



New South Wales

Motor Vehicle Repairs Regulation 1999

under the

Motor Vehicle Repairs Act 1980

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Vehicle Repairs Act 1980*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to repeal and remake, with minor modifications, the *Motor Vehicle Repairs Regulation 1982*. The new Regulation deals with the following matters:

- (a) the records to be kept by a licensed motor vehicle repairer in relation to certain motor vehicle parts acquired by the repairer (Part 2),
- (b) the prescription of fees for the purposes of the *Motor Vehicle Repairs Act 1980* (Part 3),
- (c) other matters of a minor, consequential or ancillary nature (Parts 1 and 4).

This Regulation is made under the *Motor Vehicle Repairs Act 1980*, including section 89 (the general power to make regulations) and various other sections referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Motor Vehicle Repairs Regulation 1999*.

2 Commencement

This Regulation commences on 1 September 1999.

3 Definitions

(1) In this Regulation:

licensee means the holder of a licence.

parts acquired by purchase means traceable parts that a licensee acquires by purchase in the course of carrying on the business of a repairer.

parts acquired otherwise than by purchase means traceable parts that a licensee acquires otherwise than by purchase in the course of carrying on the business of a repairer.

record of traceable parts means a record referred to in clause 5.

the Act means the *Motor Vehicle Repairs Act 1980*.

traceable part means any of the following:

- (a) major body components, that is:
 - (i) chassis and major body sections, and
 - (ii) bonnets, and
 - (iii) right and left front doors, and
 - (iv) right and left front mudguards, and
 - (v) front and rear bumper bars, and
 - (vi) front apron panels,
- (b) major mechanical components, that is:
 - (i) engines and engine blocks, and
 - (ii) gearboxes and transmissions,
- (c) major car accessories, that is, car radio, tape or compact disk equipment.

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Part 1 Preliminary

- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

Part 2 Records

5 Licensee to keep records

A licensee must keep records, in accordance with this Part, of all traceable parts acquired by the licensee.

Maximum penalty: 5 penalty units.

6 Contents of records of traceable parts

- (1) A record of traceable parts must distinguish between parts acquired by purchase and parts acquired otherwise than by purchase.
- (2) The record of a part acquired by purchase must include the following:
 - (a) the invoice, receipt or other document (or a copy of it) issued to the licensee in connection with the licensee's acquisition of the part,
 - (b) details sufficient to identify:
 - (i) the vehicle to which the part was fitted by the licensee, or
 - (ii) the person to whom the part was sold or otherwise disposed of by the licensee,together with the date on which the part was so fitted, sold or otherwise disposed of.
- (3) The record of a part acquired otherwise than by purchase must include the following:
 - (a) details sufficient to identify:
 - (i) the vehicle from which the part was removed by the licensee, or
 - (ii) the person from whom the part was acquired by the licensee,together with the date on which the part was so removed or acquired,
 - (b) details sufficient to identify:
 - (i) the vehicle to which the part was fitted by the licensee, or
 - (ii) the person to whom the part was sold or otherwise disposed of by the licensee,

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Part 2 Records

together with the date on which the part was so fitted, sold or otherwise disposed of.

7 Records may be in writing or by means of data processing equipment

A record of traceable parts may be kept in writing or by means of data processing equipment.

8 Records kept in writing

- (1) A record of traceable parts that is kept in writing must comply with the following requirements:
 - (a) it must be in writing,
 - (b) it must be in English,
 - (c) it must be readily decipherable,
 - (d) it must not be torn, defaced or otherwise mutilated,
 - (e) it must not contain any erasures.
- (2) This clause does not prohibit matter in a record from being altered by deleting particulars in such a manner (for example, by means of a line through them) as to leave them decipherable in their unaltered form.

