



New South Wales

Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Regulation 2011

under the

Road Transport (Vehicle Registration) Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Vehicle Registration) Act 1997*.

MICHAEL DALEY, MP
for Minister for Roads

Explanatory note

The object of this Regulation is to make the following provision about written-off vehicles:

- (a) requiring receipts for repairs of written-off vehicles to accompany applications for registration of those vehicles,
- (b) requiring the fact that a vehicle is recorded on the register of written-off vehicles to be noted on the certificate of registration issued when the vehicle is registered,
- (c) extending the categories of vehicles that are treated as written-off vehicles,
- (d) prescribing the damage to a vehicle that will be considered non-repairable damage,
- (e) specifying the written-off vehicles that are not eligible for the issue of an authorisation to repair and the persons who are not eligible to apply for such an authorisation,
- (f) prescribing the qualifications required to carry out an assessment as to whether or not a vehicle is a total loss,
- (g) prescribing the standards of repairs, and repair methods, that must form the basis of a calculation of the cost of repair of a vehicle (for the purposes of assessing whether the vehicle is a total loss),
- (h) specifying the records that must be kept about vehicle assessments,
- (i) specifying the information that must be provided to the Roads and Traffic Authority by insurers, self-insurers, auto-dismantlers and dealers about written-off vehicles and the records required to be kept by insurers,
- (j) extending the obligation to attach written-off warning labels,

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- (k) specifying the form and content of written-off vehicle warning labels, that must be attached to certain written-off vehicles, and regulating the attachment of those labels,
- (l) prescribing the standard of repairs that must be reached before a certificate of compliance may be issued in relation to a written-off vehicle,
- (m) regulating the issue of certificates of compliance,
- (n) exempting certain motor bikes that are statutory written-off vehicles from the prohibition on their registration,
- (o) exempting certain vehicles that are returned to their owners after repair by insurers from the operation of certain provisions about written-off vehicles,
- (p) making transitional provision about vehicles currently listed on written-off vehicle registers in this State or elsewhere.

This Regulation is made under the *Road Transport (Vehicle Registration) Act 1997* (as amended by the *Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Act 2010*) including sections 14 (the general regulation-making power), 16A (definition of **non-repairable damage**), 16B (3) (f), 16D (1) (b) and (c), 16I (1) (a), 16J (b), (1) (b), 16K (2), 16L (1), (2) and (3), 16M (1) (a), 16P 16Q (1) (b) and 16V (the power to make regulations about written-off vehicles) and clause 1 (1) of Schedule 3 (the power to make regulations of a savings or transitional nature).

Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Regulation 2011

under the

Road Transport (Vehicle Registration) Act 1997

1 Name of Regulation

This Regulation is the *Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Regulation 2011*.

2 Commencement

This Regulation commences on 31 January 2011 and is required to be published on the NSW legislation website.

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[1] Clause 9 Supporting evidence

Insert at the end of the clause:

- (2) In addition to the evidence that may be required under subclause (1), the Authority may request an applicant for registration of a registrable vehicle that has a vehicle identifier that is the same as the vehicle identifier of a vehicle recorded on the register of written-off vehicles to submit any of the following evidence:
 - (a) a valid receipt for any repairs made to the vehicle,
 - (b) if the vehicle was repaired using a part of another vehicle—a valid receipt for the purchase of that part, being a receipt that contains the vehicle identifier of the other vehicle,
 - (c) any other information specified by the Authority.
- (3) In this clause:
 - valid receipt* means a receipt:
 - (a) that is an original document, and
 - (b) that contains the name and Australian Business Number of the relevant repairer or trader, and
 - (c) that is dated, and
 - (d) that contains such other information as may be required by the Authority.

[2] Clause 15 Certificates of registration

Insert at the end of clause 15 (1) (l):

- , and
- (m) if the vehicle was first recorded on the register of written-off vehicles at some time on or after 31 January 2011—the fact that the vehicle is recorded on the register of written-off vehicles.

[3] Clause 15 (5)

Insert after clause 15 (4):

- (5) Subclause (1) (m) does not apply to a certificate of registration issued before 31 January 2013.

