

Motor Vehicle Repairs Act 1980 No 71

[1980-71]



New South Wales

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
 - [Motor Trade Legislation Amendment Act 2001 No 86](#) (not commenced)
 - [Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced)

Authorisation

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New South Wales

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Motor Vehicle Repairs Act 1980 No 71



New South Wales

An Act to constitute the Motor Vehicle Repair Industry Council and to confer on it functions with respect to the licensing of repair businesses and the certification of repair tradespeople and loss assessors; to constitute the Motor Vehicle Repair Disputes Committee; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Motor Vehicle Repairs Act 1980*.

2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 (Repealed)

4 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

automotive electrician means a person who repairs electrical equipment, systems or circuits in motor vehicles.

body maker means a person who makes motor vehicle bodies (otherwise than in the course of manufacturing new motor vehicles) or who repairs motor vehicle bodies.

brake mechanic means a person who repairs brake equipment or systems in motor vehicles.

certificate means tradesperson's certificate.

Chairperson means the person appointed and holding office as Chairperson of the

Council.

commercial vehicle owner means a person who, for the purposes of any business carried on by the person, uses a motor vehicle for the carriage of passengers or goods.

committee means a committee established under section 14.

Contingency Fund means the Motor Vehicle Repair Industry Contingency Fund established under section 60 (1) (b).

Council means the Motor Vehicle Repair Industry Council constituted by section 7.

Director-General means the Director-General of the Department of Fair Trading holding office as such under Part 2 of the [Public Sector Management Act 1988](#).

Education and Research Fund means the Motor Vehicle Repair Industry Education and Research Fund established under section 60 (1) (c).

exempted person, when used in or in relation to any provision of this Act, means a person, or a person belonging to a class of person, exempted from the operation of that provision under section 5.

exhaust repairer means a person who repairs exhaust systems on motor vehicles but does not include a person who repairs any mechanical or electrical system or circuit or any electronic device associated with, or any component of the engine of, a motor vehicle.

front end specialist means a person who repairs the steering or suspension systems of motor vehicles.

functions includes powers, authorities and duties.

General Fund means the Motor Vehicle Repair Industry General Fund established under section 60 (1) (a).

holder means:

- (a) in relation to a joint licence, each person to whom the licence is granted, or
- (b) in relation to any other licence or to a certificate, the person to whom the licence or certificate is granted.

individual means a person other than a corporation.

inspector means:

- (a) a member of staff of the Council appointed as an inspector of the Council under section 12 (1) or (2) (b), or

(b) a person of whose services the Council makes use under section 12 (2) (a) of this Act or any other Act appointed by the Council as an inspector.

joint application means an application made pursuant to section 16 (2) for the grant of a joint licence.

joint licence means a licence granted pursuant to section 17 (2) (b).

licence means a licence granted under section 17.

liquefied petroleum gas means a liquid or gaseous substance which is a mixture of hydrocarbons basically consisting of butanes or butenes or propane or propene, or any mixture of all or any of them.

liquefied petroleum gas equipment means pipes, fittings, apparatus or appliances used for, or designed for use in, the conveyance or consumption of liquefied petroleum gas in motor vehicles.

liquefied petroleum gas mechanic means a person who installs liquefied petroleum gas equipment in motor vehicles (otherwise than in the course of manufacturing new motor vehicles) or who repairs liquefied petroleum gas equipment in motor vehicles.

loss assessor's work means the work of assessing whether damaged motor vehicles can be repaired or the cost of repairs to damaged motor vehicles, but does not include any such work when it is done for the purposes of the business of a repairer by the repairer or his or her employee.

member means a member of the Council.

motor cycle mechanic means a person who performs the work of a motor mechanic only on motor cycles.

motor mechanic means a person who repairs the engines or transmissions or the fuel, induction, exhaust, electrical, steering, suspension or braking systems, of motor vehicles.

motor vehicle means any motor car, motor carriage, motor cycle or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes a trailer, but does not include:

- (a) a vehicle used on a railway or tramway,
- (b) any vehicle which is constructed or adapted otherwise than for the carriage of passengers or goods over public roads, or
- (c) anything prescribed for the purposes of this definition.

natural gas means a liquid or gaseous substance which is a mixture of hydrocarbons basically consisting of methane.

natural gas equipment means pipes, fittings, apparatus or appliances used for, or designed for use in, the conveyance or consumption of natural gas in motor vehicles.

natural gas mechanic means a person who installs natural gas equipment in motor vehicles (otherwise than in the course of manufacturing new motor vehicles) or who repairs natural gas equipment in motor vehicles.

painter tradesperson means a person who paints motor vehicles (otherwise than in the course of their manufacture), but does not include a person who only prepares the surface of a motor vehicle for its finish coat of paint.

panelbeater means a person who repairs the structural components, frames or panel work of motor vehicles.

prescribed tradesperson means a tradesperson belonging to a prescribed class of tradesperson.

provisional tradesperson's certificate means a tradesperson's certificate which is designated as a provisional tradesperson's certificate under section 25.

radiator repairer means a person who repairs the radiators, heating equipment, thermostats or fuel tanks of motor vehicles.

regulations means regulations made under this Act.

relevant day means:

- (a) in relation to repair work that consists of the work of a liquefied petroleum gas mechanic or a natural gas mechanic—the day appointed and notified pursuant to section 2 (2) of the [Dangerous Goods \(Amendment\) Act 1982](#),

Editorial note—

Day appointed, 1.1.1983—see Gazette No 179 of 24.12.1982, p 5886.

- (a1) in relation to repair work that consists of the work of an exhaust repairer—30 June 1987,
- (a2) in relation to repair work that consists of the work of a radiator repairer—1 April 1992,
- (b) in relation to repair work that consists of the work of a prescribed tradesperson—such date as is prescribed in relation to that work for the purposes of this definition, and
- (c) in relation to any other repair work—31 March 1981.

repair includes examine, detect faults in, adjust, carry out maintenance on, overhaul, replace, alter and paint.

repair work means the work of:

- (a) an automotive electrician,
- (b) a body maker,
- (c) a brake mechanic,
- (c1) an exhaust repairer,
- (d) a front end specialist,
- (e) a motor cycle mechanic,
- (f) a motor mechanic,
- (g) a painter tradesperson,
- (h) a panelbeater,
- (h1) a radiator repairer,
- (i) a transmission specialist,
- (j) a liquefied petroleum gas mechanic,
- (k) a natural gas mechanic, and
- (l) a prescribed tradesperson,

but does not include work that is prescribed as exempt for the purposes of this definition.

repairer means a person who carries on the business of repairing motor vehicles, but does not include:

- (a) a person who does repair work only on motor vehicles owned or used by the person, or
- (b) a person who does repair work on motor vehicles only in the course of his or her employment with another person.

tradesperson's certificate means a tradesperson's certificate granted under section 24, and includes a provisional tradesperson's certificate.

transmission specialist means a person who repairs any of the following parts of motor vehicles, namely, the gears, clutch, driveshaft and differential, and the

controlling systems for those parts.

Tribunal means the Consumer, Trader and Tenancy Tribunal established by the *Consumer, Trader and Tenancy Tribunal Act 2001*.

- (2) A reference in this Act to the business of a repairer does not include any part of that business:
 - (a) in which the repairs done do not include any repair work as defined in subsection (1), or
 - (b) which is a business in respect of which a person is required to hold a licence under the *Motor Dealers Act 1974*.
- (3) A reference in this Act to the performance of a function includes, where the function is a power or authority, the exercise of that power or authority.
- (4) Despite the definition of **radiator repairer** in subsection (1), a person who holds a licence or tradesperson's certificate in respect of the class of repair work of a panel beater, body maker, automotive electrician, motor mechanic or motor cycle mechanic is not a radiator repairer for the purposes of this Act merely because, in the course of that repair work, the person may be required to remove or replace a radiator, heating equipment, a thermostat or a fuel tank of a motor vehicle.

5 Exemptions

- (1) The Governor may, by regulation made under this Act, exempt from the operation of all or any of the provisions of this Act any person or class of person.
- (2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.
- (3) Where an exemption under subsection (1) is given subject to conditions, the exemption does not have effect during any period when the conditions are not complied with.

6 Approved forms

- (1) An application under this Act shall be made in or to the effect of a form approved by the Minister.
- (2) The Minister may approve different forms for the purpose of making different applications.

