

CODE OF PRACTICE FOR MOTOR VEHICLE SALVAGE DISPOSAL

INDIA

Suggested by www.isalvageauction.com

WHY A CODE IS NEEDED

Insurance salvage disposal in India, for registered motor vehicles, is governed by the law of the land. The provisions that regulate it are **sections 52, 53, 54 and 55 of the Motor Vehicles Act 1988**.

Those provisions exist for the safety of the public: only fit vehicles are to ply on the road. Where a vehicle is unfit, or unfit for the time being, its registration certificate is to be cancelled or suspended. Insurers and surveyors should have these provisions in mind when salvage is disposed of, so that what they do is within the law.

Section 53 is the provision that is overlooked. An insurer may have a registration suspended under it rather than cancelled under section 55. A suspended registration can be revived once the registering authority is satisfied that the vehicle has been repaired to its requirements — which is the right answer for a vehicle that is damaged but not finished.

WHAT THIS CODE DOES

It gives an IRDAI approved surveyor or loss assessor a settled way to describe the state of a damaged vehicle likely to be treated as a total loss or a constructive total loss. With the vehicle placed in a category, the insurer knows at once what the registering authority requires of it, and can arrange the disposal accordingly.

THE POSITION AT PRESENT

No code exists, and the provision available under section 53 has gone unused. Insurers in India would do well to study this one and look for means of putting it into practice, because it is in their own interest to do so.

At present no settled rule is followed when salvage is disposed of. Section 55 is used sometimes, but more often the insurer is not itself certain whether the vehicle is being sold with its registration or without it. **That uncertainty has left loopholes.** Criminal elements have made use of salvage sold this way, and the trouble that follows falls on the surveyor and the insurer alike.

The table of categories is set out on the next page. The sections of the Act referred to are reproduced after it, so that a surveyor may satisfy himself of the wording rather than take it on trust.

THE SEVEN CATEGORIES

Read down a column for everything that follows from one category, or across a row to compare the categories on one question.

	CATEGORY A	CATEGORY B	CATEGORY C	CATEGORY D	CATEGORY E	CATEGORY F	CATEGORY G
THE DAMAGE	Engine, body shell and chassis damaged beyond repair. Includes a vehicle burnt out entirely.	Badly damaged, and in the surveyor's opinion incapable by any means of being made fit for the road again.	Major damage. May need the engine or the chassis replaced, and can then be repaired.	Major damage, settled on the basis of new parts, but repairable and able to be made fit for the road.	Damage settled because of a low IDV or a nil depreciation policy. Repairable and still roadworthy.	Theft of the vehicle.	Accidental or otherwise, but the vehicle has completed its life and that life has not been extended by the registering authority.
ITS CONDITION	Junk or scrap only.	Mostly junk or scrap, but some parts are safe to re-use.	Repairable, with the engine or chassis replaced and used or new parts fitted.	Repairable: repairs rather than replacement, with used and new parts making the repair viable.	Repairable by ordinary means.	Not traceable.	Not to be used further, its useful life being complete.
FOR EXAMPLE	Burnt out entirely; the whole vehicle crushed.	Extensively damaged and beyond repair.	Needs a vehicle-identifying part replaced.	Body shell damaged and repairable, with no vehicle-identifying part to be replaced.	Ordinary repairs.	The whole vehicle stolen.	An old vehicle, not to be used further.
FIT FOR THE ROAD?	Neither roadworthy nor repairable.	Neither roadworthy nor repairable.	Disabled; may become roadworthy once repaired.	Disabled; may become roadworthy once repaired.	Repairable, and will be roadworthy.	Not applicable.	May or may not be roadworthy.
HOW IT IS SETTLED	Total loss.	Total loss.	Constructive total loss.	Constructive total loss.	Constructive total loss.	Total loss.	Abandoned vehicle.
THE REGISTRATION CERTIFICATE	Must be cancelled. Under section 55 the owner is to inform the RTO and have the R/C cancelled.	Must be cancelled, as for category A.	The insurer asks the RTO to suspend the R/C under section 53. Any change in identifying particulars is made under section 52.	As for category C.	As for category C.	No action beyond a change of ownership, if one is needed.	The R/C has expired.
WHAT IS TO BE DONE ABOUT IT	The VIN plate is removed and given to the RTO. Once the R/C is cancelled, the chassis and engine numbers may be destroyed and the owner keeps photographs of it.	As for category A.	The R/C goes to the RTO and stays suspended. The buyer either has the suspension revoked under section 53, or has the R/C cancelled under section 55 and then follows categories A and B. Particulars may be corrected under section 52.	As for category C.	No action.	The R/C must be cancelled.	The public may be notified. The R/C is kept in the owner's own records.
THE NUMBER PLATE	Damaged and given to the RTO, with photographs kept.	As for category A.	Removed and given to the RTO while the R/C is suspended. A buyer who repairs the vehicle and has the R/C revived may have it issued again.	As for category C.	No action.	No action can be taken.	Removed, and either kept in the records or destroyed, with a record kept.

