
TRIPARTITE FUNCTIONS OF MODERN-DAY ADMINISTRATION W.R.T. “AUTHORIZED VEHICLE SCRAPPING FACILITY”

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ABSTRACT

Authorized vehicle scrapping policy was first set up in the month of August 2022. It is still not taken into serious consideration by the people of India. This article draws attention on the three branches through which this particular policy works- i.e., Executive, Judiciary, and Legislative.

Executive talks about the personnel working on the setup and working of the yards and machinery used for scrapping. Legislative deals with the ministry, act, statute and guidelines which led to the formation of this policy. In the end Judiciary deals with the remedies provided to the people coming for scrapping and the window of appeal is also mentioned to keep a check and balance on the working of the policy. The article also deals with the categories and benefits being provided to the people.

Keywords: Authorized vehicle scrapping policy, executive, legislative, judiciary, machinery, statute, remedies.

INTRODUCTION

An authorized vehicle scrapping facility is a specialized center that is authorized by the government or other relevant regulatory bodies to decommission and dispose of end-of-life vehicles (ELVs) in an environmentally friendly and safe manner.¹

These facilities are equipped with specialized equipment and trained personnel to safely remove hazardous materials such as battery acids, engine oils, coolants, and other fluids from ELVs, thereby preventing contamination of the environment. They also have the equipment and expertise to dismantle and recycle the various components of the vehicle, such as the engine, transmission, suspension, and body panels, ensuring that the materials are disposed of responsibly and that as many materials as possible are recycled.

The authorized vehicle scrapping facility is an essential part of a country's waste management system, helping to reduce the environmental impact of the automotive industry and promoting sustainable development. By using authorized scrapping facilities, individuals can ensure that their end-of-life vehicles are disposed of safely and responsibly.

Research Objective

In this research paper, I have certain objectives, they are as follows:

1. To study the meaning and differentiation of the three wings of modern-day administration.
2. To study and understand the workings of the three wings with respect to the authorized vehicle scrapping policy.
3. To understand the categorization and benefits from this policy.

Research Questions

1. What is AVSF?
2. What are the three wings of administration?

¹ Corpbiz, <https://corpbiz.io/authorized-vehicle-scrapping-facility-avsf> , (Last Visited February 16,2023).

3. How does the three wings work with respect to AVSF?
4. What are the benefits received after scrapping of vehicles?

LEGISLATIVE WING

Ministry of Road Transport and Highways²

The Ministry of Road Transport and Highways (MoRTH) is a government ministry in India responsible for the development and maintenance of the road transport infrastructure in the country. It was formed in 1942 and has been instrumental in building and maintaining India's vast road network.

Some of the key functions of MoRTH include the formulation and implementation of policies and programs related to road transport, highways, and road safety. It is also responsible for the development of national highways, state highways, and rural roads, as well as the maintenance and upgrading of existing road infrastructure.

In addition to this, MoRTH also works towards improving road safety in the country. It promotes the use of safety equipment, such as helmets and seat belts, and encourages the adoption of safer driving practices. The ministry also works to develop and implement road safety regulations and standards.

MoRTH plays a vital role in the overall development of the country's infrastructure, particularly in road transport. Its efforts are aimed at improving connectivity, reducing travel time, and enhancing the safety and convenience of road users.

Motor vehicles act.³

The Motor Vehicles Act, which was approved by the Indian Parliament in 1988, controls nearly every element of vehicles used for transportation. It includes provisions for traffic laws, car insurance, vehicle registration, regulating permits, and fines. The Act went into effect on July 1, 1989.

² Ministry of Road Transport and Highways, <https://morth.nic.in/missionvision>, 17th February, 2023.

³ MVA, §, INDIA

The Government of India, in cooperation with state transport ministers, drafted the Motor Vehicles (Amendment) Bill to amend the Motor Vehicles Act of 1988 to make roadways safer. The Lok Sabha passed the Motor Vehicles (Amendment) Bill, 2017 on April 10, 2017.

The Bill was passed by the Rajya Sabha on July 31, 2019, with 108 democratic votes, 13 against, and three modifications proposed by the Minister of Road Transport and Highways, Nitin Gadkari. The Motor Vehicles (Amendment) Bill, 2019 suggests a significant increase in various sanctions for traffic violations, protection for Good Samaritans, recall of flawed vehicle parts by automakers, holding builders accountable for poor infrastructure quality, and trying to make car owners legally responsible for wrongs committed by juvenile drivers.