Part 2 The Council

7 Constitution of the Council

- (1) There is hereby constituted a corporation under the corporate name of the "Motor

Vehicle Repair Industry Council”.

(2) The Council is, for the purpose of any Act, a statutory body representing the Crown.

8 Members of the Council

(1) The Council shall consist of 11 members, appointed by the Governor, of whom:

- (a) 1 shall be appointed as Chairperson of the Council by the instrument of his or her appointment,
- (b) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of NRMA Limited,
- (c) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of the Motor Traders’ Association of New South Wales,
- (d) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by Service Station Association Ltd,
- (e) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Executive of the Metal Trades Industry Association of Australia,
- (f) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch,
- (g) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by The Australian Workers’ Union, New South Wales,
- (h) 3 shall be persons chosen by the Minister who have, in the opinion of the Minister, expertise appropriate to the functions of the Council, and
- (i) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Council of the Institute of Automotive Mechanical Engineers.

(2) Where, for the purposes of subsection (1), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to have been duly nominated.

(3) Where a body referred to in any provision of subsection (1) changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, the Minister may, by order published in the Gazette, so certify and, subject to subsection (4), as from the date of that publication, the reference in the provision shall be deemed to be a reference to the body under that changed name.

- (4) The power of the Minister under subsection (3) may be exercised in relation to a body under a changed name as if that body, under that changed name, were referred to in subsection (1).

9 Provisions relating to the constitution, membership and meetings of the Council

- (1) Schedule 1 has effect with respect to the constitution and membership of the Council.
- (2) Schedule 2 has effect with respect to the meetings of the Council.

10 Functions of the Council

The Council shall have and may perform the functions conferred or imposed on it by or under this or any other Act.

11 Council to promote standards and education

- (1) In this section, **motor vehicle repair work** includes loss assessor's work.
- (2) The Council shall:
- (a) keep under review the standard of motor vehicle repair work,
 - (b) promote improvement in the standard of motor vehicle repair work,
 - (c) keep under review the manpower and training requirements in the motor vehicle repair industry,
 - (d) make reports and recommendations to the Minister and the Minister for the time being administering the *Technical and Further Education Commission Act 1990* with respect to the manpower and training requirements of the motor vehicle repair industry,
 - (e) promote and undertake research into the motor vehicle repair industry, and
 - (f) whenever it considers it necessary to do so or it is requested by the Minister to do so, make reports or recommendations to the Minister with respect to the motor vehicle repair industry.

12 Officers and employees

- (1) Such officers and temporary employees as may be necessary for the purpose of carrying out the provisions of this Act shall be appointed under and subject to the *Public Service Act 1979*.
- (2) For the purpose of performing its functions, the Council may:
- (a) with the approval of the Minister of the department concerned and on such terms as may be arranged, make use of the services of any officers or temporary employees of a Government department, and

(b) with the approval of the Public Service Board, appoint and employ, on a casual basis and on such other terms as may be approved by the Council, persons to act in the administration of this Act.

(3) A person referred to in subsection (2) (b) is not, in his or her capacity as an employee of the Council, an officer within the meaning of the *Public Service Act 1979*, but, if the terms and conditions upon which the person is appointed so provide, any specified provisions of that Act or the regulations thereunder, whether with or without specified modifications, shall apply to and in respect of the person as if the person were a temporary employee within the meaning of that Act.

13 (Repealed)

14 Committees of the Council

- (1) The Council may establish committees to advise the Council on such matters relating to the Council's functions as are referred to them by the Council.
- (2) The Council shall establish a committee to advise the Council on such matters relating to the Council's functions in respect of the regulation of loss assessors as are referred to it by the Council.
- (3) A committee shall consist of the Chairperson of the Council, who shall be chairperson of the committee, and such other persons (including, in the case of the committee established under subsection (2), 1 or more loss assessors), whether members of the Council or not, as may be appointed by the Council.
- (4) The Council may determine a quorum for a meeting of a committee.
- (5) The procedure for the calling of, and for the conduct of business at, meetings of a committee shall be in accordance with any directions given by the Council or, in the absence of any such directions, as may be determined by the committee.

Part 3 Licences and certificates

Division 1 Repairers' licences

15 Licences

- (1) On or after the relevant day, no person (other than an exempted person) shall:
 - (a) carry on or advertise that the person carries on or is willing to carry on the business of a repairer in respect of any repair work unless the person is the holder of a licence in respect of a class of repair work that includes that repair work, or
 - (b) carry on the business of a repairer at any place of business unless the person is the holder of a licence granted in respect of that place of business.

Maximum penalty: 20 penalty units.

- (2) A person carries on the business of a repairer if the person does so either by himself or herself, as a member of a partnership or by his or her servant or agent.
- (3) The holder of a licence in respect of a class of repair work who carries on the business of a repairer in respect of any other class of repair work does not contravene subsection (1) if:
 - (a) that other class of repair work is done by the holder of a licence in respect of a class of repair work that includes that other class of repair work pursuant to an agreement between the holders of those licences, and
 - (b) he or she does not advertise that he or she carries on or is willing to carry on the business of a repairer in respect of that other class of repair work.

16 Application for grant of licence

- (1) An application for the grant of a licence must:
 - (a) be lodged with the Council, and
 - (b) specify the class or classes of repair work in respect of which the application is made, and
 - (c) be accompanied by the prescribed fee.
- (2) Two or more persons intending to carry on in partnership the business of a repairer may, but are not required to, apply for the grant of a joint licence.
- (3) A joint application shall specify the names of the persons to whom the licence is to be granted.
- (4) Where an application (including a joint application) is made for the grant of a licence to a corporation, the names of the directors of the corporation shall be specified in the application.
- (5) Subject to subsection (6), where the business of a repairer is to be carried on at more than 1 place of business a separate application for the grant of a licence in respect of each such place must be made.
- (6) Where the business of a repairer is to be carried on at more than 1 place of business but, by reason of the close proximity of those places, the person applying for the grant of the licence considers it reasonable that a single licence only should be required in respect of those places, the person may include a reference to all those places in an application for the grant of a single licence.

17 Disposal of applications

- (1) This section is subject to section 18.
- (2) The Council shall, when an application is made for the grant of a licence in respect of any class of repair work:
 - (a) by a person (other than a person referred to in paragraph (b)), grant a licence in respect of that class of repair work to the person, or
 - (b) by 2 or more persons making a joint application, grant a licence in respect of that class of repair work and in the joint names of the persons specified in the application pursuant to section 16 (3).
- (2A) The Council may grant a licence in respect of more than 1 class of repair work.
- (3) Where, pursuant to section 16 (6), a reference to 2 or more places of business is included in an application for the grant of a single licence the Council, if it grants the licence, may:
 - (a) grant the licence in respect of all of those places, or
 - (b) grant the licence in respect of 1 or some only of those places.
- (4) Where the Council grants a single licence in respect of 2 or more places of business, those places are together, for the purposes of this Act, the place of business in respect of which the licence is granted.
- (5) (Repealed)

18 Refusal of application for grant of licence

- (1) The Council shall not grant a licence in respect of any class of repair work unless it is satisfied:
 - (a) in the case of an application by an individual, that the individual:
 - (i) is of or above the age of 18 years and is a fit and proper person to hold a licence, and
 - (ii) has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work,
 - (b) in the case of an application by a corporation, that:
 - (i) the corporation is a fit and proper person to hold a licence,
 - (ii) each of the directors of the corporation is of or above the age of 18 years and would, if the application were made by him or her, be a fit and proper person to hold a licence, and

- (iii) the corporation has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work,
 - (c) in the case of a joint application, that:
 - (i) each individual and corporation to whom or to which the licence is to be granted has the qualifications referred to in paragraphs (a) (i) and (b) (i) and (ii) respectively, and
 - (ii) the individuals and corporations to whom or to which the licence is to be granted together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work, and
 - (d) that the applicant has such other qualifications as may be prescribed.
- (2) Where the applicant for a licence in respect of any class of repair work (not being a joint licence) proposes to carry on the business of a repairer in partnership with 1, or more than 1, person, the Council shall not refuse to grant the licence under subsection (1) (a) (ii) or (b) (iii) unless the Council is satisfied that the applicant's material, manpower and financial resources, together with those of the person or persons with whom the applicant proposes to carry on that business in partnership, are not sufficient to enable the applicant to carry on the business of a repairer in respect of that class of repair work.
- (3) The Council shall not grant a licence in respect of any place of business unless the applicant satisfies the Council that the business of a repairer may be carried on at that place without contravening any other Act or any instrument made under any other Act.
- (4) (Repealed)

18A Grant of approval for licence

- (1) If the Council would, but for the inability of the applicant for a licence to satisfy the Council as to any matter relating to the proposed place of business, grant the licence, the Council may defer consideration of the application and grant the applicant an approval for the licence in such form as may be determined by the Council.
- (2) An approval for a licence does not authorise the person to whom the approval is granted to carry on business pursuant to the authority that would be conferred by the licence applied for by the applicant if that licence were granted.
- (3) An approval for a licence remains in force for such period as is specified in the approval.
- (4) If, during the period an approval is in force, the applicant satisfies the Council:

- (a) as to the matter referred to in subsection (1), and
 - (b) that no change material to the applicant's application for the licence has occurred since the application was last considered by the Council,
- the Council is to grant the application.