	CATEGORY A	CATEGORY B	CATEGORY C	CATEGORY D	CATEGORY E	CATEGORY F	CATEGORY G
WHAT IS BEING SOLD	The wreck or junk. Valued as scrap, by weight.	The wreck, together with the value of the parts that can be re-used.	Salvage or wreck, as the buyer decides.	Salvage or wreck, as the buyer decides.	Salvage in repairable condition.	Nothing. If the vehicle is recovered it falls into whichever of A to E then fits.	The junk of the vehicle.
WHAT THE BUYER IS GIVEN	A copy of the cancelled R/C, and an affidavit from him that he will dismantle the vehicle, with his identity and address proof.	As for category A.	A letter requesting suspension of the R/C. The RTO may, after testing the vehicle for roadworthiness and examining how it was repaired, restore the R/C, charge the registration taxes due, and record any change in the identifying numbers under section 52.	As for category C.	The R/C and transfer papers, once payment is complete and any hypothecation is cleared.	If recovered, whatever the applicable category requires.	A photocopy of the R/C only, marked that the sale is for dismantling.
REGISTRATION TAXES	On cancellation the owner may claim a refund of lifetime tax, where it applies.	As for category A.	A buyer who repairs the vehicle and has the R/C revived pays the taxes for the further period he chooses, annual or lifetime.	As for category C.	The owner may settle this with the buyer.	On cancellation the owner may claim a refund of lifetime tax, where it applies.	Not applicable.

THE SECTIONS OF THE ACT

Sections 52, 53, 54, 55 and 136 of the Motor Vehicles Act 1988, reproduced so that the categories above can be checked against them.

53. Suspension of registration

(1) If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction — (a) is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of this Act or of the rules made thereunder, or (b) has been, or is being, used for hire or reward without a valid permit for being used as such, the authority may, after giving the owner an opportunity of making any representation he may wish to make (by sending to the owner a notice by registered post acknowledgment due at his address entered in the certificate of registration), for reasons to be recorded in writing, suspend the certificate of registration of the vehicle — (i) in any case falling under clause (a), until the defects are rectified to its satisfaction; and (ii) in any case falling under clause (b), for a period not exceeding four months.

(2) An authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of such suspension and the reasons therefor to the registering authority within whose jurisdiction the vehicle is at the time of the suspension.

(3) Where the registration of a motor vehicle has been suspended under sub-section (1) for a continuous period of not less than one month, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, shall, if it is not the original registering authority, inform that authority of the suspension.

(4) The owner of a motor vehicle shall, on the demand of a registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration.

(5) A certificate of registration surrendered under sub-section (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

Corresponding law. Section 53 corresponds to section 33 of the Motor Vehicles Act, 1939.

Objects and reasons. Clause 54 empowers the registering authorities to suspend the certificate of registration of a motor vehicle, if the vehicle is used for hire or reward without a permit. It also empowers the registering authority to suspend the certificate of registration of a vehicle if the vehicle is mechanically defective or if its use on public road will endanger public safety until the defects are rectified and the vehicle is certified to be roadworthy.

