

# Submission 65 – RVS Legislation Consultation



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Australian Motor Vehicle Standards Act Review Team  
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**Subject:** TIC submission to the Road Vehicle Standards Act (RVSA) review Exposure Draft, December 2017 and TIC preliminary submission to the Draft RVSA Cost Recovery Implementation Statement (CRIS), February 2018

The Truck Industry Council (TIC) is the peak industry body representing manufacturers and distributors of heavy commercial vehicles (that is, with Gross Vehicle Mass above 3,500 kg) or trucks in Australia. TIC members are responsible for producing or importing and distributing 17 brands of truck for the Australian market, totalling more than 32,000 units sold each year. In 2016, TIC members supplied to market over ninety-eight (98) per cent of all new on-highway trucks above 4.5 tonne Gross Vehicle Mass (GVM) sold in Australia. Additionally, TIC members also included two dedicated engine manufacturer members and two dedicated driveline manufacturer members who supply major engine and driveline systems for both on highway and off highway truck applications.

TIC and our Members have identified a number of concerns that could be harmful to industry, consumer interests and the government's own road safety agenda alike. The issues outlined below relate to the Rules to be implemented in accordance with the Draft Legislation that are yet to be fully determined, the Register of Approved Vehicles (RAV) and the proposed Cost Recover Implementation Statement (CRIS).

As noted during the Department's industry and public Consultation Sessions held recently in most Australian capital cities, the Rules presented within the December 2017 Exposure Draft of the Draft Legislation cannot be finalised until the Draft Legislation is passed through Federal Parliament. TIC believes that there are still key areas of the Draft Legislation that do not adequately address the potential for importation pathways that could be inadvertently opened up, or exploited, within the heavy vehicle Australian Design Rules (ADR) "N" Category, especially for heavy vehicles within the 3.5 to 12 tonne GVM range.

## **The Register of Approved Vehicles (RAV):**

TIC is disappointed that the RAV has not been developed to take advantage of existing systems used by the new vehicle automotive industry, instead imposing additional cost and complexity to industry to develop IT systems to meet the unique requirements of the RAV. TIC's stated preference was to be able to extend the vehicle information file currently provided to NEVDIS to include the additional

information required by the RAV and submit a single file to NEVDIS that would be “split” to populate both the existing NEVDIS and new RAV databases. This would impose the least additional cost to industry.

TIC has identified the following areas of the RAV that need review and change/modification:

1. The “Build Date” needs to be fully defined and included into the definitions of the Rules. The “Build Date” definition must acknowledge/address the fact that Australia still manufactures heavy vehicles for on-road use as well as imports trucks from a number of sources globally. TIC offers a modified version of the FCAI’s “Build Date” definition, the following definition acknowledges some unique features of a heavy vehicle (truck) manufacturing process. TIC believes that this definition would still be valid for light vehicles too. Proposed “Build Date” definition:

*“The calendar month and the year in which the cabin and chassis, or body shell, and power train subassemblies are conjoined and the vehicle is driven or moved from the production line.*

*Alternatively, for a cab/chassis vehicle that is manufactured in stages at more than one location and that remains under the control of the original equipment manufacturer, the calendar month and the year in which the body is fitted to the cab/chassis and the vehicle is driven or moved from the production line.”*

2. The Department’s definition of a “Variant”, as currently worded, could allow “parallel importation” of heavy vehicles that have an Original Equipment Manufacturer (OEM) Type Approval. The use of a light vehicle (car) “Variant” definition for heavy vehicles is not suitable, because a truck can have many more specification changes than a light vehicle, within the same Variant. For example, a heavy vehicle may have a range of wheelbases for a given Model and Variant, a range of wheelbases are considered a single Variant by the heavy vehicle industry. Multiple transmission types, engine ratings, and suspensions types are also common within a single heavy vehicle Variant. Modification and further clarification of the current proposed RVSA definition of “Variant” is required for ADR NB1, NB2 and NC Category vehicles. TIC proposes the following “Variant” definition for a heavy vehicle and is based on the EU definition (Annex II of EU Directive 46/2007) of Variant:

*“Variant means vehicles within a Model that do not differ in the following essential respects:*

- Body/cabin style (e.g. single cab, crew cab)*
- Power plant number and arrangement of cylinders*
- Powered axles (number, position, interconnection)*
- Steered axles (number and position)”*

3. ADR NB1, NB2 and NC Category vehicles must be exempt from inputting “Power (kW)” as a data field in the RAV. “Power (kW)” has never been a required ADR Identification Plate, or vehicle compliance/registration data field for heavy vehicles at Federal or State level and there is no reason for its inclusion in the MVSA review, RVSA Rules. “Power (kW)” is a State requirement used to calculate the power to weight ratio of light vehicles to determine suitability for driver licence category, this is not a heavy vehicle requirement. Requiring the uploading of “Power (kW)” to the RAV for ADR NB1, NB2 and NC Category vehicles will increase regulatory burden (and hence cost) for industry with no safety or regulatory benefit.