(5) (Repealed)

19 Form of licence

A licence is to be in the form approved by the Council and must:

- (a) specify the date of issue of the licence,
- (b) specify the class or classes of repair work in respect of which the licence is granted,
- (c) specify the place of business in respect of which the licence is granted,
- (d) specify the name of the person or, in the case of a joint licence the names of the persons, to whom the licence is granted, and
- (e) where the licence (including a joint licence) is granted to a corporation, specify the names of the directors of the corporation.

20 Amendment of licence

- (1) The applications to which this section relates are applications for the amendment:
 - (a) of a licence by substituting for, or adding to, the reference in the licence to a class of repair work a reference to another class of repair work,
 - (b) of a licence by substituting for the reference in the licence to a place of business a reference to another place of business,
 - (c) of a licence by including a reference to an additional place of business in respect of which the licence is granted if it is in close proximity to the existing place of business in respect of which the licence is granted,
 - (d) (Repealed)
 - (e) of a licence (including a joint licence) held by a corporation by specifying in the licence the name of any person who is a director of the corporation, or
 - (f) of a licence in such other manner as may be prescribed.
- (2) An application referred to in subsection (1) is to be accompanied by the prescribed fee.
- (3) An application is not to be granted if the Council is satisfied that an application for the

licence (as proposed to be amended) would be refused.

- (4) Where a person becomes a director of a corporation that is the holder of a licence and the person's name is not specified as a director in the licence, the corporation shall, within 1 month after that person becomes a director, make the application referred to in subsection (1) (e).

Maximum penalty: 5 penalty units.

- (5) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall forthwith give up his or her directorship of the corporation concerned.

Maximum penalty: 2 penalty units.

- (6) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall not again, within a period of 6 months after the refusal of the application, become a director of the corporation unless the corporation ceases to be the holder of a licence or the Council, pursuant to subsection (7), grants an application made under subsection (7) in relation to that person.

Maximum penalty: 2 penalty units.

- (7) A corporation that is the holder of a licence may apply to the Council for the approval of a person whom it is proposed to appoint or elect to be a director of the corporation and, subject to the regulations, the Council may refuse or grant the application.

- (8) Where an application referred to in:

- (a) subsection (1) (a) is granted and the licence is amended by substituting or adding a reference to another class of repair work, that class of repair work is a class of repair work in respect of which the licence is granted,
- (b) subsection (1) (b) is granted and the licence is amended by substituting a reference to another place of business, that place of business is a place of business in respect of which the licence is granted,
- (c) subsection (1) (c) is granted and the licence is amended by including a reference to an additional place of business, that place of business is a place of business in respect of which the licence is granted.

- (d) (Repealed)

20A Transfer of licence if partners change

- (1) The Council may, on the application of the holder of a licence, transfer the licence if it is proposed:
- (a) to include a partner or an additional partner as the joint holder of the licence, or

(b) to exclude a partner from being a joint holder of the licence.

(2) An application under this section is to be refused if an application for the transferred licence would be refused.

21 Duration of licence and annual fee

(1) A licence has effect on and from the date of issue of the licence.

(2) Except while it is suspended, a licence continues in force until it is duly surrendered, cancelled or revoked or ceases to have effect under subsection (5).

(3) The prescribed fee in respect of a licence is payable annually on or before the anniversary of the date of issue of the licence in the year concerned.

(4) A person whose licence is suspended continues to be liable to pay the prescribed fee and to supply information under this Act, but is not otherwise taken to be the holder of the licence (except for the purpose of its surrender).

(5) If the prescribed fee in respect of a licence is not paid in accordance with subsection (3), the licence ceases to have effect immediately following the anniversary concerned.

(6) When a licence ceases to have effect under subsection (5) or is suspended, the person who was or is the holder of the licence is to deliver it promptly to the Council.

Maximum penalty (subsection (6)): 2 penalty units.

Division 2 Tradespeople's certificates

22 Tradesperson's certificate

(1) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall permit a person employed by him or her to do any repair work unless the person so employed:

(a) holds a tradesperson's certificate in respect of a class of repair work that includes that repair work, or

(b) is an apprentice and does that repair work in the course of his or her apprenticeship and under the supervision of a person who holds such a certificate.

Maximum penalty: 20 penalty units.

(2) On or after the relevant day, no repairer (other than an exempted person) shall personally do any repair work in connection with his or her business (other than work referred to in subsection (2A)) unless he or she holds a tradesperson's certificate in respect of a class of repair work that includes that repair work.

Maximum penalty: 20 penalty units.

- (2A) On or after the relevant day, no person (other than an exempted person) shall personally do the work of a liquefied petroleum gas mechanic or a natural gas mechanic unless he or she holds a tradesperson's certificate in respect of a class of repair work that includes the work of a liquefied petroleum gas mechanic or a natural gas mechanic, as the case may be.

Maximum penalty: 20 penalty units.

- (3) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall enter into an agreement for any repair work to be done by any person who does not hold a licence.

Maximum penalty: 20 penalty units.

- (4) On or after the relevant day, an insurer with whom the owner of a motor vehicle has entered into any contract of insurance in respect of damage to that motor vehicle shall not enter into an agreement, or require the owner to enter into an agreement, for any repair work to be done on that motor vehicle by any person who does not hold a licence or specify in the contract of insurance a repairer who does not hold a licence.

Maximum penalty: 20 penalty units.

23 Application for tradesperson's certificate

An application for the grant of a tradesperson's certificate shall:

- (a) be lodged with the Council, and
- (b) specify the class or classes of repair work in respect of which the application is made.

24 Grant of tradesperson's certificate

- (1) Subject to subsection (3) and section 25, on payment of the appropriate fee the Council shall, when an application is made by an individual for the grant of a tradesperson's certificate in respect of any class of repair work, grant to the individual a tradesperson's certificate in respect of that class of repair work.
- (1A) The Council may grant a tradesperson's certificate in respect of more than 1 class of repair work.
- (2) The appropriate fee is \$25 or, where some other fee is prescribed, that other fee.
- (3) The Council shall not grant to an individual a tradesperson's certificate in respect of any class of repair work unless it is satisfied that:
 - (a) the individual is a fit person to hold a tradesperson's certificate, and
 - (b) the individual:

- (i) has such qualifications or has passed such examinations as may be prescribed in relation to the tradesperson's certificate in respect of that class of repair work, or
- (ii) has such other qualifications or experience or has passed such other examinations as may be determined by the Council in relation to the tradesperson's certificate in respect of that class of repair work.

25 Provisional tradesperson's certificate

- (1) The Council may grant to an individual a tradesperson's certificate in respect of any class of repair work notwithstanding that the individual has not met the requirement referred to in section 24 (3) (b) if it is satisfied that the individual has acquired or is capable of acquiring the skills that will enable him or her to meet that requirement in respect of that class of repair work.
- (2) A tradesperson's certificate referred to in subsection (1) shall be designated by the Council as a provisional tradesperson's certificate.
- (3) A provisional tradesperson's certificate is subject to such conditions and restrictions as may be specified on it by the Council at the time it grants the certificate.
- (4) If the holder of a provisional tradesperson's certificate does repair work in breach of any condition or restriction to which the certificate is subject he or she shall, for the purposes of section 22, be deemed not to be the holder of a tradesperson's certificate when he or she does that work.
- (5) Where an individual who holds or has held a provisional tradesperson's certificate applies, not more than 3 months after the expiry date specified on the provisional tradesperson's certificate, for the grant of a tradesperson's certificate, the appropriate fee in respect of that application shall be deemed to have been paid.