54. Cancellation of registration suspended under section 53

Where the suspension of registration of a vehicle under section 53 has continued without interruption for a period of not less than six months, the registering authority within whose jurisdiction the vehicle was when the registration was suspended, may, if it is the original registering authority, cancel the registration, and if it is not the original registering authority, shall forward the certificate of registration to that authority which may cancel the registration.

Corresponding law. This is a new provision in the 1988 Act.

55. Cancellation of registration

(1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward to the authority the certificate of registration of the vehicle.

(2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration.

(3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the State Government may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make, it is satisfied that the vehicle is in such a condition that it is incapable of being used or its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration.

(4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of India, the registering authority shall cancel the registration.

(5) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number

embossed thereon are different from such number entered in the certificate of registration, the registering authority shall, after giving the owner an opportunity to make such representation as he may wish to make, and for reasons to be recorded in writing, cancel the registration.

(6) A registering authority cancelling the registration of a motor vehicle under section 54 or under this section shall communicate such fact in writing to the owner of the vehicle, and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle.

(7) A registering authority making an order of cancellation under section 54 or under this section shall, if it is the original registering authority, cancel the certificate of registration and the entry relating to the vehicle in its records, and, if it is not the original registering authority, forward the certificate of registration to that authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records.

(8) The expression "original registering authority" in this section and in sections 41, 49, 50, 51, 52, 53 and 54 means the registering authority in whose records the registration of the vehicle is recorded.

(9) In this section "certificate of registration" includes a certificate of registration renewed under the provisions of this Act.

Corresponding law. Section 55 corresponds to section 34 of the Motor Vehicles Act, 1939.

Objects and reasons. Clause 55 contains provisions for the cancellation of the certificate of registration by the registering authorities where the vehicle has been destroyed or has been rendered permanently incapable of use or has been lost and not recovered or is otherwise not traceable or its use will constitute a danger to public safety. It also provides that the registering authorities may cancel the certificate of registration if the registering authority is satisfied that engine number and chassis number noted in the certificate of registration differs from that found in the vehicle, or that the registration has been obtained by misrepresentation or fraud.

52. Alteration in motor vehicle

(1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer: provided that where the owner of a motor vehicle makes modification of the engine, or any part thereof of a vehicle for facilitating its operation by a different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), a State Government may, by notification in the Official Gazette, authorise, subject to such conditions as may be specified in the notification, and permit any person owning not less than ten transport vehicles to alter any vehicle owned by him so as to replace the engine thereof with an engine of the same make and type, without the approval of the registering authority.

(3) Where any alteration has been made in a motor vehicle without the approval of the registering authority or by reason of replacement of its engine without such approval under sub-section (2), the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of registration may be entered therein.

(4) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.

(5) Subject to the provisions made under sub-sections (1), (2), (3) and (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the registered owner.

Explanation. For the purpose of this section, "alteration" means a change in the structure of a vehicle which results in a change in its basic feature.

Note. Section 52 was substituted by Act 27 of 2000, section 2, with effect from 11 August 2000.

Corresponding law. Section 52 corresponds to section 32 of the Motor Vehicles Act, 1939.

136. Inspection of vehicle involved in accident

When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by the State Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be, and may remove the vehicle for examination: provided that the place to which the vehicle is so removed shall be intimated to the owner of the vehicle and the vehicle shall be returned after completion of the formalities to the owner, driver or the person in charge of the vehicle within twenty-four hours.

Corresponding law. Section 136 corresponds to section 90 of the Motor Vehicles Act, 1939.

Objects and reasons. Clause 136 prescribes that a motor vehicle involved in an accident should be produced for inspection before the person authorised by the State Government and for this purpose it empowers the officers to enter into any premises and remove the vehicle for inspection.

This code is suggested by www.isalvageauction.com for the use of insurers, surveyors and loss assessors. It is not a statutory instrument and binds nobody. The sections of the Act are reproduced for convenience; the Act itself governs.