[4] **Part 6A**

Insert after Part 6:

Part 6A Written-off vehicles

Division 1 Preliminary

83A Definitions

In this Part:

identification details, in relation to a vehicle, means the following:

- (a) whether the vehicle is a motor car, motor lorry, motor bike or trailer,
- (b) the registration number of the vehicle (if issued),
- (c) the vehicle identifier of the vehicle,
- (d) the make and model of the vehicle,
- (e) the shape of the vehicle,
- (f) the colour of the vehicle,
- (g) the variant of the vehicle,
- (h) the build date or compliance date of the vehicle,
- (i) the engine capacity of the vehicle,
- (j) the number of cylinders of the vehicle's engine,
- (k) the motive power of the vehicle,
- (l) the tare weight of the vehicle.

motor bike includes a motor trike.

motor car means a motor vehicle (except a motor bike) that is constructed principally for the conveyance of persons.

personal details of a person means all of the following:

- (a) the name and address of the person,
- (b) the telephone and facsimile numbers (if any) of the person (unless the information is provided to the Authority electronically),
- (c) if the person has a customer number issued to it by the Authority and the information is provided to the Authority in paper form—the customer number of the person,

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- (d) if the person is notifying the information on behalf of someone else and does not have a customer number or does not provide the information in paper form—the driver licence number of the person.

registration number of a vehicle includes, in the case of a vehicle the registration of which has expired or been suspended or cancelled, the registration number of the vehicle immediately before its registration expired or was suspended or cancelled.

relevant technical specifications in relation to a vehicle means the standards and methods of repair required to be met by a law of this State for vehicles of that type and:

- (a) the standards and methods of repair documented by the manufacturer of vehicles of that type, to the extent that they are relevant to ensuring the structural integrity and safety of the vehicle, or
- (b) where the manufacturer's documentation is unavailable, the standards and methods of repair recognised in the industry for vehicles of that type.

vehicle damage details, in relation to a vehicle, means the following:

- (a) whether the damage to the vehicle was caused by hail, water, impact, fire or stripping,
- (b) the location and severity of the damage to the vehicle described by reference to the codes or terms that are approved by the Authority from time to time.

83B Meaning of “written-off vehicle”

For the purposes of paragraph (f) of the definition of **written-off vehicle** in section 16B (3) of the Act a notifiable vehicle that has been assessed, in a vehicle damage assessment, as not being a total loss is prescribed if:

- (a) the vehicle has non-repairable damage and the insurer has decided not to repair the vehicle, or
- (b) the insurer has decided not to repair the vehicle and intends to sell, or has sold, the vehicle to a person other than the registered operator of the vehicle at the time the vehicle sustained the damage that resulted in it being presented for the vehicle damage assessment.

Division 2 Non-repairable damage

83C Non-repairable damage

(1) Vehicles other than motor bikes or trailers

For the purposes of the definition of *non-repairable damage* in section 16A of the Act, the following are prescribed in respect of a vehicle (other than a motor bike or trailer):

- (a) the vehicle has been burnt to such an extent that it is fit only for wrecking or scrap,
- (b) the vehicle has been stripped of all, or a combination of most, interior and exterior body parts, panels and components (examples of which are the engine, wheels, bonnet, guards, doors and boot lid),
- (c) the vehicle has been damaged by 3 or more of the following indicators of impact damage:
 - (i) damage to an area of the roof equal to or exceeding 300 millimetres by 300 millimetres,
 - (ii) damage to an area of the cabin floor pan equal to or exceeding 300 millimetres by 300 millimetres,
 - (iii) damage to an area of the firewall equal to or exceeding 300 millimetres by 300 millimetres,
 - (iv) damage to the suspension,
 - (v) damage (whether a crack or a break) to any major mechanical component, such as the engine block or transmission casing,
- (d) the vehicle has been immersed in salt water above the doorsill level for any period,
- (e) the vehicle has been immersed in fresh water up to or above the dashboard or steering wheel for more than 48 hours.