26 Form of tradesperson's certificate

A tradesperson's certificate shall be in the form approved by the Minister and, without prejudice to the inclusion in the certificate of any other particulars, shall:

- (a) specify the date of issue of the certificate,
- (b) specify the name of the individual to whom the certificate is granted,
- (c) specify the class or classes of repair work in respect of which the certificate is granted, and
- (d) in the case of a provisional tradesperson's certificate:
 - (i) specify the conditions and restrictions to which the certificate is subject, and
 - (ii) specify the date until and including which the certificate is in force.

27 Duration of certificate

- (1) A tradesperson's certificate has effect from and including its date of issue.
- (2) A tradesperson's certificate continues in force:
 - (a) except as provided in paragraph (b)—until it is revoked or surrendered, or
 - (b) in the case of a provisional tradesperson's certificate—until and including the date determined by the Council and specified on the certificate, or until it is revoked or surrendered, whichever first occurs,but is not in force during any period of suspension.

Division 3

28-33 (Repealed)

Division 4 Licences and certificates generally

34 Notice of refusal

- (1) Where the Council refuses to grant a licence or certificate or to grant an application for the amendment or transfer of a licence, it shall cause a notice of refusal to be served on the applicant for the licence or certificate, or on the applicant for the amendment or transfer, as the case may require.
- (2) In the case of a joint application for the grant or amendment or transfer of a licence it is a sufficient compliance with subsection (1) if the notice of refusal is served on any 1 of the applicants.
- (3) A notice of refusal shall state the reasons for the refusal.
- (4) For the purposes of this Act, the Council shall be deemed to have refused to grant a licence or certificate or to grant an application for the amendment or transfer of a licence if it does not give a decision on an application:
 - (a) duly made with respect to that grant, and
 - (b) accompanied by the fee (if any) appropriate to that application,within 3 months after the application is lodged with the Council.
- (5), (6) (Repealed)

35 Surrender of certificate

- (1) A holder of a licence or certificate may surrender it by delivering it to the Council with a notification in writing that the licence or certificate, as the case requires, is surrendered.

- (2) However, the holder of a licence or certificate on whom notice to show cause has been served under section 45 (1) or (4) (whether before, on or after the commencement of this subsection) may not surrender the licence or certificate concerned unless the Council has made a determination under section 48 in relation to each matter to which the notice relates.

36 Refund of fees

If:

- (a) an application for a licence or certificate or for the amendment of a licence is withdrawn, or
- (b) a licence or certificate is surrendered, revoked or suspended, or
- (c) the regulations so provide in relation to a licence or certificate,

the Council may refund to the applicant or the holder of the licence or certificate, or to any other person who appears to the Council to be entitled to such a refund, the whole or any part of the fee that has been paid by the applicant or holder of the licence or certificate.

37 Duplicate licence or certificate

If the Council is satisfied that a licence or certificate has been lost or destroyed it may, on payment of the prescribed fee, issue a duplicate licence or certificate which shall be of the same force as the original licence or certificate.

38 Registers of licences and certificates

- (1) For the purposes of this Act:
- (a) a register of licences is to be kept which includes particulars of licences and other prescribed particulars, and
 - (b) a register of certificates is to be kept which includes particulars of certificates and other prescribed particulars.
- (2) Each register referred to in subsection (1) is to be kept by the Council in a form determined by the Council.
- (2A) The Council may cause to be made such alterations to the register as are necessary to ensure that the matters recorded in respect of any licence or certificate are accurate.
- (3) A register may, at all reasonable hours, be inspected, and copies of all or any part of any entry in the register taken:
- (a) without payment by:

- (i) any member of the police force in his or her capacity as such a member,
 - (ii) any public servant in his or her capacity as such a servant, and
 - (iii) any person authorised by the Council, or
- (b) on payment of the prescribed fee, by any other person.
- (4) A register shall be received in proceedings before the Council, the Director-General or any court or tribunal as evidence of the matters required by or under this Act to be recorded in it, and any document purporting to be certified by the Council to be a true copy of an entry in the register shall be received in proceedings before the Council, the Director-General or any court or tribunal as evidence of any such matters contained in the entry.
- (5) (Repealed)

39 False or misleading statements in applications

A person must not, in an application for a licence or certificate, make any statement which the person knows to be false or misleading in a material particular.

Maximum penalty: 5 penalty units.

40 Holding out as holder of certificate

A person shall not hold himself or herself out as:

- (a) a holder of a certificate if he or she does not hold a certificate, or
- (b) a holder of a particular certificate or a certificate of a particular kind if he or she does not hold that or such a certificate.

Maximum penalty: 2 penalty units.

Part 4 Disciplinary proceedings

41 Definitions

In this Part, **defendant** means any person against whom a complaint is made under section 44.

42 Grounds for action against holder of licence

- (1) The grounds on which the holder of a licence may be dealt with under this Part are:
- (a) that the holder of the licence made a statement in or in connection with his or her application for the licence that he or she knew to be false or misleading in a material particular,

- (b) that the holder of the licence has been convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for 3 months or more, or of any offence against this Act or the regulations,
- (c) that the holder of the licence has been guilty of fraudulent conduct or dishonesty in connection with his or her business as a repairer,
- (d) that the holder of the licence has carried on the business of a repairer in such a manner that the repair work done in connection with that business has generally been below usual trade standards,
- (e) in the case of the holder of a licence (other than a joint licence) in respect of any class of repair work—that the material, manpower and financial resources of the holder of the licence, together with those of any persons with whom he or she carries on the business of a repairer in partnership, are not sufficient to enable him or her to carry on the business of a repairer in respect of that class of repair work,
- (f) in the case of the holder of a joint licence in respect of any class of repair work—that the holders of the licence do not together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work,
- (g) that the holder of the licence (not being a corporation) has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration or estate for their benefit,
- (h) that the holder of the licence (being a corporation):
 - (i) is in the course of being wound up,
 - (ii) is under official management,
 - (iii) is a corporation in respect of which a receiver or manager has been appointed, or
 - (iv) has entered into a compromise or scheme of arrangement with its creditors,
- (i) that the holder of the licence has, for a period of 1 month or more, ceased to carry on the business of a repairer at the place specified in the licence for that purpose,
- (j) that the holder of the licence is contravening another Act or an instrument made under another Act by carrying on at the place specified in the licence for that purpose the business of a repairer,
- (k) in the case of the holder of a licence (being a corporation)—that any director of the corporation is convicted of an offence referred to in paragraph (b), or

(l) in the case of the holder of a licence other than a joint licence (being any person carrying on business as a repairer in partnership with any person)—that a licence held by the latter person has been revoked after a determination of a complaint in relation to the licence held by him or her on any ground specified in paragraph (b), (c), (d), (e), (g), (h), (j) or (k).

(2) The grounds referred to in this subsection (1) (a), (b), (c), (d), (h), (j) or (k) are deemed to exist, in the case of a joint licence, if those grounds apply to any holder of that licence.

43 Grounds for action against holder of certificate

The grounds on which the holder of a certificate may be dealt with under this Part are:

- (a) that the holder of the certificate made a statement in or in connection with his or her application for the certificate that he or she knew to be false or misleading in a material particular,
- (b) that the holder of the certificate has been convicted of an offence against this Act or the regulations,
- (c) in the case of the holder of any tradesperson's certificate—that the holder of the certificate is not competent to do repair work of the class to which the certificate applies,
- (d) in the case of the holder of a provisional tradesperson's certificate—that the holder of the certificate has failed to comply with any condition or restriction to which the certificate is subject, or
- (e) (Repealed)

44 Manner of making complaint

- (1) A complaint may be made to the Council that, in relation to any licence or certificate, 1 or more of the grounds specified respectively in section 42 (1) (a) to (l) or section 43 (a) to (d) exists or exist.
- (2) A complaint referred to in subsection (1) shall, except as provided by subsection (3), be accompanied by the prescribed fee.
- (3) A complaint referred to in subsection (1) need not be accompanied by the prescribed fee where it is made by:
 - (a) a public servant in his or her capacity as such a servant, or
 - (b) an inspector in his or her capacity as such an inspector.

