

1993—No. 69

JUSTICES ACT 1902—REGULATION

(Consumer Protection (Short Description of Offences) Regulation 1993)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Justices Act 1902, has been pleased to make the Regulation set forth hereunder.

WAYNE MERTON,
Minister for Justice.

Citation

1. This Regulation may be cited as the Consumer Protection (Short Description of Offences) Regulation 1993.

Commencement

2. This Regulation commences on 12th March, 1993.

Short description of offences

3. (1) For the purposes of section 145B (2) of the Justices Act 1902, the prescribed expression in relation to a summary offence specified in Column 1 of Schedule 1 is the expression set out opposite it in Column 2 of the Schedule.

(2) If a choice of words is indicated in Column 2 of the Schedule, the words remaining after the omission of the words irrelevant to the offence constitute the prescribed expression.

(3) A reference in Column 1 of the Schedule to a provision of the Business Names Act 1962, the Motor Dealers Act 1974, the Fair Trading Act 1987, the Trade Measurement Act 1989 or any regulation made under those Acts, being a provision that creates an offence, is a reference to the provision as in force at the time the offence is alleged to have occurred.

SCHEDULE 1

(Cl. 3)

COLUMN 1	COLUMN 2
OFFENCE	PRESCRIBED EXPRESSION
Offences under the Business Names Act 1962	
Section 5 (1)—carry on business under a business name which is not the person's own name and the name of each other person with whom the business is carried on or a registered business name	carry on business under unregistered business name
Section 12 (9)—fail to comply with the provisions of section 12 relating to the lodging of statements	fail to lodge statement/provide details required under s. 12
Section 13 (3) (a)—fail to comply with requirement under section 13 to give information or produce documents	fail to give information/produce documents required under s. 13
Section 13 (3) (b):	
<ul style="list-style-type: none"> • give information; or 	give materially false/misleading information
<ul style="list-style-type: none"> • produce a document, that is false or misleading in a material particular 	produce materially false/misleading document

Section 13 (3) (c)—hinder or obstruct an authorised officer in the exercise of his or her powers under section 13	hinder/obstruct authorised officer exercising powers under s. 13
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Section 20:

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| <ul style="list-style-type: none"> • fail to use on business documents, or display, a registered business name; or • fail to exhibit a certificate of registration of a business name | <p>fail to use on documents/display registered business name</p> <p>fail to exhibit certificate of registration of business name</p> |
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Offences under the Motor Dealers Act 1974

Section 21 (1)—being the holder of a licence, fail to keep a register in the prescribed form at the licensee's place of business	fail to keep prescribed register at place of business
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Section 21 (2)—being the holder of a dealer's licence who carries on another business under the same licence, fail to keep a register in respect of the other business	fail to keep register of other business under same licence
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Section 21 (3)—being the holder of a dealer's licence, fail to enter the prescribed particulars in the register	as dealer, fail to enter particulars in register
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Section 21 (4)—being the holder of an auto-dismantler's licence, fail to enter the prescribed particulars in the register	as auto-dismantler, fail to enter particulars in register
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Section 21 (5)—being the holder of a wholesaler's licence, fail to enter the prescribed particulars in the register	as wholesaler, fail to enter particulars in register
Section 21 (6)—being the holder of a motor vehicle parts reconstructor's licence, fail to enter the prescribed particulars in the register	as reconstructor, fail to enter particulars in register
Section 21 (7)—being the holder of a motor vehicle consultant's licence, fail to enter the prescribed particulars in the register	as consultant, fail to enter particulars in register
Section 21 (8)—being the holder of a prescribed licence, fail to enter the prescribed particulars in the register	as prescribed licensee, fail to enter particulars in register
Section 23A (1)—being the holder of a licence, offer or display a motor vehicle for sale otherwise than at the place of business specified in the licence	offer/display vehicle for sale not at specified place of business
Section 24 (2)—being a dealer, offer or display for sale a second-hand motor vehicle without attaching to it the prescribed notice	offer/display used vehicle for sale without prescribed notice

Offences under the Motor Dealers Regulation 1986

Clause 37A—being the holder of a licence, cause or permit the publication of an advertisement of a motor vehicle or part to be offered or displayed for sale without including the prescribed matter in the advertisement	cause/permit advert. of car/car part without prescribed matter
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Clause 37B—being a dealer, cause or permit the publication of an advertisement referring:

