

Regulation impact statement

Safety and emission standards for 15 year old imported vehicles

Part 1, Background

Australia maintains a federal scheme of safety and emission standards for motor vehicles. The scheme is administered by the Department of Transport and Regional Services (DOTARS). Industry-specific regulation is provided under the *Motor Vehicle Standards Act 1989* (the “MVSA”); the Act came into effect on 1 August 1989.

National standards for vehicle design are specified under the Australian Design Rules (ADRs). These vehicle standards are generally recognised as contributing towards safer roads and cleaner air.¹

Where possible, the ADRs are harmonised with global U.N. standards. They are also performance-based. They specify a minimum level of performance that a vehicle must achieve, rather than mandate specific design features. For example, the ADR for passenger car braking requires a defined level of deceleration under prescribed test conditions, rather than requiring that brakes be of a specified size or be constructed of a specified material. Performance-based standards focus on outcomes, for example by eliminating hazards and minimising or mitigating risks. Standards also ensure that problems do not “fall between the cracks”, as may be the case with highly detailed and specific black letter regulation. Outcomes and targets are easier to communicate to industry, compared to the complexity of vehicle design.

However, notwithstanding these benefits, Government also recognises the limitations of performance-based regulation. While entirely suitable for mass-market, high-volume manufacturers and suppliers, such an approach may be less suitable for low-volume, specialist or “one-off” vehicle importers. Specialist small businesses and individuals may be less interested in flexibility and innovation, and more interested in regulatory certainty and simplicity. Smaller firms and individuals may have limited resources to develop flexible approaches. As such, smaller firms may prefer concrete guidance and clearly-defined processes.

In order to ensure that the regulatory scheme is suitable for “both ends of the spectrum” – that is, for both ends of Australia’s motor vehicle industry – the MVSA scheme is split into three “tiers”, as follows:

Tier 1, the “full volume” scheme. The ADRs are applied – directly and in full – to the supply of all mass-market vehicles. Examples of full volume vehicles include the *Ford Falcon*, *Holden Commodore* and *Toyota Corolla*. These vehicles are produced by large corporations; the ten leading automotive groups supply 80% of the world’s vehicle production.² Performance-based ADRs accommodate and promote innovation and efficiency within these firms. Overall, the motor vehicle industry is heavily reliant upon technological innovation. Major vehicle and component manufacturers are able to incorporate standards – and safety and emission outcomes – at the design and development stage. Flexibility is maximised; manufacturers and suppliers have the resources to design tailored programs to achieve results. A more prescriptive approach may risk eliminating this flexibility, and hence impair the benefits of industry innovation. The “one and only” prescribed method may turn out to be old fashioned and not as effective, compared to the latest developments in automotive technology.

Tier 2, the “specialist register”. As an alternative to tier 1, smaller firms such as importers may apply to be covered under a second tier. This second tier covers small batches or production runs of new vehicles imported into Australia, such as *Ferrari*, *Lotus*, *Maserati*, *Morgan*, *Indian* motorbikes and *Winnebago* motorhomes. This tier also covers mainstream used vehicles imported into Australia, such as the *Chevrolet Suburban*, *Nissan Skyline* and *Toyota Soarer*. These smaller firms liaise directly with the regulator. DOTARS provides concrete guidance and clearly-defined processes, ensuring that vehicles comply with the ADR standards as far as practicable.

Tier 2 is pro-competitive, as it provides access to small classes of vehicles that may otherwise be uneconomic to supply to the market under tier 1. It therefore provides consumers with a greater choice of vehicles. Under tier 2, alternate forms of evidence are allowed against some of the ADRs, and equivalent overseas standards are recognised.

Tier 3, the importation of “one-off” personal and hobby vehicles by individuals.

Finally, for social and equity reasons, the MVSA scheme also promotes the availability of single-vehicle personal and hobby imports. The ADR compliancing cost for these single vehicles may be so costly as to be prohibitive. As a result, a third tier provides a low-cost alternative; these vehicles are wholly exempt from the ADR compliancing process.

Personal imports comprise vehicles that accompany a person when travelling. For example, the exemption covers vehicles that accompany a person returning to Australia after a period of residence overseas. Another example covers vehicles owned by people who are applicants for Australian citizenship or for permanent Australian residence. Hobby vehicles are covered by the “15-year-old” scheme.

Part 2, Problem identification

This RIS concerns the management of the “15-year-old” scheme. This scheme is a minor concession from Australia’s wider scheme of safety and emission standards for motor vehicles. In particular, the concession covers the importation into Australia of vehicles that are 15 or more years old. The exemption is provided under Regulation 17 of the *Motor Vehicle Standards Regulations 1989*; the regulation came into effect from 1 July 1992.

The exemption was originally intended to cater for the personal importation of older enthusiast, classic or historic vehicles. These vehicles are destined for restoration and hobby use, whether by an individual owner or within a car club.

While these hobby vehicles are not required to meet Australia’s safety and emission standards, the concession nevertheless provides a net positive benefit overall to the Australian community. Hobby vehicles traditionally comprise a niche segment; they are imported in limited numbers. Imports total approximately 3-4 thousand vehicles per year.³ In addition, the vehicles generally perform low mileages. As special purpose vehicles, they are not used for day-to-day transport. In summary, the safety and emission costs to the Australian community have traditionally been kept within practical limits; the vehicles represent a minimal risk to Australia’s overall vehicle safety and emission goals.

To balance these marginal costs, the exemption provides substantial pro-competitive benefits. The restoration, display and use of older vehicles is a recognised and long-standing recreational activity within Australia. For example, the vehicles are used in social events, such as club rallies and other functions.

Without an exemption, these vehicles may not be economically available to enthusiasts and hobby vehicle owners. For example, given that demand is based on recreational use, individual owners may find it uneconomic to import single, "one-off" hobby vehicles under established ADR compliance mechanisms. In particular, individuals may be unable to produce the necessary ADR test evidence to meet the performance-based standards.

The problem that has recently arisen is that the exemption is now being used contrary to its original intent; to the extent that the exemption may now have the capacity to undermine the wider scheme. This has been an unanticipated consequence of the original drafting of the regulation.