45 Action on complaints

- (1) Upon receipt of a complaint made under section 44, together with the prescribed fee (where applicable) required by section 44 (2) the Council shall consider the complaint and, if it is of the opinion that the nature of the complaint warrants its so doing, shall cause a notice to be issued calling upon the person to whom the complaint relates to show cause why the person should not be dealt with under this Part and cause that notice to be served on that person.
- (2) Subsection (1) does not apply so as to require the Council to consider any complaint which an officer of the Council, authorised by the Council for the purposes of this subsection, has determined to be of such a nature as not to warrant the issue of a notice under subsection (1) with respect to the complaint.
- (3) As soon as practicable after the receipt of a complaint, the Council shall cause the complainant to be informed in writing of any action taken under this section with respect to the complaint.
- (4) The Council may, if in its opinion its investigations warrant its so doing and without having received a complaint, cause a notice to be issued to a person against whom a complaint may be made under section 44 to show cause why the person should not be dealt with under this Part and cause the notice to be served on that person.
- (5) A notice served under subsection (1) or (4) shall:
 - (a) give particulars of the grounds upon which the defendant is required to show cause, and
 - (b) appoint a time and place for the holding of an inquiry for the defendant to show cause,as required by the notice.
- (6) Not earlier than the day on which the period fixed under subsection (7) in respect of a defendant expires, the Council shall at the time and place appointed by the notice served on the defendant, or at such other time or place appointed by the Council and notified by notice in writing served on the defendant, cause an inquiry to be held into the grounds upon which the defendant has been called to show cause as required by that notice.
- (7) The period referred to in subsection (6) is 7 days after service on the defendant of the notice referred to in subsection (5).

46 Inquiries—how held

- (1) Any inquiry held under this Part shall be held before:
 - (a) the Council, or

- (b) a committee of 1 or more members (including the Chairperson) appointed by the Council to hold the inquiry,
and shall be held as in open court.
- (2) Where a committee of 2 or more members is appointed under subsection (1) (b) to hold an inquiry under this Part:
- (a) the Chairperson shall preside at the inquiry, and
- (b) the Chairperson shall have, in addition to a deliberative vote, a casting vote on any matter arising during the inquiry in respect of which there is an equality of votes.
- (3) The determination of the Council on an inquiry shall be given at a meeting of the Council at which a quorum is present.
- (4) At any inquiry under this Part:
- (a) the defendant may appear by himself or herself or by a barrister, solicitor or agent appointed by the defendant, and
- (b) the Council or the committee before which the inquiry is held:
- (i) may conduct the inquiry in such manner as it sees fit and is not bound to observe rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit,
- (ii) may allow a barrister, solicitor, public servant or inspector, in each case instructed by the Council, to appear before the Council or that committee for the purpose of adducing evidence tending to establish the grounds upon which the defendant has been called upon to show cause as referred to in section 45,
- (iii) may call and receive evidence as to any matter relevant to the inquiry,
- (iv) may from time to time as it sees fit adjourn the inquiry, and
- (v) may, subject to section 13 of the *Oaths Act 1900*, require any evidence at the inquiry to be given on oath.
- (5) An inquiry under this Part may be held in the absence of the defendant if the Council or the committee before which the inquiry is held is satisfied that the defendant was served with reasonable notice of the time and place of the inquiry.
- (6) Service of any such notice may be proved by the oath of the person who effected the service or by affidavit.

47 Subpoenas

- (1) The Council or the committee before which an inquiry under this Part is held may of its own motion or on the application of the defendant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena is addressed to attend as a witness at the inquiry or so to attend and to produce at the inquiry any books, deeds, papers, writings or articles in his or her possession or under his or her control relating to any matter relevant to the inquiry and specified in the subpoena.
- (2) A person who is served with a subpoena addressed to the person and to whom, at the time of service, is tendered an amount that is sufficient to cover his or her travelling and other out-of-pocket expenses in attending the inquiry specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause, fail or refuse to obey the subpoena.

Maximum penalty: 2 penalty units.

- (3) A person to whom a subpoena is addressed is entitled to receive:
 - (a) where the subpoena was issued by the Council or a committee of its own motion, from the Council, or
 - (b) where the subpoena was issued by the Council or a committee on the application of the defendant, from the defendant,his or her reasonable costs, including any loss of earnings, incurred by the person in obeying the subpoena, calculated in accordance with the scales relating to subpoenas issued out of the District Court.

48 Determination by Council

- (1) After an inquiry held under this Part the Council may, if it is of the opinion that there exists any ground specified in section 42 (1) (a) to (l) or 43 (a) to (e), as the case may require, for dealing with the defendant under this Part, make any of the following determinations, that is to say, the Council may:
 - (a) determine that no further action be taken against the defendant,
 - (b) caution or reprimand the defendant, or
 - (c) where the ground is specified:
 - (i) in section 42 (1) (a) to (l)—revoke or suspend the licence held by the defendant, or
 - (ii) in section 43 (a) to (e)—revoke or suspend the certificate held by the defendant.
- (2) The Council may at any time remove a suspension made under subsection (1) (c).

49 Notice of revocation etc

- (1) Before revoking or suspending a licence or certificate, the Council shall give each holder of the licence, or the holder of the certificate, an opportunity of showing cause why the Council should not revoke or suspend the licence or certificate for the reasons specified by the Council.
- (2) Where the Council revokes or suspends a licence or certificate, it shall cause a notice of the revocation or suspension to be served on the holder of the licence or certificate.
- (3) In the case of a joint licence it is a sufficient compliance with subsection (2) if the notice is served on any one of the holders of the licence.
- (4) A notice under subsection (2) shall state the reasons for which the Council has revoked or suspended the licence or certificate.
- (5) Subject to subsection (6), any revocation or suspension of a licence or certificate has effect as on and from the date that is 21 days after the date on which the notice of the revocation or suspension is served.
- (6) Where the holder of a licence or certificate appeals under Part 5 against any revocation or suspension of the licence or certificate, the revocation or suspension shall have effect:
 - (a) only if the Local Court hearing the appeal confirms the revocation or suspension or the appeal is withdrawn, and
 - (b) on:
 - (i) the date on which that Local Court confirms the revocation or suspension or such later date as the Local Court orders, or
 - (ii) where the appeal is withdrawn—the date on which it is withdrawn or the date that is 21 days after the date on which notice of the revocation or suspension was served pursuant to this section, whichever is the later date.
- (7) When the revocation or suspension of a licence or certificate has effect, the person who was or is the holder of the licence or certificate shall forthwith deliver it to the Council.

Maximum penalty for an offence against this subsection: 2 penalty units.

Part 5 Appeals

50 Appeals

- (1) In this section:

applicable date means:

- (a) in the case of an appeal against a refusal to grant a licence or certificate or to grant an application for the amendment or transfer of a licence, the date of service of the notice of the refusal, or
- (b) in the case of an appeal against a revocation or suspension of a licence or certificate, the date of service of the notice of the revocation or suspension, as the case may be.

clerk of the court means the clerk of the Local Court to which an appeal is made under this Part.

- (2) An applicant for the grant of a licence or certificate or for the amendment or transfer of a licence may appeal to a Local Court against the refusal of the Council to grant the licence or certificate or to grant the application for the amendment or transfer of the licence.
- (3) The holder of a licence or certificate may appeal to a Local Court against the revocation or suspension by the Council of the licence or certificate.
- (4) Notice of an appeal under this section, specifying the grounds of the appeal, shall be lodged with the clerk of the court not later than 21 days after the applicable date.
- (5) The clerk of the court shall give notice of the time and place of the hearing of an appeal under this section to the Council and to the person appealing, and shall state in the notice to the Council the grounds of the appeal.
- (6) An appeal shall be dealt with by way of rehearing on the evidence, if any, given before the Council and on any evidence in addition to or in substitution for the evidence so given.
- (7) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (5) or the failure to give any such notice if the Local Court is satisfied that the person appealing and the Council had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.
- (8) (Repealed)
- (9) A Local Court shall hear and determine an appeal made to the Local Court under this section and may confirm (with or without variation) or disallow the refusal, revocation or suspension appealed against, or make such other order as to the Local Court seems in the circumstances to be just.
- (10) A Local Court may disallow the refusal, revocation or suspension appealed against if, in all of the circumstances of the case, the Local Court considers it fair and reasonable to do so.