(a) to a specified motor vehicle; or

cause/permit advert. for specific vehicle not show rego number

(b) to a second-hand motor vehicle for sale at a specified price, without specifying the registration number of the vehicle

cause/permit advert. for priced used vehicle not show rego number

Offences under the Fair Trading Act 1987

Section 32 (2)—supply goods in contravention of an interim order or permanent order in force under section 30 or 31 of the Fair Trading Act 1987

supply goods in contravention of interim/permanent order under s. 30/31

Section 40 (1)—being a supplier, sell goods showing more than one price at a price greater than the lower or lowest price

sell goods at price greater than lower/lowest marked price

Offences under the Trade Measurement Act 1989

Section 7 (1)—use for trade an unmarked weighbridge or other unmarked measuring instrument

use for trade unmarked weighbridge/measuring instrument

Section 7 (2)—use for trade a weighbridge not complying with the requirements of the regulations concerning weighbridges

use for trade non-complying weighbridge

Section 8 (1)—use for trade an
incorrect or unjust measuring
instrument

use for trade
incorrect/unjust
measuring instrument

Section 28 (1)—pack a pre-packed
article:

(a) without the package being
marked with the name and
address of the packer; or

pack pre-packed article
without packer's mark

(b) without the package being
marked with a statement of the
measurement of the article,

pack pre-packed article
without mark showing
its measurement

in contravention of Regulation 8 (1)
or 10 (1) of the Trade Measurement
(Re-packed Articles) Regulations 1991

Section 28 (2)—sell a prepackaged
article:

(a) without the package being
marked with the name and
address of the packer; or

sell pre-packed article
without packer's mark

(b) without the package being
marked with a statement of the
measurement of the article,

sell pre-packed article
without mark showing
its measurement

in contravention of Regulation 8 (1)
or 10 (1) of the Trade Measurement
(Re-packed Articles) Regulations 1991

Offences under the Trade Measurement (Weighbridges) Regulations 1991

Regulation 19—being a licensee, fail
to return a cancelled certificate of
suitability to the licensing authority
within 7 days after the cancellation

fail to return cancelled
certificate of suitability
on time

Regulation 25 (a)—being the operator of a public weighbridge, fail to comply with the duties of an operator	fail to comply with duties of public weighbridge operator
Regulation 25 (c)—being the operator of a public weighbridge, fail to issue a correct copy of a measurement ticket	fail to issue correct copy of measurement ticket
Regulation 25 (d)—being the operator of a public weighbridge, remove from a book, or issue, an original measurement ticket	remove from book/issue original measurement ticket
Regulation 25 (e)—being the operator of a public weighbridge, remove from a book, or permit the removal of, an unused measurement ticket	remove from book/permit removal from book of unused measurement ticket
Regulation 29—being a licensee or operator of a public weighbridge, use the weighbridge for public weighing to determine an end-to-end measurement	use weighbridge for public weighing to measure end-to-end
Regulation 30 (1)—Fuse for trade a weighbridge to determine an end-to-end measurement otherwise than in prescribed circumstances	use weighbridge for trade weighing to measure end-to-end

**Offences under the Trade
Measurement (Miscellaneous)
Regulations 1991**

Regulation 2 (2)—advertise, offer or expose an article for sale at a price determined by a measurement that is not a prescribed measurement	advertise/offer/expose article for sale at a non-metric unit price
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**Offences under the Trade
Measurement (Measuring
Instruments) Regulations 1991**

Regulation 22 (1) (e)—use for trade (otherwise than for factory use or non-retail counter use) a measuring instrument with a tare bar

use measuring instrument with tare bar

Regulation 22 (1) (f)—use for trade a measuring instrument to determine a mass greater than the mass permitted by the approved pattern for the instrument

use instrument to measure mass greater than approved limit

Regulation 22 (3)—use for trade a measuring instrument fitted with a load receptor:

(a) there being more than one such instrument on the premises, if the receptor is not marked to identify it with the instrument on which it is used; or

use not properly identified load receptor

(b) if the receptor is removable and measures incorrectly in any position on its supports; or

use load receptor that measures incorrectly in any position

(c) if any latitude of movement of the receptor causes it to foul any part of the instrument; or

use load receptor that fouls part of instrument

(d) if the receptor is in the form of a scoop so mounted that a purchaser cannot readily see whether there is any foreign matter in it

use load receptor that obscures inside view of scoop

Regulation 23 (a)—subdivide the scale spacing on a measuring instrument after an inspector's or licensee's mark has been marked on the instrument	subdivide scale spacing on instrument after marking
Regulation 23 (b)—use for trade a measuring instrument whose scale spacing has been subdivided after an inspector's or licensee's mark has been marked on the instrument	use instrument with scale spacing subdivided after marking

TABLE OF PROVISIONS

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SCHEDULE 1

EXPLANATORY NOTE

The purpose of this Regulation is to prescribe the short descriptions that, by virtue of section 145B of the Justices Act 1902, are sufficient to state or describe, in any information, complaint, summons, warrant, notice, order or other document, certain offences which may be dealt with by penalty notice under the Business Act 1962, the Motor Dealers Act 1974, the Fair Trading Act 1987 and the Trade Measurement Administration Act 1989. This Regulation comprises matter of a machinery nature.