Since 2003, hobby vehicles have comprised only a small minority of total vehicles imported under the exemption. Rather, the exemption has primarily become a conduit for the importation of mainstream, mass-market vehicles. These vehicles are not certified as meeting safety or emission standards. Nevertheless, they are imported in commercial quantities, they are used for day-to-day transportation purposes rather than for recreational purposes, and they perform normal mileages.

This shift has been partly a result of progress towards stricter safety and emission standards for mainstream used vehicles under the wider MVSA scheme since 2002. For example, the introduction of a more rigorous approach under the Registered Automotive Workshop (RAW) scheme has prompted a move towards the trade in 15-year-old vehicles, which are not subject to the same level of scrutiny on safety or emission levels.

The RAW scheme is the appropriate compliancing mechanism for used vehicles under "tier 2". The RAW scheme was introduced progressively from 2000 to 2002. Under the scheme, workshops are registered. Workshop operators must be "fit and proper" people; they must not be proxies for other workshops such as unregistered workshops. The workshops must maintain adequate facilities and must operate quality management systems. In particular, workshops are approved for specific types of used vehicles. Workshops are required to demonstrate competence in inspecting and assessing a vehicle type. In addition, the scheme operates via small batches of vehicles, up to 100 vehicles per year, per vehicle type.

Due to the variable nature of used vehicles, the RAW scheme is based primarily on a system of vehicle-by-vehicle inspections and approvals. These inspections are carried out in the first instance by workshops, under the regulatory oversight of DOTARS. The workshop assesses vehicles against the national standards and where necessary performs mechanical work to bring the vehicles up to standard as far as practicable.

This shift towards 15-year-old vehicles has also been partly a result of the availability since the late 1980s / early 1990s of vehicles that are comparable to, and are substitutes for, popular mainstream vehicles. These vehicles can be used to provide normal, everyday transportation needs. For example, 2003 was the first year that 1988-vintage vehicles became available under the 15-year-old exemption.

Figure 1: The 15-year-old scheme, total vehicles imported (1993-2004)

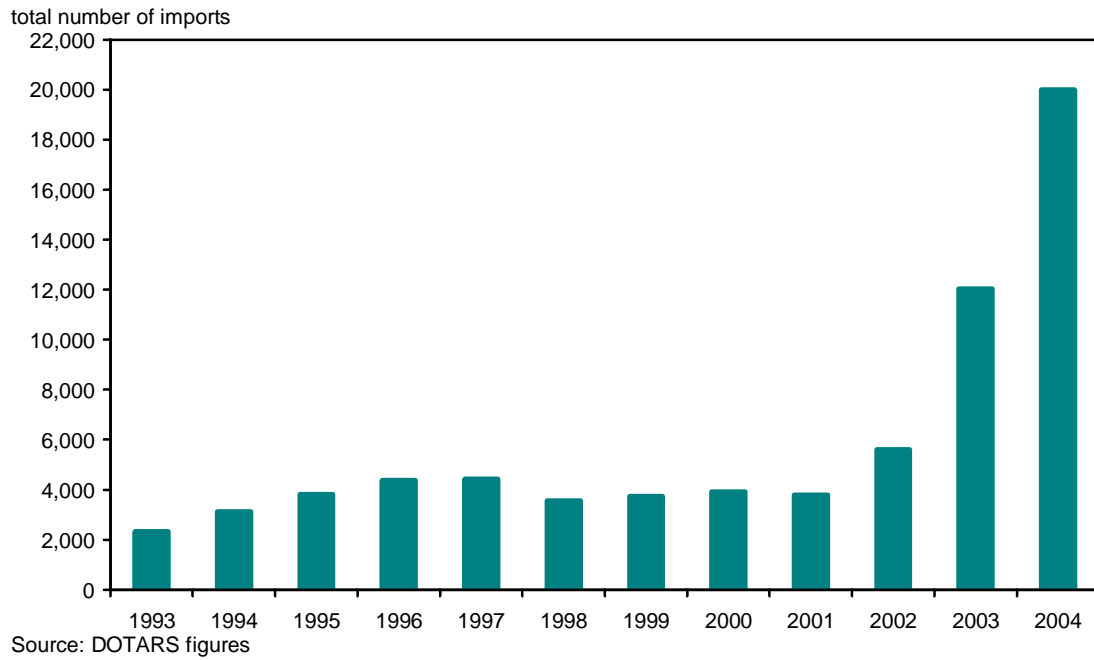


Figure 2: The 15-year-old scheme, in the context of total used vehicles* imported (1993-2004)