- (11) The decision of a Local Court in respect of an appeal made under this section shall be final and shall be binding on the person appealing and on the Council which shall take such steps as may be necessary to give effect to the decision.
- (12) Where an application for the grant or amendment of a joint licence is refused or a joint licence is revoked or suspended, an appeal under this section may be made either by 1 of the applicants or holders, as the case may be, on behalf of all of the applicants or holders, or by all of the applicants or holders jointly, but not otherwise.
- (13) (Repealed)

Part 6 Disputes

51 Definitions

- (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires:

applicant means a person who makes an application.

application means an application under section 52 (1) to the Council, but does not include an application that has been withdrawn.

dispute means a disagreement which is the subject of an application.

owner in relation to a motor vehicle includes any hirer, lessee or insurer of the motor vehicle.

- (2) A reference in this Part to a repairer includes a reference to a person who was a repairer when the person repaired a motor vehicle that is the subject of such a disagreement as is referred to in section 52 (1) or of a dispute, notwithstanding that the person has ceased to be a repairer since the vehicle was repaired.

52 Disputes

- (1) Where, in relation to a motor vehicle, a disagreement exists between the owner of the vehicle and a repairer concerning any 1 or more of the following matters, namely:
- (a) the manner in which any repair work has been done,
 - (b) the fair cost owed by the owner to the repairer for the carrying out of any repair work, or
 - (c) any other matter or thing, whether or not of the same kind as a matter referred to in paragraph (a) or (b), arising out of the application of this Act,
- the owner may apply in writing to the Council to investigate the disagreement.
- (2) The powers conferred by this Part shall not be exercised in connection with any matter

in issue in a dispute:

- (a) if the repair work which is the subject of the dispute was done before the day appointed and notified under section 2 (2),
- (b) if that matter is, at the time when the application relating to the dispute is received by the Council, the subject of an application under Part 5 of the *Motor Dealers Act 1974*, and that application has not been withdrawn,
- (c) (Repealed)
- (d) if proceedings in respect of that matter are pending before a court or a tribunal at that time, unless those proceedings are discontinued before judgment is given by the court or a determination is made by the tribunal, or
- (e) if, at that time, that matter has been decided by a court or a tribunal, or a court or a tribunal decides that matter pursuant to proceedings which are pending at that time.

(3) (Repealed)

(4) An application may be withdrawn at any time.

53 Settlement of disputes

- (1) On receipt of an application under section 52 (1), the Council is to use its best endeavours by communication with the applicant and the repairer, or otherwise, to settle the dispute.
- (2) The Council may appoint any inspector to assist it in the exercise of its functions under this section.
- (3) An inspector appointed under subsection (2) to assist the Council may enter at any reasonable time any place occupied by a repairer at which the inspector has reasonable grounds for believing that a motor vehicle which is the subject of a dispute is situated and there examine that motor vehicle.

54-56 (Repealed)

57 False or misleading statements

A person shall not make any statement which the person knows to be false or misleading in any application or in or in relation to any proceeding for the investigation of a dispute.

Maximum penalty: 5 penalty units.

Part 7 Finance

58 (Repealed)

59 Grants to Council

The Treasurer may advance such money to the Council on such terms as to repayment and interest as the Treasurer and the Council may agree on.

60 Establishment of funds

- (1) The Council shall establish the following funds in its books:
 - (a) the Motor Vehicle Repair Industry General Fund,
 - (b) the Motor Vehicle Repair Industry Contingency Fund, and
 - (c) the Motor Vehicle Repair Industry Education and Research Fund.
- (2) The funds mentioned in subsection (1) shall be separate and distinct.

61 General Fund

- (1) The General Fund shall consist of:
 - (a) all money received by or due to the Council as charges or fees under this Act or the *Business Licences Act 1990* before the repeal of that Act by the *Business Licences Repeal and Miscellaneous Amendments Act 2001*,
 - (b) all money received by the Council under section 59 and allocated by the Council to the General Fund, and
 - (c) all investments made by the Council out of money in the General Fund and the proceeds of any such investments.
- (2) The General Fund may be applied in:
 - (a) meeting the expenses incurred in or in connection with the performance of the functions of the Council,
 - (b) making payments to the Treasurer in accordance with subsection (3) and section 69 (6),
 - (c) making payments to the Contingency Fund in accordance with any direction of the Treasurer referred to in section 62 (1) (a),
 - (d) making payments to the Education and Research Fund in accordance with any direction of the Treasurer referred to in section 66 (1) (a), and
 - (e) any lawful purpose under this Act in respect of which expenditure is not chargeable to the Contingency Fund or the Education and Research Fund.
- (3) The Council shall, as required by notices in writing from time to time given to the Council by the Treasurer, pay to the Treasurer for payment into the Consolidated

Revenue Fund the amount specified in any such notice and certified by the Treasurer to be the amount chargeable against the Council in respect of the Chairperson and in respect of officers and temporary employees of the Public Service appointed for the purpose of carrying out the provisions of this Act.

62 Contingency Fund

- (1) The Contingency Fund shall consist of:
 - (a) such money as the Treasurer may from time to time direct to be allocated to that fund from the General Fund,
 - (b) all money received by the Council under section 59 and allocated by the Council to the Contingency Fund,
 - (c) all investments made by the Council out of money in the Contingency Fund and the proceeds of any such investments, and
 - (d) any money recovered by the Council in the exercise of any rights, or the pursuit of any remedies, to which it is subrogated under section 64.
- (2) Subject to section 65, there shall be paid out of the Contingency Fund the amount of any loss which is certified by the Council pursuant to section 63.

63 Claims against Contingency Fund

- (1) Any person wishing to make a claim against the Contingency Fund shall submit his or her claim in writing, verified by statutory declaration, to the Council.
- (2) Subject to this section, if the Council is satisfied that a person who submits a claim has incurred a loss in connection with the repair of a motor vehicle by reason of the fact that the repair work was not competently done, the Council may certify the amount of the loss or \$3,000, whichever is the lesser amount.
- (3) No loss shall be certified by the Council under subsection (2):
 - (a) if the loss was incurred in connection with repair work done before the day appointed and notified under section 2 (2),
 - (b) if the loss was incurred by the claimant (including any statutory body representing the Crown) in connection with any repair work done by an employee of the claimant,
 - (c) if the loss consists of damage to a motor vehicle or other object, or injury to any person, arising out of a motor vehicle accident,
 - (d) if the loss consists of damage done to a motor vehicle of a prescribed class,
 - (e) if the loss is or has been the subject of a claim under Part 6 of the *Motor Dealers*

Act 1974, unless the claim has been withdrawn or dismissed, or

- (f) if the Council is not satisfied that the claimant has taken all reasonable steps to exercise such legal remedies and other rights of action as are available in respect of the loss incurred by the claimant.

64 Subrogation where claim allowed

On payment out of the Contingency Fund of any amount certified by the Council under section 63, the Council shall be subrogated to the extent of such payment to all the rights and remedies of the claimant against the person in relation to whom the claim arose or any other person incurring any liability to the claimant in relation to the subject-matter of the claim or the legal personal representatives or other persons having authority to administer any estate concerned, and the claimant shall not, to the extent of such payment, be entitled to enforce those rights or remedies.

65 Deferred payments out of Contingency Fund

Where the amount standing to the credit of the Contingency Fund is insufficient to pay all the amounts certified by the Council under section 63 in any financial year, any amount so certified, so far as it remains unpaid, shall be charged against future receipts of the Contingency Fund and shall be paid out of the Contingency Fund when sufficient money is available therein.

66 Education and Research Fund

- (1) The Education and Research Fund shall consist of:
 - (a) such money as the Treasury may from time to time direct to be allocated to that fund from the General Fund,
 - (b) all money received by the Council under section 59 and allocated by the Council to the Education and Research Fund, and
 - (c) all investments made by the Council out of money in the Education and Research Fund and the proceeds of any such investments.
- (2) The Council may, with the approval of the Treasurer, from time to time appropriate any part of the money in the Education and Research Fund towards:
 - (a) the encouragement of apprenticeship, by way of subsidy or otherwise, in any trade associated with the motor vehicle repair industry, or
 - (b) the assistance of education or research in, or any public purpose connected with, repair work or loss assessors' work.

67 Investment

The Council may invest money held in the General Fund, the Contingency Fund or the

Education and Research Fund in any securities authorised by the *Trustee Act 1925*.

68 Financial year

(1)-(7) (Repealed)

(8) The financial year of the Council shall be the year ending on 30 June.