(2) Motor bikes

For the purposes of the definition of *non-repairable damage* in section 16A of the Act, the following are prescribed in respect of a motor bike:

- (a) the motor bike has been burnt to such an extent that it is fit only for wrecking or scrap,
- (b) the motor bike has been stripped of all, or a combination of most, interior and exterior body parts, panels and components (examples of which are the engine, wheels, and guards),

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- (c) the motor bike has impact damage (excluding scratching) to the suspension and 2 or more areas of structural frame damage,
- (d) the motor bike has been fully immersed in salt water for any period,
- (e) the motor bike has been fully immersed in fresh water for more than 48 hours.

(3) Trailers

For the purposes of the definition of *non-repairable damage* in section 16A of the Act, the following are prescribed in respect of a trailer:

- (a) the trailer has been burnt to such an extent that it is fit only for wrecking or scrap,
- (b) the trailer has been stripped of all, or a combination of most, interior and exterior body parts, panels and components,
- (c) the trailer has impact damage (excluding scratching) to the suspension and 1 or more areas of structural frame damage,
- (d) in relation to a trailer that is not a skeleton-type trailer or box trailer—the trailer has been fully immersed in salt water for any period,
- (e) in relation to a trailer that is not a skeleton-type trailer or box trailer—the trailer has been fully immersed in fresh water for more than 48 hours.

(4) In this clause:

skeleton-type trailer means a frame trailer that does not have a bottom or sides.

Division 3 Authorisations to repair

83D Vehicles that are not eligible for the issue of authorisation to repair

For the purposes of section 16D (1) (b) of the Act, every notifiable vehicle other than the following is prescribed as a non-eligible vehicle:

- (a) a vehicle that would have a market value of \$100,000 or more (if it had not sustained the damage that resulted in it being presented for a vehicle damage assessment),
- (b) a vehicle that is 6 or more years old (age being determined from the date of manufacture) and that would have a

market value of \$50,000 or more (if it had not sustained the damage that resulted in it being presented for a vehicle damage assessment),

- (c) a hail-damaged vehicle,
- (d) a vehicle that was part of a production run that was low for that type of vehicle,
- (e) a vehicle that was the first or last vehicle in a production run or model range,
- (f) a vehicle that was imported by or on behalf of the person who was the registered operator of the vehicle at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment,
- (g) a vehicle that was constructed by or on behalf of the person who was the registered operator of the vehicle at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment,
- (h) a vehicle that was inherited by the person seeking an authorisation to repair,
- (i) a vehicle that was owned for more than 5 years by the person who was the registered operator of the vehicle at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment,
- (j) a vehicle the registered operator of which at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment was a person who was a member of an owners' or enthusiasts club or other similar organisation in relation to that type of vehicle.

83E Eligibility to apply for an authorisation to repair

For the purposes of section 16D (1) (c) of the Act, all persons other than the following persons are prescribed as non-eligible persons in relation to a vehicle:

- (a) the registered operator of the vehicle at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment,
- (b) any person who has inherited the vehicle from the person who was the registered operator of the vehicle at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment,

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- (c) any person who intends to use the vehicle only to participate in motor sport activities approved by the Authority by order published in the Gazette.

83F Term of authorisations to repair

- (1) An authorisation to repair remains in force for 12 months after its issue.
- (2) The Authority may extend the term of an authorisation at any time while it remains in force.

Division 4 Assessment of vehicles

83G Prescribed qualifications to carry out vehicle damage assessments

- (1) For the purposes of section 16I (1) (a) of the Act, the prescribed training, qualifications and experience are all of the following:
 - (a) the successful completion of an approved course,
 - (b) the demonstrated ability to determine whether or not a vehicle has suffered non-repairable damage,
 - (c) the demonstrated ability to apply each of the following:
 - (i) the relevant technical specifications, and
 - (ii) the written-off vehicle repair guidelines published in the Gazette by the Authority.
- (2) In this clause:
approved course means:
 - (a) a training course in vehicle repair assessment provided by a training provider accredited by the Vocational Education Training Accreditation Board, or
 - (b) a course that includes instruction on all of the following:
 - (i) the sourcing and interpretation of the standards and methods of repair documented by the manufacturers of vehicles or recognised in the industry for vehicles,
 - (ii) the use of those standards and methods in the calculation of repair costs,
 - (iii) the conduct of assessments of repairs in compliance with those standards and methods,
 - (iv) the assessment of vehicle damage having regard to the types of non-repairable damage that are prescribed by clause 83C.