4. ADR NB1, NB2 and NC Category vehicle must be exempt from inputting “Tare (kg)” as a data field in the RAV. “Tare (kg)” has never been a required ADR Identification Plate data field for heavy vehicles. TIC’s T-Mark new truck sales data from 2017 shows that more than 95 percent of ADR “N” Category trucks were sold by TIC Members as partially completed vehicles, in the form of “cab/chassis” trucks. The Tare weight of these cab/chassis vehicles is not representative of the completed vehicle that is presented at first State registration. A “Tare (kg)” of a “cab/chassis” truck entered on the RAV would not only be non-representative of the completed “State registered” vehicle, it could be misleading for enforcement officials conducting inspections of in-service heavy

vehicles. Requiring the uploading of “Tare (kg)” to the RAV for ADR NB1, NB2 and NC Category vehicles will increase regulatory burden (and hence cost) for industry with no safety or regulatory benefit and could in fact be misleading for in-service enforcement. The Tare weight of an ADR NB1, NB2 and NC Category truck should not be a data field on the RAV, it should be determined at the point of first State based “registration” of the “completed” truck.

5. The RAV Vehicle Category Code (VCC) must allow for three (3) character inputs to cater for NB1 and NB2 (also for L and M) category vehicles. Initial upload trials to the RAV by TIC Members highlighted that the RAV currently only allows for two (2) characters to be inputted in the VCC. It is a current ADR requirement for vehicle Identification Plates to differentiate between NB1 and NB2 category vehicles.

6. TIC requests that the RAV field for Gross Combination Mass (GCM) in kilograms (kg) be made a Mandatory field for all ADR NB1, NB2 and NC Category vehicles. Currently “GCM (kg)” is a mandatory ADR requirement for NC Category vehicles (stamped on the “Vehicle Plate”), but is not required for NB1 and NB2 Category vehicles. TIC believes that having “GCM (kg)” on the RAV for all ADR NB1, NB2 and NC Category vehicles would benefit in-service heavy vehicle enforcement.

7. RAV Corrections, TIC believes that a system must be in place that allows for the approval holder of a Type Approval, or Concessional vehicle approval to request DIRD/NEVDIS to amend/correct mistakes that may have occurred in information uploaded to the RAV. TIC accepts that DIRD may wish to recover any costs incurred in this process.

#### **Definition of “Providing” road vehicles:**

TIC, our Members and the heavy vehicle industry in general, were alarmed at comments made by some DIRD representatives at the industry and public Consultation Sessions held recently, where it was stated that the RVSA would allow only two (2) pathways to “provide” a partially completed (cab/chassis) heavy vehicle with an IPA to market, these being, Type Approval, or Second Stage Manufacture (SSM) and that the current practice of allowed VSB6 completion of a cab/chassis ADR NB1, NB2 or NC Category vehicle (detailed in ADR Circular 0-4-6) would not be allowed. TIC’s T-Mark data for 2017 showed that over 95 percent of ADR NB1, NB2 and NC Category trucks were “provided” as incomplete, cab/chassis vehicles. TIC estimates that a further 5 percent of the 95 percent of vehicles would have been completed under a current SSM. Consequently, approximately 90 percent of ADR NB1, NB2 and NC Category trucks were (are) currently completed prior to first State registration by using VSB6 guidelines under the rules detailed in ADR Circular 0-4-6. Moving away from allowing completion of a cab/chassis truck using VSB6 and only allowing SSM, or Type Approval would substantially increase regulatory burden on industry, driving the cost of a new truck up and creating “chaos” for the heavy vehicle industry. The intent of ADR Circular 0-4-6 must be preserved in the RVSA, allowing for the provision that a Chassis/cab truck could be “provided” to market by:

- Type Approval
- SSM
- VSB6\*

\* Where the following VSB6 tasks only, could be undertaken:

- Non-ADR-relevant body fitment
- Non-ADR-relevant turntable/5<sup>th</sup> wheel fitment
- Mudguard fitment
- Body rear light and body side marker light fitment
- Wheelbase alteration