Section 59 Motor Vehicles Act⁴

The authority to determine the minimum age for operating a motor vehicle —

(1) The Federal Govt may, with regard to public safety, convenience, and the purposes of this Act, by announcement in the Official Gazette, stipulate the life of a moving vehicle calculated from the date of its production, after which the automobile shall not be regarded to meet the standards of this Act and the rules were made thereunder: Given that the Central Government may prescribe various minimum ages for different vehicle classes or kinds.

(2) Section 32 contained in subsection (1), the Gov't may, paying particular attention to the reason of a motor car, such as display or use for the specific purpose of a demo in a museum, use for the uses of technical research, or participation in a vintage car rally, exempt, by an overall or special sequence, with such restrictions as may be indicated in such alert, any class or category of motor vehicles.

(3) Notwithstanding anything in section 56, no specified authority or authorized testing station may give a certificate of fitness for a motor vehicle contrary to the conditions of a notification issued under subsection (2). (1).

Section 9 Motor Vehicles Act⁵

Section 9 of the Motor Vehicles Act, 1988, deals with the licensing of drivers of motor vehicles.

⁴ MVA, §, Section 59, INDIA

⁵ MVA, §, Section 9, INDIA

This section lays down the requirements and qualifications that an applicant must possess to obtain a driving license in India. According to Section 9, no person shall be entitled to drive a motor vehicle in a public place unless he holds a valid driving license issued in accordance with the provisions of the Motor Vehicles Act. The section also provides for different categories of driving licenses, such as for light motor vehicles (LMV), heavy motor vehicles (HMV), and transport vehicles. The section also lays down the minimum age limit for obtaining a driving license, which varies depending on the category of vehicle. For LMV, the minimum age limit is 18 years, while for HMV and transport vehicles, the minimum age limit is 20 years.

In addition, the section also specifies the educational qualifications required for obtaining a driving license. For transport vehicles, the applicant must have passed at least the 8th standard, while for other categories of vehicles, no formal educational qualification is required.

Section 9 of the Motor Vehicles Act, therefore, is a crucial provision that lays down the requirements for obtaining a driving license and ensures that only qualified and competent drivers are permitted to operate motor vehicles on public roads.

Section 41 Motors vehicle act⁶

Section 41 of the Motor Vehicles Act, 1988 pertains to the hand signals that drivers of vehicles must use in certain circumstances. The section stipulates that every driver of a vehicle, while driving, must give hand signals as follows:

When turning to the right: The driver must extend his right hand and arm horizontally outward from the vehicle, keeping the hand and arm steady.

When turning to the left: The driver must extend his right hand and arm upward from the elbow, keeping the hand and arm steady.

When slowing down or stopping: The driver must extend his right hand and arm downward from the elbow, keeping the hand and arm steady.

It is important to note that the use of hand signals is mandatory in situations where the turn indicator lights, or brake lights of the vehicle are not working properly. In such cases, the driver

⁶ MVA, §, Section 41, INDIA.

must use the appropriate hand signal to indicate his intention to turn or slow down/stop. Failing to use the appropriate hand signals when required can result in a traffic violation and attract penalties under the Motor Vehicles Act.

Some other acts which are used in the legislative wig are as follows:

“The Motor Vehicle Act, 1988. The Central Motor Vehicles Rules, 1989. Various State and UT Motor Vehicles Rules, 1993. Indian Penal Code, 1860. The Hazardous Waste (Management, Handling and Transboundary movement) Rules, 2008 as amended from time to time. The Ozone Depleting Substances (Regulation and Control) Rules, 2000. The Batteries (Management and handling) Rules, 2011 amended 2016. The Plastic Waste (Management and Handling) Rules, 2011 as amended 2016. The e-waste (Management and Handling) Rules 2016.”

EXECUTIVE

Authorized scrapper

A person, organization, society, or business that controls and runs an Approved Vehicle Scrapping Plant.

Authorized Vehicle Scrapping Facility

This refers to a facility that possesses an authorization for car scrapping issued in accordance with rules for dismantling and scrapping.

Deposit certificate

A document prepared by the AVSF to acknowledge the transferring of owning a vehicle from an Authorized owner to an Authorized scrapper.

Vehicle scrapping certificate.

