

# Summary, briefing session

The Department hosted a briefing session on the pre-1989 scheme on Friday 16 July 2010. The Australian Street Rod Federation (a peak body) and leading vehicle importers attended.

## **List of acronyms**

**The Regulations** ..... the *Motor Vehicle Standards Regulations 1989*

**The Department**..... the Australian Government Department of Infrastructure, Transport, Regional Development and Local Government

**The Administrator**..... the Administrator of Vehicle Standards, the decision-maker under the pre-1989 scheme (as delegate of the Minister for Infrastructure, Transport, Regional Development and Local Government)

**VIN**..... vehicle identification number

## **What is the pre-1989 scheme?**

The pre-1989 scheme is a concessional scheme, and allows the importation of vehicles outside of normal certification arrangements. The pre-1989 scheme is outlined at regulation 17 of the Regulations. The scheme covers road vehicles manufactured before 1 January 1989.

## **What is the purpose of the scheme?**

The Australian Government established the scheme in 1992. The scheme is designed to cater for the importation of older enthusiast, classic or historic vehicles – for example, vehicles destined for restoration and hobby use, whether by an individual owner or within a car club.

## **What is a vehicle's date of manufacture?**

The date of manufacture is the date the vehicle was first driven or moved from the manufacturer's production line or production facility, after the vehicle's body shell and powertrain assemblies were joined.

## **What is this definition based on?**

This is equivalent to the concept of the build date (as developed and used by Australia's automotive industry). The concept is outlined in the *Uniform Code of Practice for the Date of Manufacture of New Motor Vehicles* published by the Federal Chamber of Automotive Industries (the FCAI) in November 1985. The FCAI is the peak body for Australia's automotive manufacturers.

### **How do applicants establish a vehicle's date of manufacture?**

A variety of evidence can potentially be used by applicants to establish that a vehicle was manufactured prior to 1 January 1989. This includes:

- the fact that the vehicle is an obsolete make or model, where the production run ceased prior to 1 January 1989;
- the structure of the VIN. Some VINs include a code for the vehicle's model year;
- a copy of the vehicle's registration or purchase documents; or
- a statement from the manufacturer.

### **Refusals have been issued based on modifications made to vehicles. What is the difference between major and minor modifications?**

Modifications, by themselves, do not alter the vehicle's original date of manufacture. However, a vehicle conversion constitutes a vehicle re-assembly and hence a vehicle re-manufacture. In such a case, the date of manufacture is taken to be the later date of conversion.

A vehicle is converted if different body shell or powertrain assemblies – that are outside original specifications – are joined.

If a vehicle has been so substantially modified as to constitute a newly manufactured vehicle – and the date of re-manufacture is 1 January 1989 or later – then the vehicle does not qualify for concessional importation under the pre-1989 scheme.

### **Can you give examples?**

Vehicle conversions can take different forms. A popular type of conversion is the production of replica cars from components of different makes or models. Another popular type of conversion is the assembly of a vehicle from different parts to create a new type of vehicle. Typical examples include the conversion of a passenger sedan into a drag racing car or a hot rod. Vehicles can also be modified to change their carrying capacity. An example is the conversion of a Hummer into a stretch Hummer.

In some cases, the parts used may be old or vintage. Nevertheless, the vehicle is newly manufactured.

### **What is this definition based on?**

Vehicle conversion is based on the concept of manufacture (or, in this case, re-manufacture), as outlined above. The pre-1989 scheme is designed to cover older historic and enthusiast vehicles and not newly manufactured vehicles. For example, it is feasible for newly manufactured vehicles to be constructed to meet Australian safety and emission standards, and for the vehicles to be handled via normal certification arrangements.

### **What is a vehicle's date of conversion?**

The date of conversion is the date the vehicle is first driven or moved from the workshop or facility, after these different body shell or powertrain assemblies are joined.

### **What is the Department's guidance material for converted vehicles? Is it publicly available?**

The criterion for the pre-1989 scheme is set out under regulation 17. Guidance material is set out under the Department's information brochure, *Importing Vehicles to Australia (VSB10)*. A vehicle's date of manufacture (or, in the case of converted vehicles, the date of re-manufacture) is not a technical matter, but a question of fact to be determined based on the evidence.

### **Do vehicle restorations disqualify a vehicle?**

A vehicle restoration does not affect the original date of manufacture. For example, an original vehicle may have the mechanical components replaced or reconditioned and the interior re-upholstered. An older historic car would typically have many components that have been reconditioned or replaced over the vehicle's lifetime. Vehicle restorations may be forced to replace various components to effect repairs, due to the unavailability of exact original equipment. Similarly, an original vehicle may be customised (eg, by unique or non-original paintwork) if kept within original specifications.

### **Is it possible for vehicles converted before 1 January 1989 to qualify?**

Yes. Vehicles converted before 1 January 1989 qualify under the pre-1989 scheme.

A variety of evidence can potentially be used by applicants to establish that the date of conversion was before 1 January 1989. For example, a copy of the vehicle's registration documents may show that the vehicle was in its current form pre-1989. Evidence may be available that the vehicle was exhibited in its current form (eg, exhibited as a hot rod) pre-1989. Alternatively, a statement from the vehicle converter could be used to establish the date of conversion.

In short, before approving an application under the scheme, the Administrator must be satisfied that the vehicle was manufactured before 1 January 1989. Applicants may wish to provide additional evidence in support of their application, such as certified or notarised statements. The Administrator will assess the evidence provided on a case-by-case basis.