#### **Special Purpose, Plant and Equipment (Non-Compliant) Vehicles (for on-road use):**

Under the current Motor Vehicles Standard Act (MVSA) the Special Purpose, Plant and Equipment (Non-Compliant) vehicle Concessional import pathway was open to significant abuse and rorting, with “truck based” special purpose, or plant, vehicles given approval for importation by the Department, despite the fact that the “truck” that carried the “special/plant” equipment was of a similar model to one that had current ADR Type Approval and was offered for sale in Australia. These concessionally imported trucks had lower emission standards and/or a lower level of safety features than was mandated by the ADR’s, giving inferior environmental and/or safety outcomes. Further, in many instances the “special purpose”, or “plant equipment” was removed and discarded once the vehicle entered service in Australia, the truck being fitted with a more conventional body for general use in road transport application/s. The new RVSA Concessional import scheme Rules for the Special Purpose, Plant and Equipment (Non-Compliant) vehicles MUST ensure that approvals cannot be granted for heavy vehicles that are based on a truck model that is the same, or similar to, a truck that has a valid ADR Type Approval. TIC requests that the Department consult with TIC and its Members to ensure that loopholes do not exist that allow the importation of truck based heavy vehicles that have inferior safety and/or environmental standards compared to current “in-force” ADR’s.

**Registered Automotive Workshop (RAW) and Authorised Vehicle Verifier (AVV):**

Under the RVSA proposal outlined recently by the Department, RAW and AVV entities can be based and operate outside of Australia, this has TIC and its Members deeply concerned that these actions could prove potentially disastrous for industry, consumers and all road users. The scenario of concessional vehicle imports from a ship, straight to State registration is unfathomable, as potential vehicle issues will only be identified after the vehicle enters into service. The Government has limited resources to ensure compliance and has demonstrated significant difficulty with enforcement and compliance with RAWs located within Australia. Allowing AVV’s to operate overseas and not conduct (at least) a final inspection to ensure compliance with the Concessional Approval does not address the current issue of some RAWs supplying non-compliant vehicles as the current problem of inability of either the Federal or State governments to locate and inspect SEV’s non-complying vehicles. Also, the operational and oversight parameters, both practical and legal, of an overseas based RAW and/or AVV have not been addressed by the Department under these new provisions. TIC believes that both RAW and AVV entities must be Australian organisations/companies, bound by Australian practices and laws.

**Concessional Pathway imported vehicles:**

TIC does not support the Departments intentions to remove the cap on RAW vehicles. A cap on the number of concessional import vehicles that each RAW can deliver to the market needs to remain. These vehicles that are given concessions from meeting some/many current national safety and emission (ADR) standards, hence the safety and environmental effectiveness of these Concessional vehicles is less “known” than a Type Approved vehicle. Further, the removal of vehicle caps from a heavy vehicle RAW can potentially allow un-restricted supply of new and used vehicles that cannot be supported by the Original Equipment Manufacturer (OEM) within the Australian market, for heavy vehicles this could have significant safety implications if such items such as brake, steering and suspension components cannot be supplied to ensure the ongoing roadworthiness and safety of the truck. These concerns have been detailed in previous TIC submissions to the MVSA review. None of the concerns outlined previously by TIC with respect to removing RAW vehicle import caps have been addressed by the Department. Finally, the SEV criteria (which has not been adequately defined as yet under the RVSA “Rules”) may also allow for the Concessional importation of Variants of Models (both ‘New’ and ‘Used’) that are potentially unsuited to the Australian market or uneconomical for an OEM to bring in at that particular point in time, which again will not be supported by the OEM or their local distributor in Australia. Consumers would likely assume and expect they would receive such support, and accordingly, any such disappointment is likely to be

damaging to affected Brands. It is for these reasons that TIC maintains that imports of RAW heavy vehicles must remain capped.

**SEV's Criteria for Left Hand Drive (LHD) trucks:**

TIC acknowledges that the Department has exclude ADR NC Category vehicles from the SEV Left Hand Drive (LHD) criterion, TIC fully supports this position based on heavy vehicle safety and environmental grounds as well as Australia's excessively old truck fleet. However, based on these criteria, TIC believes there are heavy vehicle road safety benefits of extending the exclusion of LHD trucks into the NB2 category, specifically excluding all LHD trucks above 8.0t GVM, based on the following:

Just as the Department's proposed "Left Hand Drive" criteria excludes NC category vehicles because this type of vehicle will be used for commercial/hire or reward use once imported into Australia and this use/intent cannot be considered as a "special", nor "enthusiast", nor "personal use" vehicle, NB2 vehicles above 8.0t GVM (that require a Medium Rigid drivers licence in all Australian States and Territories to be driven) should also be excluded from the SEV's LHD threshold as their use, once imported, would be for commercial use/hire or reward. This is NOT, we believe, the RVSA intention for a Concessionally imported heavy vehicle and hence NB2 vehicles with a GVM of greater than 8.0t GVM should not be an eligibility criterion for LHD SEV's Their inclusion will only dilute the government's own heavy vehicle safety and environmental objectives. TIC acknowledges that some USA heavy vehicles in the 3.5t to 8.0t GVM range are based on a SUV platform and could be used for personal/enthusiast use once imported, the above 8.0t GVM "cap" would not restrict the SEV's importation of these vehicles, only those whose GVM was above 8.0t. For your information, below are some images of over 8.0t GVM USA LHD vehicles. These vehicles are obviously "trucks" and NOT SUV's. ALL these trucks have GVM's between 8.0t and 12.0t and should be excluded from the SEV LHD criteria.