A document provided by the AVSF to acknowledge the final disposition of a vehicle. It must be maintained by the authorized scrapper.

Scrapping yard

Place where the vehicle's disassembled components are handled for treatment.

Licensing authority

It refers to the Commissioner of Transport or another officer chosen by the State/UT government.⁷

JUDICIARY

Right to inspection ⁸

- Authorized scrapper should maintain all the records and registers for inspection by the licensing authorities.
- Physical inspection and site visits should be carried on.
- Report of inspection team to be submitted to the licensing authorities and a copy to the authorized scrapper.
- The licensing authority may pass a speaking order to cancel or suspend.

Appeal ⁹

- Aggrieved party can appeal within 30 days of date of receipt to the designated authority or the commissioner/secretary.
- Appeal to be in a plain application format, with grounds along with certified copy of appeal and a fee of Rs. 10,000/-.
- Designated authority must dispose it within 14 working days.

⁷ Government of India, Ministry of Road Transport and Highways (Transport Division).

⁸ *Ibid.*

⁹ *Ibid.*

CASE STUDY

In the case of *Gullapalli Nageswara Rao v. APSRTC*¹⁰, a statute authorized the minister to hear the parties and issue the final order in specific circumstances. The government delegated the hearing function to his Secretariat, who listened to the parties and drafted a report for the Secretary, who then issued the final order. The court invalidated the Minister's order, stating, "If one person hears and another decides, personal hearing becomes an empty formality."

CATEGORIZATION OF VEHICLES IN SCRAPPING

On the highways of India, various sorts of cars can be observed being driven. Due to variation, the same criteria can indeed be given to all automobiles. To effectively implement the vehicle cash for clunkers policy 2021, it is necessary to categorize automobiles.

Commercial Vehicles - Any automobiles used for commercial purposes, including buses and other transport vehicles, are classified as commercial vehicles. After 15 years, the vehicle will be required to pass a fitness test. If the car is unfit, it will be scrapped in accordance with the vehicle cash for clunkers policy 2021.

Government Automobiles - In January 2021, the scrapping policy for government vehicles was authorized. Vehicles owned by the federal and state governments that are older than 15 years will be discarded. This will become effective the next year. The current scheduled date is April 1, 2022.

Private Automobiles - The cars used to travel from one location to another on an almost daily basis are classified as private automobiles. Motor cars will be deregistered after 20 years if deemed unfit or if the RC is not renewed. As a disincentive, however, additional taxes will be assessed for vehicles 15 years from the date of initial registration.

Vintage Vehicles - The antique vehicles are significantly older than the ordinary vehicle. Yet, older vehicles are driven infrequently and are highly maintained. Thus, it is a distinct category, and the character of these automobiles will be considered when drafting rules for their disposal.¹¹

¹⁰ AIR 1959 SC 308

¹¹ BAJAJ ALLIANCE, Vehicle Scrapping Policy in India 2021 - Overview | Bajaj Allianz , 20th February 2023.

BENEFITS

Below is a summary of the prospective economic, car industry, vehicle owner, and other advantages associated with the new automobile scrap policy.

Why The destruction of unfit automobiles will reduce air pollution and improve air quality.

- As a result of scrapping old vehicles, the desire for fresh vehicles will increase, as the old ones would need to be replaced. More than 51 million individual and commercial light motor vehicles are older than 20 years.
- In general, the vehicle industry will gain from the revised scrapping policy, which will increase employment prospects. For instance, new automobile scrapping centers will require labor.
- New technological automobiles will be safer than their predecessors. For instance, modern automobiles include greater safety features.
- Recycling industry activity will increase, resulting in increased revenue.

As an inducement to discard an old vehicle, vehicle owners may qualify for tax benefits.

- The lowest deal for car scrappages may also be offered for usable components such as tyres.¹²

CONCLUSION

In conclusion of this article, we can understand that the authorized vehicle scrapping facility is working on three grounds. Legislative is understood by the ministry, statute and guidelines mentioned by the ministry of road and transport. Executive works with appointment of authorized vehicle scrapping personnel and a checking authority to keep a balance of working of the scrapping facility. Judiciary works on the concept of appeal and filing of complaints to understand the efficient working of the department. Further the benefits are given in accordance with the categorization of the vehicles from general to vintage.

¹² ACKO, Vehicle Scrapping Policy in India: Highlights and Benefits (acko.com), 21st February 2023.