9 Records kept by means of data processing equipment

A record of traceable parts that is kept by means of data processing equipment must be kept by means of software that ensures that:

- (a) the information in the record:
 - (i) is capable of being displayed and printed, on demand, at each place of business to which the licence relates, and
 - (ii) is in a format that is readily intelligible when it is so displayed or printed, and
 - (iii) includes the date on which each record in the record was made, and
- (b) in the event that any information in the record is amended or deleted, a record is kept:
 - (i) of the information in the form in which it was before it was amended or deleted, and
 - (ii) of the date of each occasion on which the information was amended or deleted.

10 Completion of records

- (1) A licensee who keeps a record of traceable parts in writing:
- (a) must ensure that all information that is required to be entered in the record in relation to any transaction or event is entered within one business day after the transaction or event occurs, and
 - (b) must ensure that no information is entered in the record otherwise than by a person authorised by the licensee.

Maximum penalty: 5 penalty units.

- (2) A licensee who keeps a record of traceable parts by means of data processing equipment:
- (a) must ensure that all information that is required to be entered in the record in relation to any transaction or event is entered within one business day after the transaction or event occurs, and
 - (b) must ensure that no information is entered in the record otherwise than by a person authorised by the licensee, and
 - (c) must ensure that the information in the record is backed up at intervals of no more than one week.

Maximum penalty: 5 penalty units.

11 Retention of records

- (1) A licensee who keeps a record of traceable parts (whether in writing or by means of data processing equipment):
- (a) must retain the record (together with all copies of records that have been printed out and verified in relation to the record) for at least 6 years after the date on which the last entry was made in it, and
 - (b) must produce the record for inspection if required to do so by an inspector before the expiration of that period.

Maximum penalty: 5 penalty units.

- (2) In the case of a record kept by means of data processing equipment, it is sufficient compliance with subclause (1) (b) if the licensee makes available to the inspector:
- (a) a computer terminal by means of which the inspector can view the information contained in the record, or

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Part 2 Records

(b) a computer print-out of the information contained in the record.

12 False or misleading entries

A person must not make an entry in a record of traceable parts in the knowledge that the entry is false or misleading in a material particular.

Maximum penalty: 5 penalty units.

Part 3 Fees

13 Fees

- (1) The following fees are prescribed for the purposes of the Act:
 - (a) \$43 for a tradesperson's certificate, as referred to in section 24 (2) of the Act,
 - (b) \$50 for an inspection of the register, or the taking of a copy of all or any part of any entry in the register, as referred to in section 38 (3) (b) of the Act,
 - (c) \$75 for a complaint, as referred to in section 44 (1) of the Act.
- (2) The following fees are prescribed for the purposes of the Act, as applying in accordance with the provisions of clause 2 (3) of Schedule 2 to the *Business Licences Act 1990* (which provides that the *Motor Vehicle Repairs Act 1980* is to be construed for the purposes of the administration of licences under that Act as if that Act had not been amended by the *Business Licences Act 1990*):
 - (a) \$450 for a licence, as referred to in section 17 (5) of the Act (as so applying), other than a licence referred to in paragraph (b),
 - (b) \$216 for a licence, as referred to in section 17 (5) of the Act (as so applying), but only if the application for the licence:
 - (i) is made by the holder of a previous licence (whether for the same premises as those the subject of the previous licence or for other premises), and
 - (ii) is made within 12 months after the surrender or expiry of the previous licence,
 - (c) \$50 for an application to amend a licence, as referred to in section 20 (2) of the Act (as so applying), but only if an inspection of the place of business concerned is required,
 - (d) \$137 for the annual fee for a licence, as referred to in section 21 (4) of the Act (as so applying).
- (3) The Council may refund any fee paid in relation to a complaint referred to in section 44 (1) of the Act if it is of the opinion that there was sufficient justification for the making of the complaint.

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Part 4 General

Part 4 General

14 Amendment of licences

For the purposes of section 20 (1) (f) of the Act, the amendment of a licence in such a manner as to reflect the following circumstances is a prescribed manner of amending the licence:

- (a) the acquisition by the licensee of a new registered business name under the *Business Names Act 1962*,
- (b) the loss by the licensee of a former registered business name under the *Business Names Act 1962*,
- (c) in the case of a licence for a corporation, a change in the corporation's corporate name.