Ford F650 (8500kg GVM)



Hino Class 5 (10.5t GVM)



International DuraStar (10.5t GVM)



International TerraStar (8.5t GVM)

**RVSA Enforcement and Recalls:**

It is quite clear that the RVSA Draft Legislation is heavily focused on enforcement protocols and powers, that in some areas have severe punitive measures associated with breaches of noncompliance. TIC and our Members support these new protocols and powers and want the Departments assurances that they will be applied equally for breaches to both the Concessional and Type Approval import pathways. In the case of all punitive measures, but particularly in the case of Recall actions, TIC believes that both Concessional and Type Approval holders must be Australian organisations/companies, bound by Australian laws. The Australian Governments ability to force an overseas entity to conduct a vehicle recall in Australia would be extremely limited. There must be a legal Australian entity that can be held accountable for vehicle recall actions, the RVSA should reflect this requirement.

TIC also raises concerns over the definition of “supplier” in RVSA Draft Rule 197 *“Holder of a type approval taken to be a supplier”*. That is:

***197 Holder or a type approval taken to be a supplier For the purposes of sections 194, 195 and 196:***

*(a) A person is taken to be a supplier of road vehicles of a particular kind if the person is the holder of a road vehicle type approval under which such vehicles are entered on the RAV;*  
There are many instances where the Type Approval holder is not an employee of the company that

“supplies vehicles or components of that kind” (see Draft Rule 194(1)). For example, the Type Approval holder may be the overseas manufacturer who supplies vehicles to an Australian supplier/distributor (who is a different legal entity). TIC believes that the definition and/or use of the word “supplier” in the RVSA needs to be reviewed/clarified.

**Cost Recovery Implementation Statement (CRIS):**

The CRIS document was released by the Department late in the afternoon of the 2<sup>nd</sup> February 2018, with the Department detailing that written submissions were due by close of business 16<sup>th</sup> February 2018, giving industry a mere ten (10) working days to review, discuss with their constituents, formulate a response and submit. This is quite simply an unrealistic and unreasonable timeframe. The minimum timeline for such a proposal/review/response would be one month, twenty (20) working days.

The following is TIC’s brief Preliminary Response/Submission to the CRIS. TIC fully supports a funding model that reflects the recovers the resource and time used by government in administering the vehicle import approval process. For far too long the holders of ADR Type Approvals have been unfairly charged costs that are well in excess of the resource and time spent in approving their vehicle imports, this must be addressed in the new RVSA/CRIS funding model/s. TIC’s initial review of the CRIS reveals doubts that this has been adequately addressed, with approval charges for Type Approval holders being too high given the actual administrative burden realised by the Department. Also, TIC questions the “per VIN/vehicle” RAV fee that is proposed in the CRIS, this fee in both Option 1 and 2 appears to be far greater than simply an administration fee for the original data upload and an ongoing database support charge. TIC would like the opportunity to discuss the CRIS with the Department before submission of our final comments on the RVSA Cost Recovery model/s. TIC’s comment on the CRIS, at present is, TIC requests that the Department allow Type Approval holders to elect, by ADR Approval Number, either Option 1 or Option 2 shown in the Draft Cost Recovery Implementation Statement, rather than having one, or the other, option “forced upon them”. Based on initial TIC Member feedback, higher sales volume IPA’s (such as seen in the NB1 and some NB2 Category vehicles) would prefer Option 2, while lower sales volume IPA holders prefer Option 1. Such action would ensure that the Draft Legislation allows for differing vehicle supplier requirements.

TIC and our Members look forward to the Department’s engagement with industry, including TIC, on this matter, as there are still many Rules and Definitions that require development and/or revision to ensure that the RVSA delivers to consumers, industry and all road users a piece of legislation that will further road vehicle safety consumer protection and the government’s own road safety and environmental responsibilities.

Please contact the undersigned, on 0408 225 212 or [m.hammond@truck-industry-council.org](mailto:m.hammond@truck-industry-council.org) for any questions about this submission.

Yours faithfully,



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