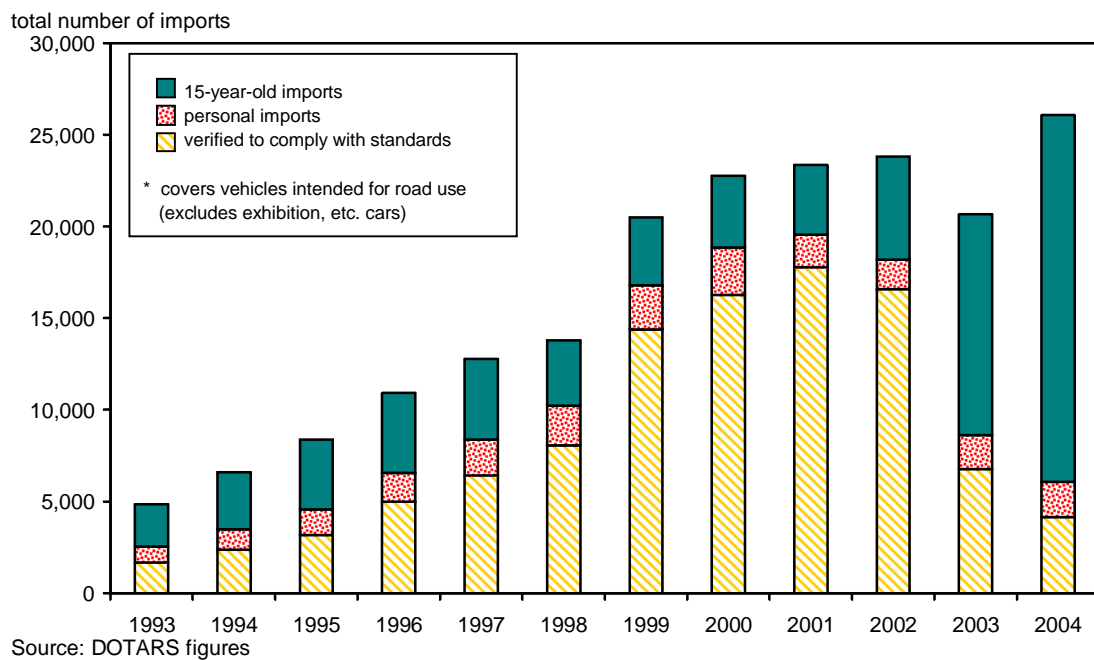
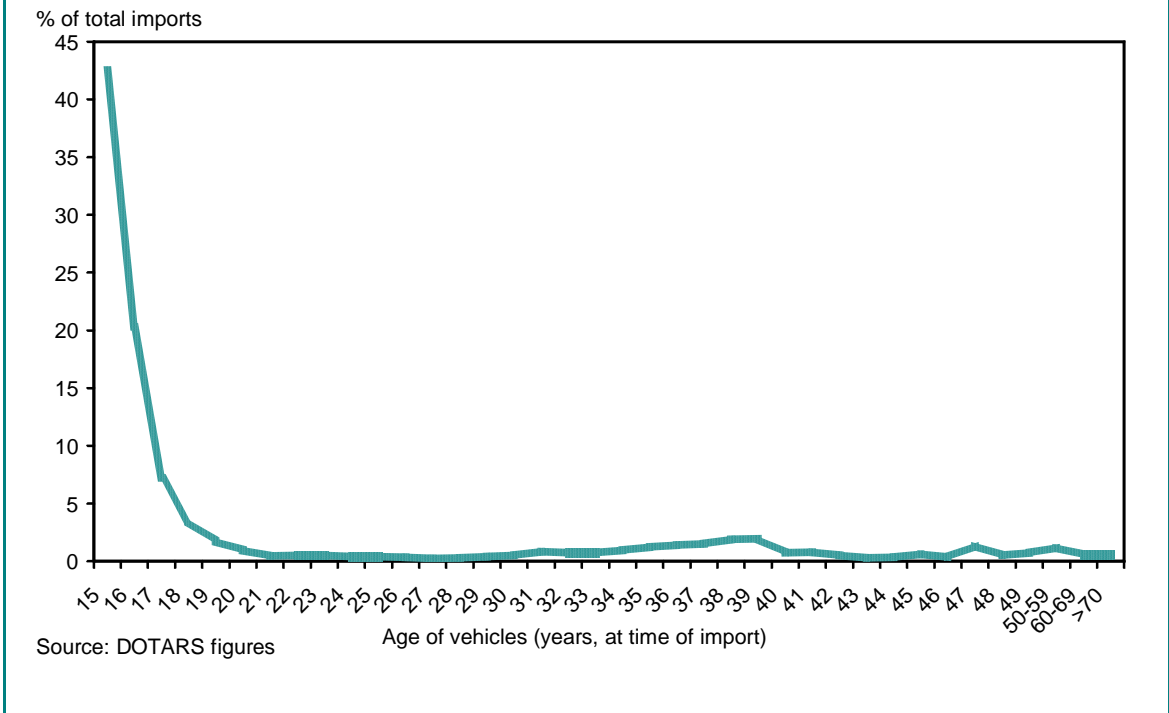


Figure 3: Age profile of vehicles, imported under the 15-year-old scheme (2004)



The late 1980s and early 1990s represented a watershed for automotive technology, resulting in enhanced long-term reliability for vehicles past this point. In contrast, early 1980s and pre-1980s vehicles are mechanically quite different to modern vehicles.

A number of early technical innovations had become fully developed and standardised by this time, offering practical and reliable systems. As a result, these systems were becoming universally adopted by the late 1980s. For example, early mechanical and hybrid fuel injection systems were being replaced with standardised electronic fuel injection systems. Antilock braking systems were beginning to be widely used, as well as electronic engine management systems, electronic cruise control, climate control and central locking. One key example covers the type of fuel used. Early 1980s and pre-1980s vehicles use either super or lead replacement petrol. Nowadays, super petrol is no longer available and lead replacement petrol has limited availability at normal outlets such as service stations.

During 2003, total imports under the 15-year-old exemption more than doubled to over 12,000 vehicles. Imports for 2004 totalled almost 20,000 vehicles, some 5 times the traditional levels of imports – please see figure 1. In contrast, the number of used vehicles imported via established certification mechanisms has declined substantially – please see figure 2. As recently as 2001, certified vehicles comprised 84% of total used vehicle imports. By 2003, certified vehicles had dropped to 42%. During 2004, the proportion of certified vehicles was some 16% of total imports.⁴

In short, there has been substitution. Mainstream used vehicles – previously imported through normal channels ensuring compliance with the standards – are now imported via the 15-year-old exemption.

Demand for hobby vehicles has remained fairly stable; they continue to be imported at the rate of around 3-4 thousand per year. Popular models include the *Ford Mustang*, *Chevrolet Corvette*, *Chevrolet BelAir*, *Chevrolet Camaro* and *Ford Thunderbird* – primarily from the 1950s, 1960s and 1970s vintages.⁵ These types of vehicles are not served by normal distribution channels. If a restorer has a preference for a particular model and vintage, the only available source for the vehicle may be overseas. Owners are importing vehicles primarily on availability.

In contrast, the dramatic growth in 15-year-old vehicle imports is based on mainstream vehicles. For example, imports are now heavily skewed towards the most recent models available – vehicles that are exactly 15 years old – please see figure 3. During 2004, vehicles exactly 15 years old comprised almost half (43%) of total imports under the scheme. Vehicles 15-17 years old comprised some 70% of imports, and vehicles 15-20 years old comprised over three-quarters (76%) of imports. This preference for later models is a recent phenomenon. During 1993, vehicles imported under the scheme were spread evenly across the range of vintages; each year of age accounting for up to 4-6% of total imports.⁶

In particular, SUVs and commercial vehicles have rapidly become a major segment of these 15-year-old imports. This class accounted for 9 of the top 20 models imported during 2004. Imports cover the spectrum of popular vehicles, including vans and light trucks (*Toyota TownAce*, *Toyota HiLux*), large trucks (*Isuzu Elf*, *Mitsubishi Canter*), minibuses (*Toyota Coaster*), and large buses (*Hino Rainbow*). Popular SUVs include the *Mitsubishi Pajero*, *Nissan Patrol* and *Toyota LandCruiser*. Imports were primarily sourced from the 1986-1989 vintages.⁷ These vehicles are generally and easily available from established outlets within Australia.