15 Display of signs

A licensee must display signs complying with the following requirements:

- (a) each sign must contain the words "licensed vehicle repairer",
- (b) each sign must specify the class or classes of repair work for which the licence is granted,
- (c) each sign must contain the words "licence number" followed by the number of the licence,
- (d) the lettering on each sign must be at least 65 millimetres in height,
- (e) each sign must be displayed in a prominent place:
 - (i) at each place of business for which the licence is granted, or
 - (ii) if the licensee carries on business solely from a vehicle, on the outside of the vehicle.

Maximum penalty: 5 penalty units.

16 Display of licence

A licensee must display the licence (or a copy of it) in a prominent place:

- (a) at each place of business for which the licence is granted, and

- (b) inside each vehicle from which the licensee carries on business.
Maximum penalty: 5 penalty units.

17 Subpoenas: prescribed forms

For the purposes of section 47 (1) of the Act:

- (a) the prescribed form of subpoena requiring a person to attend at an inquiry as a witness is Form 1, and
- (b) the prescribed form of subpoena requiring a person to attend at an inquiry as a witness and to produce any books, deeds, papers, writings or articles in his or her possession or under his or her control is Form 2.

18 Evidentiary certificates: section 78

For the purposes of section 78 (2) of the Act:

- (a) the Chairperson, and
- (b) the Executive Officer of the Council,

are prescribed officers by whom a certificate referred to in that subsection may be certified.

19 Identification of inspectors

- (1) An inspector is not authorised to exercise the functions of an inspector under the Act unless he or she is in possession of an identification card issued by:
 - (a) the Chairperson, or
 - (b) the Executive Officer of the Council.
- (2) If an inspector proposing to exercise the functions of an inspector fails to produce on demand his or her identification card, the inspector is not authorised to exercise those functions in relation to the person making the demand.

20 Repeal

- (1) The *Motor Vehicle Repairs Regulation 1982* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Motor Vehicle Repairs Regulation 1982*, had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1 Forms

Schedule 1 Forms

(Clause 3)

Form 1

(Clause 17)

Subpoena to attend as witness

To:

Of:

You are required to attend as a witness at an inquiry under Part 4 of the *Motor Vehicle Repairs Act 1980*, to be held:

Place:

Date:

Time:

and thereafter at the same place from day to day until the inquiry is completed.

If you fail or refuse to obey this subpoena without reasonable cause, and if it is proved that this subpoena was served on you and that at the time of service an amount was tendered to you sufficient to cover your travelling and other out-of-pocket expenses in attending the inquiry, you will be liable under the Act to a penalty of 2 penalty units.

Date of issue:

Issued by the Motor Vehicle Repair Industry Council,
or by the committee holding the inquiry.

Form 2

(Clause 17)

Subpoena to attend as witness and produce documents

To:

Of:

You are required to attend as a witness at an inquiry under Part 4 of the *Motor Vehicle Repairs Act 1980*, to be held:

Place:

Date:

Time:

and thereafter at the same place from day to day until the inquiry is completed.

You are further required to produce at the inquiry such of the following books, deeds, papers, writings or articles as are in your possession or under your control:

.....
.....

It is sufficient compliance with this requirement if all such books, deeds, papers, writings and articles are delivered to the address specified above on or before the date and time so specified.

If you fail or refuse to obey this subpoena without reasonable cause, and if it is proved that this subpoena was served on you and that at the time of service an amount was tendered to you sufficient to cover your travelling and other out-of-pocket expenses in attending the inquiry, you will be liable under the Act to a penalty of 2 penalty units.

Date of issue:

Issued by the Motor Vehicle Repair Industry Council,
or by the committee holding the inquiry.

BY AUTHORITY