83H Standards of repairs and repair methods

For the purposes of section 16J (b) of the Act, the standards of repairs, and the repair methods, prescribed in relation to a vehicle are the relevant technical specifications for the vehicle.

83I Records about vehicle damage assessments

- (1) For the purposes of section 16M (1) (a) of the Act, the records that an assessor must keep in relation to each vehicle damage assessment made by or on behalf of the assessor are the following:
 - (a) the identification details of the vehicle,
 - (b) details of the determination as to whether or not the vehicle has suffered non-repairable damage, including the date on which the determination was made,
 - (c) the name of the person who carried out the assessment,
 - (d) the reasons why the person who carried out the assessment was competent to do so,
 - (e) the sum for which the vehicle was insured,
 - (f) the market value of the vehicle and the basis for determining that value,
 - (g) the assessed cost of repairs and details of how the cost of repairs was determined, applying the relevant technical specifications,
 - (h) if the vehicle is not repaired by the assessor—the assessed salvage value of the vehicle and the basis for determining that value.
- (2) The Authority may, by notice in writing, exempt an assessor from any requirement to keep records that are specified in the notice.

Division 5 Notifications about written-off vehicles

83J Notification of information about vehicles assessed as a total loss

The following information is prescribed as the information that must be provided under section 16L (1) of the Act to the Authority in respect of each notifiable vehicle that is assessed as being a total loss in the course of a vehicle damage assessment conducted by or on behalf of an assessor:

- (a) the identification details of the vehicle,
- (b) the vehicle damage details relevant to the vehicle,

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- (c) the date on which the vehicle was determined to be a total loss by the assessor,
- (d) the personal details of the assessor and, if the information is notified by an agent of the insurer on behalf of the insurer, the personal details of the notifier,
- (e) the date on which the information is provided.

83K Notification of information about vehicles not assessed as a total loss

- (1) This clause applies to a notifiable vehicle that has been assessed, in a vehicle damage assessment, as not being a total loss if:
 - (a) the vehicle has non-repairable damage and the insurer has decided not to repair the vehicle, or
 - (b) the insurer has decided not to repair the vehicle and intends to sell, or has sold, the vehicle to a person other than the registered operator of the vehicle at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment.
- (2) An insurer must ensure that the Authority is provided with the following information concerning each notifiable vehicle to which this clause applies within 7 days after the decision is made not to repair the vehicle and before it is sold or disposed of:
 - (a) the identification details of the vehicle,
 - (b) the vehicle damage details relevant to the vehicle,
 - (c) the date on which the vehicle was determined not to be a total loss by the assessor,
 - (d) the personal details of the assessor and, if the information is notified by an agent of the insurer on behalf of the insurer, the personal details of the notifier,
 - (e) the date on which the information is provided.

Maximum penalty: 20 penalty units.

83L Prescribed information about vehicles disposed of to auto-dismantler

The following information is prescribed as the information that must be provided under section 16L (2) of the Act to the Authority in respect of each notifiable vehicle that is disposed of to an auto-dismantler by a self-insurer:

- (a) the identification details of the vehicle,
- (b) the vehicle damage details relevant to the vehicle,

- (c) the date on which the vehicle was disposed of to the auto-dismantler,
- (d) the personal details of the self-insurer and, if the information is provided to the Authority by another person, the personal details of that person,
- (e) the date on which the information is provided.

83M Prescribed information about demolished or dismantled vehicles

The following information is prescribed as the information that must be provided under section 16L (3) of the Act to the Authority in respect of each notifiable vehicle that an auto-dismantler intends to demolish or dismantle:

- (a) the identification details of the vehicle,
- (b) the vehicle damage details relevant to the vehicle,
- (c) the date on which the auto-dismantler commenced, or intends to commence, work in the course of the auto-dismantler's business for the purpose of demolishing or dismantling the vehicle,
- (d) the personal details of the auto-dismantler and, if the information is provided to the Authority by another person, the personal details of that person,
- (e) the date on which the information is provided.