These changes in the structure of imports under the exemption has resulted in two types of negative effects:

Australian vehicle safety and emission standards are being by-passed. Speaking generally, the costs of Australia's safety and emission standards are small relative to the benefits. While these benefits are difficult to quantify, they are potentially large with very little downside risk. In particular, benefits include the number of lives saved, the trauma reduced, the economic savings from reduced hospital, medical and rehabilitation costs and the avoidance of productivity losses.

Since 1970, the Australian road death rate has more than halved, despite a doubling of distances travelled, a threefold increase in vehicle registrations, and a trebling of the number of people holding drivers licences. Currently, the road death rate is at its lowest level since recordkeeping began in 1925.⁸ Australian Governments have developed long-term goals within the *National Road Safety Strategy 2001-2010*. The Strategy target is to reduce the annual number of road deaths per 100,000 population by 40% – from 9.3 in 1999 to no more than 5.6 in 2010. Achieving this target is estimated to save 3,600 lives by 2010 and permanently reduce annual road deaths by 700. In particular, vehicle standards are estimated to contribute a quarter of this reduction – ie, a reduction of some ten percentage points – in the fatality rate. Translating this estimate into deaths avoided, 175 of the 700 lives are expected to be attributable to safer vehicles.⁹

Without a universal compliancing system, there can be no confidence that all imported used vehicles, or even a majority of these vehicles, meet safety and emission standards. The Australian community would lose the certainty of the current audit system.

Australian standards provide information and assurance to consumers on a complicated and changing set of technical safety and emissions matters. In particular, used vehicles vary substantially in their maintenance and modification history, and may have suffered major unrepairable collision damage.

There are a number of typical modifications that 15-year-old vehicles may need to address, in order to comply with the relevant Australian standards. In some cases, equivalent standards at the time of the vehicles' manufacture did not exist within Europe, Japan, or the U.S. In other cases, relevant overseas standards were not fully harmonised with the equivalent global standards. In either case, further test evidence is necessary before the vehicle may be cleared as conforming with Australian design standards. These typical compliancing modifications have been summarised from DOTARS' inspections of used imported vehicles. They are also generally recognised within the industry.¹⁰

Typical modifications cover:

- seatbelts, and anchorage points for seats, seatbelts and child restraints;
- side door strength. This requires intrusion tests to determine whether vehicles are able to withstand side collisions;
- emissions. For example, additional equipment may need to be fitted to the vehicle's exhaust system; and
- other vehicle components may also need to be inspected, to ensure that they are standard. This includes the vehicle's brake lights, reflectors, reversing lights, turn indicators, registration lamps, fog lamps, hydraulic brake hoses, safety glass, wheels and tyres, and head restraints.

Historically, the risk of non-standard components has been contained across some 3,000-4,000 hobby vehicles per annum. More recently, the risk has increased – with some 20,000 vehicles in total being supplied per annum. However, it is anticipated that unless the scheme is amended the growth in 15-year-old imports will continue to accelerate. In particular, this growth will continue to erode the normal channels for assessing mainstream vehicles. As a result, the risk is that this safety and emission cost could escalate dramatically within the near future.

Mainstream vehicles are being supplied by two parallel systems – one based on compliance, one unregulated. The changes in the structure of imports has artificially “skewed” the industry, seriously curtailing the availability of under-15-year-old specialist and enthusiast used vehicles within Australia. Due to the effect of the 15-year-old scheme, on average much older mass-market used vehicles are nowadays being imported into Australia.

The practical effect of the 15-year-old exemption has been to undermine the “level playing field” for imported used vehicles. Two effects within the vehicle import industry are becoming prevalent:

- many existing firms are migrating their business focus to the processing of 15-year-old vehicle imports. Those businesses that have made the necessary investment in quality systems and equipment, to become Registered Automotive Workshops under the MVSA scheme, are finding it difficult to compete against the unregulated 15-year-old sector. In effect, approved industry bodies are being

by-passed. Historically, regulated industry bodies imported and processed a wide cross-section of used vintages from older vintages up to near-new vehicles. Now, in order to compete, these firms are increasingly handling only 15-year-old vehicles; and

- in addition, new businesses are setting up to specialise in the importation of 15-year-old vehicles. These businesses offer no compliancing services per se. Rather, they act as agents or brokers; they source vehicles for customers.

The risk is that imports of under-15-year-old specialist and enthusiast vehicles will become “crowded out”. As noted, this substitution is already almost complete – please see figure 2. As recently as 2001, certified vehicles comprised 84% of total used vehicle imports. By 2004, certified vehicles had dropped to 16%. During 2004, 15-year-old vehicles had become the major segment of the industry, comprising some 77% of imports.¹¹

That is, the risk is that the “certified” segment of the industry will become vacated as essentially uneconomic, compared to the unregulated, 15-year-old segment. In effect, these vehicles will experience a “supply-side contraction”. While in theory imports for under-15-year-old vehicles will still be allowed, the firms able to handle the import of these vehicles will be increasingly unavailable. Consumers will be required to wait 15 years to have access to imported specialist and enthusiast used vehicles.

Part 3, Objectives

The objective of the regulatory proposal is to return the 15-year-old exemption to its original intent.

The exemption continues to successfully promote the availability of hobby and recreational enthusiast vehicles within Australia. However, the exemption has begun to undermine the wider MVSA scheme. When originally designing the MVSA, Government was keen to ensure that mainstream vehicles imported in commercial quantities do not migrate into the unregulated exemption provided for hobby and recreational enthusiast vehicles.