69 (Repealed)

Part 8 General

70 Delegation

(1) The Council may, by instrument in writing, delegate:

- (a) to any member,
- (b) to any committee established under section 14, or
- (c) to any officer or temporary employee appointed under section 12,

the performance of such of the functions (other than this power of delegation) conferred or imposed on the Council by or under this or any other Act as may be specified in the instrument of delegation and may, by such an instrument, revoke wholly or in part any such delegation.

(2) A function, the performance of which has been delegated under this section, may, while the delegation remains unrevoked, be performed from time to time in accordance with the terms of the delegation by the delegate to whom the performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Council may continue to perform all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the performance of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Council.

(6) An instrument purporting to be signed by a delegate of the Council in his or her capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Council and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Council under this section.

71 Other rights and remedies not affected

Except as is expressly provided in this Act, nothing in this Act shall have the effect of limiting, restricting or otherwise affecting any right or remedy which a person would have if this Act had not been enacted.

72 Contracting out void

The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before, on or after the day appointed and notified under section 2 (2) operates to annul, vary or exclude any of the provisions of this Act.

73 Council may require information

- (1) The Council may, by notice in writing, require any person to furnish to it, within such period as may be specified in the notice, such information in connection with any repair work or loss assessor's work as may be so specified and as is within the person's knowledge or in the person's custody or under the person's control.
- (2) A person shall not neglect or fail to comply with a requirement made under subsection (1).

Maximum penalty: 10 penalty units.

- (3) Any information furnished pursuant to a requirement made under subsection (1) shall not, if the person furnishing the information objected, at the time of furnishing it, to doing so on the ground that it may tend to incriminate the person or might be used in any proceedings against the person under Part 4, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under that subsection, or be admissible in any such proceedings.

74 Production of licences and certificates

- (1) Except where he or she has reasonable excuse for not doing so, the holder of a licence shall on demand, at the place of business in respect of which the licence is granted, produce that licence to an inspector.
- (2) Except where he or she has reasonable excuse for not doing so, the holder of a tradesperson's certificate shall on demand, at any place of business in respect of which a licence is granted and where he or she does repair work, produce the certificate to an inspector.
- (3) (Repealed)

Maximum penalty: 1 penalty unit.

75 Power of entry and examination

- (1) An inspector may, for the purpose of ascertaining whether a person is contravening or has contravened this Act or the regulations, enter, at any reasonable time, any place which the inspector has reasonable grounds for believing is a place at which the person carries on business.
- (2) For the purpose of or in connection with an inspection under subsection (1), an inspector may:
 - (a) require any person employed or engaged at any place entered pursuant to that subsection to produce to the inspector such records, or other documents, as are required to be kept under this Act or the regulations and are in the custody or under the control of the person so employed or engaged,
 - (b) examine with respect to matters under this Act or the regulations any person employed or engaged at any place so entered, and
 - (c) make such examination and inquiries as the inspector thinks necessary to ascertain whether the requirements of this Act or the regulations are being or have been contravened.
- (3) For the purpose of searching for, or obtaining information concerning, stolen motor vehicles and stolen parts and accessories of motor vehicles, a member of the police force may:
 - (a) enter any place at which a person carries on a business for which the person holds a licence or is reasonably suspected of carrying on a business for which the person is required to hold a licence,
 - (b) require any person employed or engaged at that place to produce such records or other documents as are required to be kept under this Act or the regulations and as are in or under his or her custody or control, and
 - (c) search for and examine any motor vehicles and parts and accessories of motor vehicles at that place.
- (4) The power of a member of the police force under subsection (3) to enter premises does not permit entry to any part of premises used for residential purposes unless:
 - (a) a person holds a licence granted in respect of the premises, or
 - (b) the member of the police force is acting pursuant to a search warrant under section 75A.
- (5) In this section:

stolen means stolen or otherwise unlawfully obtained.

75A Search warrants—entry of unlicensed premises

(1) In this section:

authorised justice means:

- (a) a Magistrate, or
 - (b) a justice employed in the Attorney General's Department.
- (2) A member of the police force may apply to an authorised justice for a search warrant if the member of the police force has reasonable grounds for believing that premises are being used for the carrying on of a business for which a person is required to hold a licence.
- (3) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for the belief referred to in subsection (2), issue a search warrant authorising a member of the police force named in the warrant to exercise, in relation to those premises, any powers of a member of the police force under section 75 (3) for any purpose specified in that subsection.
- (4) Part 3 of the [Search Warrants Act 1985](#) applies to a search warrant issued under this section.

76 Offence to obstruct inspector, police

A person shall not:

- (a) refuse or intentionally delay the admission to any place of an inspector or member of the police force in the exercise by him or her of any of his or her powers under this Act or the regulations,
- (b) intentionally obstruct an inspector or member of the police force in the exercise by him or her of any such power,
- (c) fail to comply with a request or requirement of an inspector or member of the police force made under this Act for the production of any record or other document,
- (d) conceal any person from an inspector or member of the police force or prevent any person from appearing before or being examined by an inspector or member of the police force or attempt so to conceal or prevent any person, or
- (e) conceal or attempt to conceal any motor vehicle or part or accessory of a motor vehicle that a member of the police force is entitled to search for and examine under this Act.

Maximum penalty: 5 penalty units.

77 Disclosure of information

A person shall not disclose any information obtained by the person in connection with the administration or execution of this Act, unless the disclosure is made:

- (a) with the consent of the person from whom the information was obtained,
- (b) in connection with the administration or execution of this Act,
- (c) subject to section 73 (3), for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or
- (d) for the purpose of an inquiry held under Part 4 or an investigation made under Part 6.

Maximum penalty: 10 penalty units.

78 Evidence

- (1) Where in any proceedings (whether for an offence against this Act or otherwise) it is proved that on a certain day or during any period a person was the holder of a licence in respect of any class of repair work or a tradesperson's certificate in respect of any class of repair work, it shall be presumed, in the absence of proof to the contrary, that the person was carrying on business as a repairer in respect of that class of repair work or was doing repair work of that class, as the case may be, on that day or during that period, as the case may be.
- (2) A certificate purporting to be under the hand of a prescribed officer certifying that a person was or was not, on a date specified in the certificate, a holder of a licence in respect of any class of repair work so specified or a tradesperson's certificate in respect of any class of repair work so specified, as the case may be, is admissible in evidence in any proceedings and is prima facie evidence of the matters stated therein.

79 Proof of certain matters not required

- (1) In any legal proceedings by or against the Council no proof shall be required (until evidence is given to the contrary) of:
 - (a) the due constitution of the Council,
 - (b) any resolution or determination of the Council,
 - (c) the appointment of any member of the Council, or
 - (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Council.
- (2) Subsection (1) does not affect section 55 (4).

80 Service of notice etc

- (1) Where by or under this Act a notice or other document is required to be, or may be, given or served, that notice or other document may be given to or served on:
 - (a) an individual:
 - (i) by delivering it to him or her personally,
 - (ii) by leaving it at his or her place of residence last known to the Council with someone who apparently resides there or at his or her place of business or employment last known to the Council with someone who is apparently employed there, being in either case a person who has or who apparently has attained the age of 16 years, or
 - (iii) by posting it by certified mail in an envelope duly stamped and addressed to him or her at the place of his or her residence, business or employment last known to the Council, or
 - (b) a corporation:
 - (i) by delivering it to a person who is or who is apparently concerned in the management of the corporation,
 - (ii) by leaving it at the only or principal place of business, or the registered office, of the corporation with a person apparently employed there, being a person who has or who apparently has attained the age of 16 years, or
 - (iii) by posting it by certified mail in an envelope duly stamped and addressed to the corporation at the only or principal place of business of the corporation last known to the Council.
- (2) A notice or document that is delivered, left or posted in accordance with subsection (1) shall be deemed to have been given or served on its being so delivered or left or, if it is posted, shall, in the absence of evidence to the contrary, be prima facie deemed to have been given or served when it would have been delivered in the ordinary course of post.

81 Service of notice etc on the Council

- (1) A notice, summons, writ or other proceeding required to be served on the Council may be served:
 - (a) by being left with some person apparently employed in the administration of this Act at the office of the Council, or
 - (b) in the case of a notice, by posting it by certified mail in an envelope duly stamped and addressed to the Council at its office.

- (2) Any document referred to in subsection (1) shall:
 - (a) be deemed to have been served upon its being so left, or
 - (b) in the case of a notice served by so posting it, be prima facie deemed to have been served when it would have been delivered in the ordinary course of post.