Division 6 Records about other vehicles

83N Records required to be kept by insurers of information about certain vehicles assessed as not being total losses

- (1) An assessor who is an insurer is required to keep a register containing the following information in relation to each prescribed returned vehicle insured:
 - (a) the identification details of the vehicle,
 - (b) the vehicle damage details relevant to the vehicle,
 - (c) the date on which the vehicle was determined not to be a total loss by the assessor,
 - (d) the personal details of the person who carried out the assessment.

Maximum penalty: 20 penalty units.

- (2) That register must be kept by the assessor for at least 7 years from the time of each entry.

Maximum penalty: 20 penalty units.

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- (3) In this clause:
- prescribed returned vehicle*** means a notifiable vehicle:
- (a) that was the subject of a vehicle damage assessment, and
 - (b) that was assessed by its insurer as not being a total loss, and
 - (c) that the insurer has elected not to repair, and
 - (d) that is intended to be returned, or has been returned, by the insurer to the person who was its registered operator at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment.

Division 7 Written-off vehicle warning labels

83O Obligation to attach written-off vehicle warning labels

An assessor must ensure that a written-off warning label that complies with this Division is attached at all times to any vehicle in the assessor's possession or control that is prescribed as a written-off vehicle by clause 83B:

- (a) to the part of the vehicle to which the vehicle identifier is attached (in the case of a dismantled vehicle), or
- (b) to the vehicle (in any other case).

Maximum penalty: 20 penalty units.

Note. Section 16P of the Act requires a written-off vehicle warning label to be attached to certain vehicles that have been assessed to be a total loss. Not all written-off vehicles have been assessed as a total loss. This clause creates the same obligation in relation to written-off vehicles not assessed as a total loss.

83P Content and form of written-off vehicle warning label

For the purposes of section 16P (1) of the Act, a written-off vehicle warning label on a vehicle must include the following:

Statutory written-off vehicle—available for parts or scrap only—limited exemptions apply.

83Q Positioning of written-off vehicle warning label

For the purposes of section 16P (1) of the Act, a written-off vehicle warning label must be attached securely and in a conspicuous position where any person looking at the vehicle might be expected to see it, but not in a position that obscures the vehicle identifier.

83R Offence to alter, damage, destroy, remove or interfere with written-off vehicle warning label

A person must not, without reasonable excuse, alter, damage, destroy, remove or otherwise interfere with a written-off vehicle warning label that has been attached to a vehicle under section 16P (1) of the Act or clause 83O.

Maximum penalty: 20 penalty units.

Division 8 Certificates of compliance

83S Standards of repairs and repair methods

For the purposes of section 16Q (1) (b) of the Act, the standards of repairs, and the repair methods, prescribed in relation to a vehicle are the relevant technical specifications for the vehicle.

83T Certificates of compliance in relation to electronic control systems

A licensed repairer is not authorised to issue a certificate of compliance in relation to electronic control systems (such as airbags or Anti-lock Braking Systems) unless the licensed repairer is approved by:

- (a) the manufacturer of the vehicle, or
- (b) the Authority.

83U Issue of certificates of compliance

For the purposes of section 16Q (1) (b) of the Act, a licensed repairer must not issue a certificate of compliance unless the repairs have been conducted in accordance with:

- (a) the relevant technical specifications, and
- (b) any written-off vehicle repair inspection guidelines published in the Gazette by the Authority that are in force.

Maximum penalty: 20 penalty units.

83V Term of certificates of compliance

A certificate of compliance remains in force for 3 months after its issue, or for any other period approved by the Authority in a particular case.