Part 4, Options

Three primary options are available:

1. continue the status quo. Make no changes to the current arrangements, and continue to allow unrestricted imports of vehicles 15 or more years old;
2. amend current arrangements, by only allowing vehicles manufactured prior to 1 January 1989 to be imported without restriction.

This option generally preserves, or “grandfathers”, the current situation. Under this option, 1988 and older model vehicles will continue to be available to importers, without restriction and under a complete exemption from safety and emission compliance. However, 1989 and later model vehicles will no longer be exempt. These vehicles will need to be approved under established compliance mechanisms, such as the RAW scheme.

By defining an explicit “cut-off-point”, the “buffer” period between hobby vehicles and mainstream vehicles will be gradually extended over time – up to a maximum of 30 years.

In addition, this option preserves the current late-1980s “cut-off-point” that occurs in practice between hobby vehicles and mainstream vehicles. These mainstream vehicles are substitutable for everyday vehicles and remain viable to import on a commercial basis.

3. amend current arrangements, by only allowing unrestricted imports of vehicles 30 or more years old.

This option immediately extends the “buffer” period between exempted vehicles and mainstream vehicles – from 15 to 30 years – to remove the scope for substitution between these two categories.

The 30-year period equates to the definition of “historic” vehicles as used by State and Territory vehicle registration authorities. “Historic” vehicle registration offers a concessional fee, but use of the vehicle is limited consistent with its status as a recreational or hobby vehicle.

Other alternatives, suggested by respondents

Other options were suggested by stakeholders providing comment for this RIS. Respondents suggested a wide range of alternative licensing schemes and/or caps to approve the importation of vehicles. However, they shared one common feature – all schemes were proposed to be administered by DOTARS.

Imports by individuals only

A number of comments were received from people who had recently imported a 15-year-old vehicle as an individual consumer. Some of these respondents suggested that imports be restricted to individuals only, and that individuals be allowed to import any type of vehicle. That is, businesses would be prohibited from importing vehicles. Some of these respondents also suggested a quota system, such as up to 5 vehicles per year per individual.

These comments were basically self-serving. By restricting competition, individuals would be able to reap super normal profits on the resale of the vehicle. No wider community benefits were proposed to justify this type of scheme. Rather, such a scheme would merely encourage wholesale “proxy” imports by individuals acting on behalf of commercial firms, without addressing the need for safety and emission standards.

Importantly, such a scheme would also encroach upon the core purpose of the exemption. While individuals are the ultimate consumer, some hobby vehicles are imported by specialist firms. In these cases, the firms provide a complete service to the eventual customer. In addition to importing the vehicle, the firms reconstruct, restore and/or recondition the vehicles. The proposed scheme would prohibit this industry practice.

Imports by State / Territory dealers

A number of firms holding State or Territory motor dealer licenses suggested that imports be restricted to their own firms or to other licensed motor dealers. Once again,

these comments were self-serving, and would provide substantial profits for the respondents. The proposed limitation would be contrary to the objectives of the scheme and would also place substantial monopoly costs onto the Australian community as a whole. For example, such a scheme would prohibit imports by recreational hobbyists.

Restricting types of vehicles

A number of other respondents suggested restricting the types of vehicles to be imported. For example, only *Chevrolet Corvettes* should be allowed.

However, it is extremely difficult if not impossible to predict or anticipate the types of vehicles that will be popular with hobbyists or enthusiasts. Familiar hobby vehicles include historically notable makes and models. This includes vintage & veteran cars, classic sports sedans and classic performance motorbikes. On the other hand, collectable cars can also include a wide range of other unique models and other “rarities” – eg, World War II jeeps, other military vehicles, vintage delivery vans, scooters and police cars, and vehicles featured in film or television. In a real sense, a classic vehicle is any vehicle with an enthusiast following or a fan base. As a result, restrictions based on vehicle makes and models would in practice be arbitrary as well as extremely difficult if not impossible to set up and administer.

Other, undefined licensing schemes

Remaining respondents suggested that DOTARS approve vehicle imports on a case-by-case basis. However, it is likely that this type of licensing scheme would quickly become unwieldy and bureaucratic. To be consistent with MVSA objectives, any such assessment would need to be based on whether imports are economic under the alternative “tier 1” or “tier 2” arrangements. This involves factors that are hard to quantify and that are subject to change, such as consumer demand and industry supply. These factors would be extremely difficult to estimate on a vehicle-by-vehicle basis. Such an assessment process could well become more costly and time-consuming than the ADR compliancing process; thereby defeating the purpose of the exercise.

Other alternatives – conclusion

In short, the objective is to devise a single, transparent, objective, definite, and simple measure that is also accurate in reflecting and defining those classes of private collectible vehicles that are uneconomic to import in commercial volumes. Defining specific classes of hobby and recreational enthusiast vehicles is complex and difficult. Rather, the age of the vehicle remains the single, best-available indicator.

Part 5, Impact analysis

Importers of used vehicles are predominantly small businesses or individuals. However, since 2002 the industry has polarised:

- a shrinking number of mainstream vehicle importers continue to apply established compliancing mechanisms, and certify that vehicles conform with safety and emission standards;
- in contrast, a growing number of specialist 15-year-old vehicle importers have recently developed around the exemption. These specialist firms are usually agents or brokers, they link customers with overseas auction houses, usually for a

commission. In particular, these firms offer no compliancing services to customers.

Due to the influence of the unregulated 15-year-old sector of the industry, the total number of operators / importers is not known. While the number is substantial, the industry has become dynamic. Specialist importers can be transitory; spending only a short time within the industry.

Under option 1, the status quo is maintained. Imports of 15-year-old vehicles will remain unrestricted. As such, it is anticipated that the negative effects identified in Part 2 will continue and intensify:

- specialist 15-year-old vehicle importers will be able to continue to by-pass Australia's safety and emission standards, and continue to import mainstream 15-year-old vehicles in unlimited quantities;
- the Australian community will lose the certainty of the current audit system; consumers will lose information and assurance on safety and emission matters;
- mainstream vehicle importers will bear additional costs, and hence find it difficult to compete against the unregulated 15-year-old sector; and
- the industry will become artificially "skewed", seriously curtailing the availability of under-15-year-old specialist and enthusiast used vehicles to consumers within Australia.

