



New South Wales

# Motor Dealers Amendment (Cooling Off Periods) Regulation 2002

under the

Motor Dealers Act 1974

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Dealers Act 1974*.

JOHN AQUILINA, M.P.,

Minister for Fair Trading

## Explanatory note

The object of this Regulation is to prescribe forms for giving notice of the right to a cooling-off period to the buyer of a motor vehicle and for the waiver of that right.

This Regulation is made under the *Motor Dealers Act 1974*, including sections 29CA and 57 (the general regulation-making power).

**2002 No 949**

Clause 1                      Motor Dealers Amendment (Cooling Off Periods) Regulation 2002

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**Motor Dealers Amendment (Cooling Off Periods)  
Regulation 2002**

**1 Name of Regulation**

This Regulation is the *Motor Dealers Amendment (Cooling Off Periods) Regulation 2002*.

**2 Commencement**

This Regulation commences on the date of commencement of Schedule 1 [39] to the *Motor Trade Legislation Amendment Act 2001*.

**3 Amendment of Motor Dealers Regulation 1999**

The *Motor Dealers Regulation 1999* is amended as set out in Schedule 1.

**Schedule 1 Amendments**

(Clause 3)

**[1] Clause 41A**

Insert after clause 41:

**41A Cooling off periods**

- (1) For the purposes of section 29CA (6) of the Act, Form 20 is the prescribed form.
- (2) The information contained in Form 20 must be displayed in a prominent position in the contract.
- (3) For the purposes of section 29CA (7) (a) of the Act, Form 21 is the prescribed form.
- (4) Form 21 may be included in a contract for the purchase of a motor vehicle.

**[2] Schedule 3**

Insert after Form 19:

**Form 20 Cooling off period rights**

(Clause 41A (1))

(Motor Dealers Act 1974, section 29CA (6))

**Right to Cooling Off Period**

*[To be completed by the motor dealer]*

Make and model of motor car: .....

Registration No: .....

If unregistered—engine number or chassis number or vehicle identification number or registration number (if any) last assigned to the vehicle, or, if none of those numbers are reasonably ascertainable, any other number by which the vehicle may be identified.

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Schedule 1 Amendments

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Dealer licence number: .....

Finance provider: .....

**To the purchaser—your cooling off rights**

**Your right to a cooling off period**

- 1 You are signing a contract to buy a vehicle. If finance for the purchase is being provided by the dealer or the dealer is arranging or facilitating the provision of credit through a linked credit provider, you may take advantage of a cooling off period. This is a period in which you may change your mind about buying the vehicle and terminate the contract. This does not apply to you if you are a trade owner or if this is an auction sale or if the vehicle is a commercial vehicle.

**When you may terminate the contract**

- 2 Under the *Motor Dealers Act 1974* you have the right to decide within one business day of signing the contract not to proceed with the purchase and to terminate the sale agreement. You may take this action up until the end of the cooling off period. The period ends at the end of the next business day after you sign the contract that the dealer is open for business until 5pm. If the dealer closes before 5pm on the next business day, the cooling off period ends at the close of business on the next day that the dealer is open for business.

**How to terminate contract**

- 3 You may terminate the contract by giving a written notice to the dealer. The notice may be signed by you or by your solicitor or barrister.

**Your rights to possession of vehicle during cooling off period**

- 4 You will not be able to take possession of the vehicle during the cooling off period unless the dealer agrees. If the dealer has agreed to let you take possession of the vehicle during the cooling off period, you may still terminate the contract.

**Your obligations on termination of the contract**

- 5 If you terminate the contract on or before the end of the cooling off period, you will have to pay the dealer \$250 or 2% of the purchase price, whichever is the lesser amount. You will also have to repay to the dealer any amount paid for a trade-in. You will also be required to return the vehicle if you have taken delivery of it.

**The dealer's obligations on termination of the contract**

- 6 It will be an offence for the dealer to dispose of a vehicle traded-in as part of the sale during the cooling off period. When the contract is terminated the dealer must repay to you all other amounts paid by you (less the amounts you have to pay as referred to above). The dealer must also return any trade-in vehicle and must pay for any damage to that vehicle caused while in the dealer's possession, other than fair wear and tear. If the trade-in vehicle is incapable of being driven or is unroadworthy because of a defect not caused by you or the dealer, the dealer must permit it to be collected by you.

**Giving up your cooling off rights**

- 7 You may give up your right to a cooling off period for this purchase by a signing a waiver of the right, in the form required under the *Motor Dealers Act 1974*. If you sign the waiver, you will lose the right to terminate the contract during the cooling off period.

I acknowledge that I have read this document.

Purchaser:.....  
[signature]

Date: .....

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Schedule 1 Amendments

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**Form 21 Waiver of right to cooling off period**

(Clause 41A (2))

(Motor Dealers Act 1974, section 29CA)

**Loss of Right to Cooling Off Period**

*[To be completed by the motor dealer]*

Make and model of motor car: .....

Registration No: .....

If unregistered—engine number or chassis number or vehicle identification number or registration number (if any) last assigned to the vehicle, or, if none of those numbers are reasonably ascertainable, any other number by which the vehicle may be identified.

Dealer licence number: .....

*[To be completed by the purchaser]*

- 1 I have agreed to buy this vehicle.
- 2 I know that the *Motor Dealers Act 1974* gives me the right to decide within one business day not to proceed with the purchase and to terminate the sale agreement. The reference to one business day means the next day that the dealer is open for business until 5pm. If the dealer closes before 5pm on the next business day, the cooling off period extends until the close of business on the next day that the dealer is open for business.
- 3 I waive the right to terminate the sale agreement under section 29CA of the *Motor Dealers Act 1974*.

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Amendments

Schedule 1

4 I acknowledge that I know that if I sign this form, I WILL LOSE MY RIGHT TO TERMINATE THE SALE AGREEMENT.

Purchaser's signature. . . . . Date. . . . .

*[Copy to be given to customer and trader to retain copy]*

BY AUTHORITY