83W Records of certificates of compliance

A licensed repairer who issues a certificate of compliance, or who examines a vehicle for the purpose of determining whether or not

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to issue a certificate of compliance, must keep a record of the following in relation to each vehicle certified or examined:

- (a) the identification details of the vehicle,
- (b) the reference number of the authorisation to repair the vehicle issued by the Authority,
- (c) details of the assessment conducted by the licensed repairer for the purpose of determining whether or not to issue a certificate of compliance in relation to the vehicle,
- (d) details of the application in the assessment process of the relevant technical specifications and the written-off vehicle repair guidelines published in the Gazette by the Authority,
- (e) if the repair involved structural damage—the test report attesting to the structural integrity of the repaired vehicle,
- (f) the basis on which the licensed repairer formed an opinion that the vehicle should be issued with a certificate of compliance,
- (g) the date the certificate was issued.

Maximum penalty: 20 penalty units.

Division 9 Special provisions for certain vehicles

83X Superficially-damaged motor bikes

- (1) This clause applies to a motor bike:
 - (a) that is a notifiable vehicle, and
 - (b) that was insured by an insurer at the time that it sustained the damage that resulted in it being presented for a vehicle damage assessment, and
 - (c) that sustained cosmetic damage only, and no structural damage or non-repairable damage, in the event that resulted in it being presented for a vehicle damage assessment, and
 - (d) that was assessed as being a total loss before 1 August 2011, and notified to the Authority in accordance with section 16L of the Act, and
 - (e) in respect of which, the insurer has provided the Authority with documentary and photographic records of the damage that resulted in the motor bike being presented for a vehicle damage assessment and a written statement by the insurer attesting to the fact that the motor bike is structurally safe.

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- (2) A motor bike to which this clause applies is:
 - (a) excluded from the vehicles prescribed as non-eligible vehicles by clause 83D, and
 - (b) is exempt from the obligation to be the subject of a certificated of compliance.
 - (3) A person who has purchased a motor bike to which this clause applies from an insurer is, in relation to that motor bike, excluded from the persons prescribed as non-eligible persons by clause 83E.

83Y Vehicles returned to registered operator by insurer

- (1) In addition to the information required by clause 83J, a certificate of compliance in relation to a vehicle is prescribed as the information that must be provided to the Authority in relation to a prescribed returned vehicle by an assessor who is an insurer under section 16L (1).
- (2) For the purposes of section 16L (1) (b) of the Act, the information that is required to be provided to the Authority by section 16L, clause 83J and subclause (1) in relation to a prescribed returned vehicle must be provided within 15 days after the end of the quarter of the financial year in which the vehicle was the subject of a vehicle damage assessment.
- (3) A prescribed returned vehicle is taken not to be a written-off vehicle if the information required by subclause (1) has been provided to the Authority in relation to the vehicle within the period that (1) requires the information to be provided.
- (4) The obligation to provide information to the Authority created by subclause (2) does not have effect until 31 July 2011. The obligation to record the information commences when this clause commences.
- (5) In this clause:
prescribed returned vehicle means a notifiable vehicle:
 - (a) that was the subject of a vehicle damage assessment, and
 - (b) that was assessed as being a total loss, and
 - (c) that has been repaired in accordance with the relevant technical specifications, and
 - (d) that is intended to be returned, or has been returned, by the insurer to the person who was its registered operator at the time the vehicle sustained the damage that resulted in it being presented for a vehicle damage assessment.

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Division 10 Transitional provisions

83Z Existing repairable interstate written-off vehicles may be registered without authorisation to repair

- (1) A vehicle is not required to be the subject of an authorisation to repair under section 16C (2) of the Act if the vehicle is recorded on a register of written-off vehicles (however described) of another Australian jurisdiction as a repairable written-off vehicle on 31 January 2011 and the application to register the vehicle is lodged with the Authority within 2 years after that day.
- (2) An application to register a vehicle that was recorded on the register of written-off vehicles (however described) of another Australian jurisdiction as a repairable written-off vehicle on 31 January 2011 is not required to be accompanied by a certificate of compliance under section 16C (2) of the Act in relation to the vehicle if the application is lodged with the Authority between 31 January 2011 and 31 July 2011 (inclusive).

83ZA Application to written-off vehicles on register before commencement date

On and from 31 January 2011, the vehicles that are recorded on the register of written-off vehicles under Part 2AA of the Act as former written-off vehicles and that have been registered may be known as inspected written-off vehicles.