In contrast, both options 2 and 3 have the intention of returning the wider scheme to a "level playing field". In particular, all importers of mainstream vehicles will be subject to the same industry cost structure and the same regulatory environment. The industry will no longer be artificially "skewed". Industry's ability to supply specialist and enthusiast vehicles to the Australian community will be enhanced, as the arrangements under the RAW scheme will be extended to cover all specialist and enthusiast vehicles manufactured on or after 1 January 1989.

Options 2 and 3 also propose the return of safety and emission standards to mainstream vehicles currently imported under the 15-year-old exemption. Importers will need to ensure that these vehicles are certified as meeting safety and emission standards. This will ensure that the MVSA's safety and emission goals, outcomes and targets are achieved in practice. The Australian community will retain the certainty of an audit system; consumers will receive information and assurance on safety and emission matters.

The benefits to the Australian community of applying vehicle safety and emission standards are substantial. However, these benefits represent long-term goals; they are difficult to quantify on a "per-vehicle" basis. Nevertheless, community benefits include the number of lives saved, trauma reduced, economic savings from reduced hospital, medical and rehabilitation costs, avoidance of productivity losses, and lower levels of pollution surrounding major cities.

In addition, the risk prevented under this regulatory proposal primarily comprises future costs, as 15-year-old imports are anticipated to accelerate well beyond the current rate of approximately 20,000 vehicles per annum. For example, it is anticipated that mainstream 15-year-old imported vehicles will soon start to compete against vehicles sold within the Australian used car market.

Compliancing costs per vehicle can vary significantly according to the type and model. DOTARS estimates that these costs can vary from a marginal cost up to approximately \$5,000 per vehicle. A further cost arises where conversion from left- to right-hand-drive is required, but no average cost estimate is available for this modification. The major underlying cost is based on the cost of the workshop gathering the necessary “package of evidence” to show that the model is compliant with Australian standards. The same evidence and, if necessary, modification procedures can then be used for all vehicles of that model handled by the workshop. DOTARS estimates this cost to be in the order of \$8,000-\$16,000 per model. This cost is then amortised across all of the individual cars of that model that the workshop handles.

As noted, specialist 15-year-old vehicle importers have only recently entered the industry, specifically to take advantage of the exemption. It is anticipated that – once the exemption is modified – these firms will once again leave the industry unless they diversify and obtain the necessary vehicle compliancing skills.

The difference between options 2 and 3

While options 2 and 3 are similar in character, they propose differences in execution. Option 2 offers a gradual transition. Option 3 proposes an immediate changeover.

Option 2 replaces the 15-year cut-off point with a specific date. Vehicles manufactured prior to 1 January 1989 remain exempt; vehicles manufactured on or after that date are no longer exempt and must be handled via established compliancing mechanisms. 1988 model vehicles recently emerged as available, under the 15-year-old exemption. These vehicles would continue to be available for import. The current exemption would be preserved. Rather, only later model vehicles – that would have potentially been exempted in future years – will no longer become exempt. By defining an explicit cut-off-point, the “buffer” period between hobby vehicles and mainstream vehicles will be gradually extended over time.

In contrast, option 3 proposes an immediate changeover, reducing the scope of the exemption so that it only applies to vehicles over 30 years of age. This option abruptly extends the “buffer” period between exempted and mainstream vehicles by an additional 15 years. For example, during 2005, the cut-off-point for option 3 would become 1975-model vehicles. This option therefore raises a practical difficulty – a number of existing exemptions would be adversely affected. Vehicles manufactured between 1976 and 1988 – that are currently exempt – would lose their exempt status. Vehicles manufactured during these vintages are not highly sought after by collectors, relative to earlier, more desirable vintages. Nevertheless, up to 100 vehicles are imported under the current exemption for each of these vintages per year. This equates to up to 1,300 vehicles adversely affected during the course of 2005.

In summary, option 3 introduces an abrupt transition and overturns current classes of allowable imports. The option would therefore impose its own immediate and direct costs upon the industry and consumers that are not present under option 2. For example, option 3 would create substantial confusion within the industry as to which vehicles were exempt and which vehicles were allowed. The ability to register and operate vehicles already imported into the country may be questioned. In addition, imports of vehicles are difficult to “turn off” instantly. There is a considerable lag time between committing to purchase and having a vehicle ready for on-road use.

Overall, a balanced approach is preferred. This involves closing down the exemption for future mainstream vehicles, but at the same time minimising transitional costs within the industry. There are considerable benefits in promoting regulatory change that will be easily understood and hence easily implemented within the industry. One way of minimising transitional costs is to introduce a changeover gradually, allowing importers and consumers time to react to the revised focus of the exemption. In short, option 2 is preferred.

A number of groups will be unaffected by the regulatory proposal – namely government and big business. This includes major vehicle and component manufacturers and exporters.

Hobbyists and enthusiasts will also be unaffected by the proposal. The exemption continues to successfully promote the availability of hobby and recreational enthusiast vehicles within Australia. This will not be affected under any of the proposed options.

Finally, the proposal will place a restriction on competition. In particular, minimum vehicle safety and emission standards will be reinstated. Established compliancing mechanisms will once again apply to all categories of mainstream vehicles.

Placing such a restriction is the only way to achieve the desired objective – of returning the 15-year-old exemption to its original intent, and hence ensuring that the MVSA’s safety and emission goals, outcomes and targets are achieved in practice. Achieving these safety and emission goals will provide potentially large benefits to the Australian community. For example, benefits include lives saved, reductions in trauma, savings in hospital, medical and rehabilitation costs, and savings in related productivity losses.

Part 6, Consultation

In January 2004, DOTARS distributed a discussion paper outlining the three options. The paper was formally distributed to stakeholders.

DOTARS has received responses from a wide range of stakeholders – some 738 submissions in total – from State and Territory Governments, industry peak bodies, automotive firms, other industry members, and individual consumers and importers.

