



New South Wales

Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006 No 76

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Fair Trading Act 1987 No 68	2
4 Repeal of Act	2
Schedule 1 Amendments	3



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Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006 No 76

Act No 76, 2006

An Act to amend the *Fair Trading Act 1987* with respect to an industry code of conduct for the motor vehicle insurance and repair industries; and for other purposes.
[Assented to 27 October 2006]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Fair Trading Act 1987 No 68

The *Fair Trading Act 1987* is amended as set out in Schedule 1.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] **Part 5E**

Insert after Part 5D:

Part 5E Industry code for motor vehicle insurers and repairers

60V Definitions

In this Part:

applicable industry code of conduct means a code of conduct declared under section 60X (1).

insurer means an insurer who is in the business of insuring motor vehicles in respect of property damage and who, in the course of that business, engages or authorises repairers to repair motor vehicles.

repairer means a person who is in the business of repairing motor vehicles that have been damaged.

60W Object of Part

The object of this Part is to provide for fair, timely and transparent conduct between insurers and repairers so that consumers with damaged motor vehicles are not unduly inconvenienced or unfairly treated as a result of the business practices in, or disputes between, the motor vehicle insurance and repair industries.

60X Declaration of industry code of conduct in relation to motor vehicle insurers and repairers

- (1) The regulations may declare that a code of conduct specified or referred to in the regulations is an applicable industry code of conduct for the purposes of this Part in relation to the conduct of the business of insurers and repairers.
- (2) A regulation that declares a code of conduct under subsection (1) may:
 - (a) exclude any class of motor vehicles from the application of the code, and
 - (b) exclude any provision of the code that relates to the voluntary application of that code.

- (3) The regulations may contain provisions of a savings or transitional nature consequent on the declaration of an applicable industry code of conduct.

60Y Compliance with applicable industry code of conduct

- (1) An insurer or repairer must, in trade or commerce, comply with an applicable industry code of conduct.
- (2) If an alleged contravention of an applicable industry code of conduct is the subject of a dispute between an insurer and repairer, the provisions of Part 6 for enforcement or remedies in respect of the contravention do not apply unless:
- (a) the dispute resolution procedures under the code have been followed but the dispute has not been resolved, or
 - (b) the insurer or repairer refuses to take part in those procedures.
- (3) An insurer or repairer may only take action under Part 6 if the insurer or repairer is not the party refusing to take part in the dispute resolution procedures under the applicable industry code of conduct.
- (4) The Minister and the Director-General may decline to take action under Part 6 with respect to an alleged contravention of an applicable industry code of conduct if they consider that it is not in the public interest to take that action.

[2] Section 62 Offences against this Act

Omit “other than section 42 or 43” from section 62 (1).

Insert instead “other than section 42, 43 or 60Y”.

[3] Section 65 Injunctions

Insert “, 5E” after “, 5D” in section 65 (1) (a).

[4] Section 66 Other injunctions

Insert “, 5E” after “, 5D” in section 66 (1) (a) (i).

[5] Section 67 Order to disclose information or publish advertisement

Insert “, 5E” after “, 5D”.

[6] Section 68 Actions for damages

Omit “or 5D” from section 68 (1). Insert instead “, 5D or 5E”.

[7] Section 69 Finding in proceedings to be evidence

Omit “or 5D”. Insert instead “, 5D or 5E”.

[8] Section 72 Other orders

Omit “contravened a provision of Part 3, 4, 5, 5B, 5C, 5D or 8” wherever occurring from section 72 (1) and (2).

Insert instead “contravened a provision of Part 3, 4, 5, 5B, 5C, 5D, 5E or 8”.

[9] Section 72 (3)

Omit “contravention of Part 3, 4, 5, 5B, 5C, 5D or 8”.

Insert instead “contravention of Part 3, 4, 5, 5B, 5C, 5D, 5E or 8”.

[10] Section 72 (4)

Omit “contravention of a provision of Part 3, 4, 5, 5B, 5C, 5D or 8”.

Insert instead “contravention of a provision of Part 3, 4, 5, 5B, 5C, 5D, 5E or 8”.

[11] Schedule 5 Savings and transitional provisions

Insert at the end of clause 12 (1):

Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006

[Second reading speech made in—

Legislative Assembly on 6 September 2006

Legislative Council on 18 October 2006]

BY AUTHORITY