21B to refuse an application for an approval; and
- (fb) a decision of the Minister under section 21C to refuse to renew an approval; and
- (fc) a decision of the Minister under section 21D to specify a condition in an approval; and
- (fd) a decision of the Minister under section 21E to vary, cancel or suspend an approval; and

*[Minister's second reading speech made in—
House of Representatives on 28 June 2001
Senate on 26 September 2001]*

(122/01)