Table 1: Comments received on the DOTARS discussion paper

Source: DOTARS

	Proportion of respondents
respondents supporting option 1, the status quo	respondents providing no reasons.....23%
	respondents providing reasons39%
	total respondents for option 1.....62%
respondents supporting option 2	7%
respondents supporting option 3	6%
respondents suggesting other proposals, to limit the exemption	12%
respondents supporting the r34skyline.com campaign	13%

Most submissions were provided direct to DOTARS. Many respondents also copied their representations to Ministers and local Members. A further 12 stakeholders provided their comments direct to Ministers and local Members in the first instance.

Comment from those respondents using the exemption to import mainstream vehicles

A large number of respondents (62%) favoured the status quo. Some 23% of respondents favoured the status quo but provided no reasons for their preference. These respondents simply “ticked the box” on the form provided with the discussion paper. Of those respondents providing reasons in favour of the status quo, two reasons predominated:

- any change to the exemption could adversely affect the respondent’s own financial interests; and
- the exemption provides a source of lower-cost, discounted vehicles.

These respondents were predominantly brokers or agents that have recently developed around the exemption. These firms have migrated their business focus, or have commenced business, to handle 15-year-old vehicles. In some cases, these firms handle 15-year-old vehicles exclusively. By by-passing established compliancing mechanisms, these firms have developed substantial turnover. Any change to the exemption at this stage could place this turnover – and resulting profit – at risk.

In the remaining cases, respondents had recently imported a 15-year-old vehicle as an individual consumer. That is, they had taken advantage of the exemption designed for hobby imports to purchase a mainstream vehicle. By by-passing the normal distribution outlets, such as the Australian used car market, these consumers also by-passed established compliancing mechanisms. Vehicles were purchased either for personal use or for private resale. Once again, any change to the exemption could place this source of vehicles at risk.

A final reason – sometimes also cited – was that any change to the status quo would be contrary to Australian free trade principles. However, as outlined above, the MVSA scheme is limited to applying operational standards only. Options 2 and 3 are designed to re-introduce a level playing field for identified market tiers, and to eliminate the current artificial skewing of the market – outcomes that will maximise market choice.

Comment from Australia’s wider motor vehicle industry

Australia’s wider motor vehicle industry – as well as representative bodies – favoured either options 2 or 3. This segment comprised some 13% of respondents.

While numerically smaller as a group, these stakeholders were more broadly based. In particular, these respondents mirrored general community concerns, rather than sectional views. These respondents included:

- State / Territory Governments. This included *Queensland Transport, Transport SA, the Tasmanian Department of Infrastructure, Energy and Resources, and the ACT Department of Urban Services;*
- peak bodies representing the wider industry. This included the *Federal Chamber of Automotive Industries, the Motor Trades Association of Australia, and the Australian Auto Importers & Manufacturers Association Inc.;* and

- car clubs. This included the *Queensland Combined Council of Historic Vehicle Clubs*.

Respondents were evenly divided between option 2 and option 3.

For example, the *Australian Auto Importers & Manufacturers Association Inc.*¹² noted that the overall industry view is against uncontrolled importation of 15-year-old vehicles. Under option 1, consumers can no longer place confidence in nationally-uniform compliance. To date, there has been “unprecedented growth in backyard dealing”. Without controls, the industry “would be heading for disaster”. Regulated operators “are at a commercial disadvantage to import the same vehicles and as time goes by the situation will become worse”. Rather, the industry supports the compliance of mainstream vehicles under “the RAWS discipline” of tier 2 processes:

AAIMA believes that the blanket ban of 15+y/o vehicles would not be the correct approach, as this would penalise the genuine business operators, but the imported used vehicle industry must support a regulated 15-year-old imported vehicle regime.

Supporting comment was provided by the *Motor Trades Association of Australia*:¹³

I would urge the Government to take urgent steps to restrict the importation of these older vehicles. We do not wish to see significant numbers of older vehicles, which may not meet the same safety and environment standards as newer vehicles are required to meet, entering our market. A significant influx of these older vehicles will threaten the viability of many of our long established used vehicle dealers and probably many of these businesses who are required to meet the criteria established by the SEVS and RAWS arrangements.

Similarly, *Queensland Transport*¹⁴ noted:

The number of 15+ year old vehicles being imported is small compared to full volume new vehicle sales. However, Queensland still feels that it is important not to allow the gains made by the new ADRs, in terms of safety and emissions, to be overly eroded by the influx of older vehicles. Queensland Transport anticipates a significant level of complaint from those businesses that have set themselves up to import large quantities of over 15 year old Japanese vehicles. Equally, those involved in the RAW scheme would have cause for complaint if such importation was allowed to go unchecked. In terms of monitoring the activities associated with vehicle imports, Queensland Transport would be more comfortable if the majority of importers were in the RAW scheme.

In summary, options 2 and 3 are supported by the wider industry primarily to re-instate a level playing field. Vehicles supplied to the same market would be subject to the same regulatory environment. This would eliminate the current artificial skewing of the market, and reduce cost pressures on mainstream businesses. At the same time, the ability of enthusiasts to obtain hobby and recreational vehicles would be preserved.

Comment from Australia’s bus and coach industry

A separate view was provided by Australia’s bus and coach industry. The *Bus Industry Confederation*¹⁵ supported action to re-focus the 15-year-old scheme. However, the Confederation does not believe that options 2 or 3 go far enough in addressing the concerns of the bus industry. Rather, the Confederation proposed broader action:

The Bus Industry Confederation believes that the importation of (nonstandard, older buses) should be completely banned and that all buses and coaches entering Australia should meet the ADRs of the day with no exception. ... The BIC welcomes the review of the importation of second hand vehicles but does not believe that the options provided in the Options Paper will address the concerns the BIC has been raising for the past 18 months. ... The BIC believes that all buses and coaches entering Australia must meet

the Australian Design Rules of the day and Accessible Public Transport Standards ... Such a step will promote a reduction in the overall age of Australia's bus and coach fleet, improve emission and safety performance, support the Australian bus manufacturing industry, generate a more stable second-hand after-market for buses and increase patronage on public transport providing further environmental benefits.

Comment supporting alternative mechanisms to limit imports

A further group of respondents agreed that the 15-year-old scheme requires amendment. However, these respondents did not favour any of the formal options, preferring to nominate alternative methods for regulating imports. Overall, some 12% of comments were received from this group. These alternative mechanisms are discussed under Part 4.