### **Pre-89 vehicles can be up to 90 years old. What if original documentation is unavailable?**

It is accepted that original documents for early (eg, 1930s) models may be unavailable. However, the purpose is not to pinpoint the exact date of manufacture (or conversion). Rather, the Department seeks evidence that places the date of manufacture (or conversion) before 1 January 1989. A variety of evidence can potentially be used by applicants.

### **Many early (eg, pre-WW2) vehicles were not mass-produced. Specifications for these vehicles may not exist. How do you determine whether a vehicle restoration extends outside original specifications?**

It is accepted that some early models were, in effect, hand built. Vehicle manufacturers may have only assembled the rolling chassis. Specialised coachbuilders would then assemble the body shell. Sometimes, the body was manufactured to a personalised or even to a unique design. These types of vehicles vary from case-to-case.

There are only a small number of applications facing this type of situation. The Department is happy to investigate these types of cases individually. The Department will facilitate cases to

ensure that the applicant has the opportunity to establish that the vehicle was manufactured before 1 January 1989. In such a case, the specifications of the vehicle type would encompass any of the variants that were originally supplied to the market. This includes any of the personalised or unique variants. So long as a vehicle falls within the ambit of any of the variants offered, the vehicle would be recognised as a restored vehicle and not a converted vehicle.

### **What provision allows the import of converted vehicles, where the applicant intends to restore the vehicle to original specifications?**

The pre-1989 scheme is based on the vehicle's date of manufacture. The scheme is not based on the future intention of the applicant.

### **For US-sourced vehicles, can the Certificate of Title determine whether a vehicle is a converted vehicle?**

No. The US Certificate of Title is only evidence as to the owner of the vehicle. Certificates normally specify some identifying information about the vehicle. However, a Certificate of Title is not evidence on these various attributes (such as make, model or year of manufacture). For example, some US jurisdictions have acknowledged that converted vehicles are not necessarily reflected as such in the Certificate of Title. The California Attorney General has estimated that some 70,000 vehicles in that state may be erroneously titled or registered.

### **Is there an inconsistency between import arrangements (under the pre-1989 scheme) and state and territory registration requirements?**

Criteria for concessional importation under the pre-1989 scheme are distinct from the requirements of vehicle registration. Vehicle registration is handled by the relevant state or territory registering authority.

Applicants are advised by the Department that vehicles (once imported) may need to be modified to meet road registration requirements. Applicants should contact the relevant state or territory registering authority for further information on road registration requirements.

### **The Street Rod Manual is published on the Department's website. Is it relevant?**

The Street Rod Manual (the *National Guidelines for the Construction and Modification of Street Rods in Australia*) was developed by the Australian Motor Vehicle Certification Board Working Group. The manual is provided on the Department's website for information purposes only. The manual is not used for regulation 17.

### **What is the proportion of converted vehicles under the pre-1989 scheme?**

For the 6 months January-June 2010, some 5,659 vehicles were approved under the pre-1989 scheme. During the same period, refusals were issued for some 24 converted vehicles.

### **Is there a move to change the legislation?**

There is no proposal to amend regulation 17.

### **Vehicles may have been purchased before the recent tightening of the scheme (from January 2010). Plus, vehicles may have been purchased before the recent updates to VSB10. How are these vehicles handled?**

There has been no change made to the requirements for importing vehicles under the pre-1989 scheme. The same policy has been applied since the scheme's introduction in 1992. For example, there has been no amendment to the definition of when a vehicle is modified or converted.

Rather, the Department has recently tightened administration of the scheme after abuses were detected, to prevent these abuses from recurring. As a result, there is no transitional or "grandfathering" arrangement.

### **What do applicants need to do to apply for a vehicle import approval?**

To apply for a vehicle import approval under the pre-1989 scheme, applicants must provide to the Department:

- a completed application form;
- the \$50 application fee;
- a copy of the purchase document for the vehicle;
- if you have not applied to import a vehicle within the previous 12 months – a copy of your picture ID;
- a recent photo of the vehicle; and
- if the vehicle's date of manufacture is unclear – additional supporting documentation to establish the date of manufacture;
- if the vehicle has been the subject of a vehicle conversion – supporting documentation to establish the details of the conversion and the date the conversion was completed.

### **The Department requests that applicants provide photos of vehicles. How are these photos used?**

The photo is merely an indication that a vehicle may be converted. The photo itself is not a determinant. If the Department is unsure as to whether a vehicle was manufactured before 1 January 2010 (for example, via the photo), the Department will seek further information from the applicant.

### **Some vehicle purchasers are reluctant to apply for a vehicle import approval, given these arrangements for converted vehicles. What should these people do?**

The Department is happy to work with applicants on individual cases, and to advise on these types of matters. If people have purchased vehicles for import, the Department encourages them to lodge an application as soon as possible and to set out the facts of the situation. For example, alternative schemes may be available for the import of the vehicle. The vehicle may qualify under the exhibition vehicle scheme or the race / rally schemes. Resolving a matter is preferable to leaving the matter up in the air or in doubt. If requested, the Department is happy to liaise through peak bodies, such as the Australian Street Rod Federation.

**What other consultation procedures will the Department carry out, to keep importers informed?**

During the briefing session, the Department circulated segments designed to further update its information brochure, *Importing Vehicles to Australia (VSB10)*. The new segments are intended to provide a more detailed description of the pre-1989 scheme. The Department welcomed comment on the segments.

The Department proposes to progressively review and update its website and guidance material, on the range of concessional importation schemes. When proposing updates to published material, the Department will seek comment from stakeholders.