A campaign, to suspend any decision for change

Finally, some 14% of respondents supported a campaign established by *Prestige Motorsport*, a broker / agent specialising in the import of 15-year-old vehicles. The campaign was coordinated via a central website, r34skyline.com.

The campaign proposed that changes to the 15-year-old scheme should be held off, until such time as industry concerns with the wider MVSA scheme are resolved. For example, the campaign submission proposed that:

It is clear the government should reject the further changes proposed by the DOTARS, and immediately review the inadequacies of the SEVS (ie, the RAW) system.

The campaign proposed a number of changes to the wider scheme, including: removing the quota system, allowing modified as well as damaged and previously repaired vehicles to be imported, streamlining the application process, ensuring that applications are processed in a more timely manner, and opening the RAW scheme to individuals as well as small businesses. The campaign mirrors an earlier campaign on these same topics set up under a related website, petitiononline.com/antiSEVS.com.

DOTARS has replied separately to the comments raised by the campaign on these wider issues. In particular, DOTARS has introduced a range of administrative improvements to the RAW scheme in consultation with industry. These improvements have streamlined decision-making processes, reduced document handling times and provided more timely inspections. In addition, vehicle standards have become more transparent and open. DOTARS has expanded the evidence guidelines, clarified definitions, updated guidelines, created user-friendly documents such as FAQs, and provided these documents on its website. Finally, DOTARS has improved communications, by conducting regular information sessions with industry.

Part 7, Conclusion

Option 1 is not preferred. This is because the problems identified in Part 2 are anticipated to continue and intensify. The wider scheme will become artificially skewed; the "low volume" segment of the used vehicle industry will become vacated as essentially uneconomic, compared to the unregulated, 15-year-old segment. The only vehicles available will be 15-year-old vehicles. In addition, the Australian community will lose the certainty and the confidence of a certification system for safety and emission standards for a growing segment of mainstream vehicles.

Options 2 and 3 resolve this regulatory failure. Under both options, the 15-year-old exemption is refocussed back onto hobby and recreational enthusiast vehicles.

However, option 3 is not preferred, as it introduces an abrupt transition and overturns current classes of allowable imports. For imports during 2005, vehicles manufactured between 1976 and 1988 would lose their exempt status.

Rather, option 2 is preferred, as it minimises transitional costs. In particular, option 2 generally preserves current arrangements. 1988 and earlier model vehicles would continue to be available to importers under the exemption. The changeover would be introduced gradually, to allow importers and consumers time to react to the revised focus of the exemption.

Part 8. Implementation

Implementation of the preferred option is straight-forward and inexpensive. A short set of regulations amending the *Motor Vehicle Standards Regulations 1989* will be introduced.

Practical aspects of implementation will be minimal, as the MVSA scheme will return to its original intent. For example, DOTARS will continue to consult with State and Territory Governments, with industry, and with other stakeholders, under established MVSA mechanisms.

In particular, DOTARS will continue to monitor developments within the MVSA scheme, to ensure that safety and emission benefits are achieved in practice:

- in the mainstream industry – via the safety and emission standards of the ADRs; and
- for the importation of personal, enthusiast or historic vehicles – via the operation of the exemption.

As part of these established consultative mechanisms, DOTARS will in the medium term revisit the exemption, to ensure that it remains a targeted and effective mechanism to promote the import of private, hobby vehicles.

The only significant implementation issue concerns the need for a transitional arrangement. In particular, some importers, agents and consumers have already made a financial commitment on vehicles intended for future import under the 15-year-old scheme. For example, importers have purchased 1990 vintage vehicles and stored them temporarily overseas – awaiting the time they qualify under the 15-year-old rule. Adoption of option 2 without transition will mean that these importers will need to dispose of these vehicles.

A transitional arrangement is therefore proposed – to allow the old rule to continue, where importers can prove purchase prior to the date of the Government's announced decision. The transition will remain in place up to the end of December 2005. This transition will be in line with the general intent of option 2 – to provide gradual changeover.

List of abbreviations

ADRs.....	Australian Design Rules
DOTARS	Department of Transport and Regional Services
MVSA	<i>Motor Vehicle Standards Act 1989</i>
RAW scheme.....	Registered Automotive Workshop scheme
RIS	regulation impact statement

List of sources

¹ for example, vehicle standards are a primary element to Australia's *National Road Safety Strategy 2001-2010*, adopted by the Australian Transport Council in November 2000. The costs and benefits of vehicle standards were also examined by the Government's *Review of the Motor Vehicle Standards Act*, completed in August 1999

² The Economist newspaper, *Car Industry Survey*, September 2004

³ DOTARS database for vehicle import approvals

⁴ DOTARS database for vehicle import approvals

⁵ DOTARS database for vehicle import approvals

⁶ DOTARS database for vehicle import approvals

⁷ DOTARS database for vehicle import approvals

⁸ Australian Transport Safety Bureau, *Road Safety in Australia*, April 2004, plus *ATSB Road Fatalities Australia* monthly bulletins

⁹ Australia's *National Road Safety Strategy 2001-2010*, adopted by the Australian Transport Council in November 2000

¹⁰ for example, as summarised by Autospeed magazine, *15yo ADR-ing*, October-November 2004

¹¹ DOTARS database for vehicle import approvals

¹² the *Australian Auto Importers & Manufacturers Association Inc.* (AAIMA) is the peak body for Australia's specialist and enthusiast imported motor vehicle industry. AAIMA provided comment to DOTARS on 14 July 2004 and 26 August 2004

¹³ the *Motor Trades Association of Australia* (MTAA) is the national peak body for the retail, service and repair sectors of the Australian automotive industry. The MTAA is a federation of the motor trades associations and the automobile chambers of commerce in each State and Territory as well as the Service Station Association Ltd. The MTAA provided comment to DOTARS on 30 July 2004

¹⁴ *Queensland Transport* provided comment to DOTARS on 13 February 2004

¹⁵ the *Bus Industry Confederation* (BIC) is the national peak body representing Australia's bus and coach industry. The BIC represents state bus and coach associations, chassis suppliers, bus body building manufacturers and ancillary suppliers. The BIC provided comment to DOTARS on 2 March 2004