82 Execution of documents

- (1) Every document (including deeds and contracts) shall be deemed to be duly executed by the Council:
 - (a) if sealed with the seal of the Council in accordance with section 51 (2) of the *Interpretation Act 1987*, or
 - (b) if executed by any 2 members of the Council, or by 1 member of the Council and an officer of the Council, who have been appointed for that purpose.
- (2) A document executed in accordance with subsection (1) shall, subject to any exception which may be taken to it on any ground other than the competence of the executing party, be effective to bind the Council and its successors, and may be varied or discharged in the same manner as provided for the execution of documents under subsection (1).

83 Authentication of documents

- (1) Every summons, process, demand, order, notice, statement or other document requiring authentication by the Council may be sufficiently authenticated without the seal of the Council if signed by the Chairperson.
- (2) (Repealed)

84 Protection from liability

- (1) No matter or thing done, and no contract entered into, by the Council, and no matter or thing done by a member or any other person acting under the direction, or as a delegate, of the Council shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act or the regulations, subject a member or other person personally to any action, liability, claim or demand.
- (2) (Repealed)
- (3) Nothing in subsection (1) shall exempt a member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of, or relating to, the Council and which the member or other person authorised or joined in authorising.

85 Recovery of charges

- (1) Any charge, fee, remuneration or money due to the Council under the provisions of this Act or the regulations may be recovered by the Council as a debt in a court of competent jurisdiction.
- (2) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Council shall be deemed to be for the recovery of a debt or liquidated demand.

86 Annual report

- (1) The Council shall, as soon as practicable after the 30th day of June, but not later than the 31st day of December, in each year forward to the Minister a report of its work and activities for the year ended that 30th day of June then last past.
- (2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by the Minister of that report.

87 Proceedings

- (1) Proceedings for an offence against this Act or the regulations may:
 - (a) be taken and prosecuted by any person acting with the authority of the Minister or a prescribed officer, and
 - (b) be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.
- (2) In a prosecution for any offence against this Act or the regulations, an authority to prosecute, purporting to have been signed by the Minister or a prescribed officer, shall be evidence of such authority without proof of the signature of the Minister or the prescribed officer, as the case may be.
- (3) (Repealed)
- (4) In proceedings for an offence against this Act or the regulations the informant may conduct his or her case himself or herself, or by a barrister or solicitor, by an agent authorised by him or her in writing, or by a public servant or an inspector.
- (5) Any proceedings for an offence against this Act or the regulations shall be commenced by information laid at any time within 1 year after the time when the offence is alleged to have been committed.

88 Offences by corporation

- (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each director of the corporation, and each officer concerned with the management of the corporation, shall be deemed to have contravened the same provision unless the director or officer satisfies the court that:

- (a) the corporation contravened the provision without the director's or officer's knowledge,
 - (b) the director or officer was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
 - (c) the director or officer, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation.
- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against that provision is actually committed.

89 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
- (a) applications and fees for licences and certificates,
 - (b) advertising by repairers,
 - (c) the records to be kept by repairers,
 - (d) the display of signs by repairers,
 - (e) the powers of inspectors,
 - (f) inquiries held for the purposes of Part 4, investigations made under Part 6 and the hearing of appeals under Part 5,
 - (g) the charging and payment of a fee for any inspection made or information supplied by the Council,
 - (h) the furnishing by the holders of licences of any information (including particulars of any persons apprenticed to them or to any of their employees),
 - (i) the display of licences and certificates,
 - (j) the conduct of examinations for the purposes of this Act,
 - (k) the manner of doing any repair work (including the techniques and materials to be used), and

- (l) regulating the conduct of any person who is required to hold a licence, or the person's servants or agents, in carrying on the business to which the licence relates.
- (2) A provision of a regulation may:
 - (a) apply generally or be limited in its application by reference to specified exceptions or factors,
 - (b) apply differently according to different factors of a specified kind, or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person, body or committee,or may do any combination of those things.
- (3) Without affecting the generality of subsection (1) or (2), the regulations may prescribe different fees in respect of licences or tradespeople's certificates which are granted in respect of different classes of repair work.
- (4) The regulations may impose a penalty not exceeding 5 penalty units for an offence against the regulations.

90 Savings and transitional provisions

Schedule 5 has effect.

Schedule 1 Provisions relating to the constitution and membership of the Council

(Section 9 (1))

1 (Repealed)

2 Public Service Act 1979 not to apply to member

The provisions of the *Public Service Act 1979* do not apply to or in respect of the appointment by the Governor of a member and a member is not, in the member's capacity as a member, subject to the provisions of that Act during the member's term of office.

3 Term of office

A member shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of the member's appointment and shall, if otherwise qualified, be eligible for reappointment as a member.

4 Office of member not to be office of profit under Crown

The office of a member, other than the Chairperson, shall, for the purposes of any Act, be

deemed not to be an office or place of profit under the Crown.

5 Chairperson to be full-time member

The Chairperson shall devote the whole of his or her time to the duties of his or her office.

6 Member (other than Chairperson) holding other office

Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his or her time to the duties of his or her office, or prohibiting him or her from engaging in employment outside the duties of his or her office, that provision shall not operate to disqualify him or her from holding that office and also the office of a member, other than the Chairperson, or from accepting and retaining any remuneration (including travelling and subsistence allowances) paid to him or her under clause 8.

7 Remuneration etc of Chairperson

The Chairperson is entitled to be paid:

- (a) remuneration in accordance with the [Statutory and Other Offices Remuneration Act 1975](#), and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the Chairperson.

8 Remuneration etc of member (other than Chairperson)

Each member (other than the Chairperson) is entitled to be paid out of the General Fund such remuneration (including travelling and subsistence allowances) for attending meetings and transacting the business of the Council as the Minister may from time to time determine in respect of the member.

9 Removal from office

The Governor may remove a member from office for any cause which to the Governor seems sufficient.

10 Vacation of office

- (1) A member shall be deemed to have vacated his or her office:
 - (a) if the member dies,
 - (b) if the member resigns his or her office by writing under his or her hand addressed to the Minister and the Minister accepts his or her resignation,
 - (c) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration, allowances or estate for their

benefit,

- (d) if the member becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
 - (e) if the member is convicted in New South Wales of a crime or offence which is punishable by imprisonment for 12 months or upwards or if the member is convicted elsewhere than in New South Wales of a crime or offence which, if committed in New South Wales, would be a crime or offence so punishable,
 - (f) if, being a member other than the Chairperson, the member is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member, unless on leave granted to the member by the Council or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Council for his or her absence from those meetings,
 - (g) if the member is removed from office by the Governor,
 - (h) if the member ceases to reside in New South Wales,
 - (i) (Repealed)
 - (j) if, being the Chairperson, the member engages during his or her term of office in any paid employment outside the duties of his or her office, or
 - (k) if, being the Chairperson, the member absents himself or herself from duty for a period exceeding 14 consecutive days except on leave granted by the Minister, unless his or her absence is caused by illness or other unavoidable cause.
 - (l) (Repealed)
- (2) (Repealed)

11 Alternate members

- (1) The Minister may at any time appoint as an alternate member to act during the absence or illness of a member a person who is nominated in the same manner, if any, as the person for whom he or she is the alternate member.
- (2) An alternate member shall have and may exercise, while acting as a member, the functions, as such a member, of the person for whom he or she is the alternate member.
- (3) An alternate member for the Chairperson shall have and may exercise, while acting as the Chairperson, the functions of the Chairperson.
- (4) A member is, for the purposes of subclause (1) of this clause, deemed to be absent

from the member's office if there is a vacancy in that office which has not been filled.

- (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member or the Chairperson, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that member or the Chairperson, as the case may be.

12 Preservation of rights of Chairperson

- (1) In this clause:

statutory body means any body declared under clause 14 to be a statutory body for the purposes of this Schedule.

superannuation scheme means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

- (2) Subject to subclause (3) of this clause and to the terms of his or her appointment, where the Chairperson was, immediately before his or her appointment as Chairperson:

(a) an officer of the Public Service,

(b) an officer of the Teaching Service within the meaning of the [Teaching Service Act 1970](#),

(c) a contributor to a superannuation scheme,

(d) an officer employed by a statutory body, or

(e) a person in respect of whom provision was made by any Act that he or she retain any rights accrued or accruing to him or her as an officer or employee,

he or she:

(f) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person,

(g) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before his or her appointment as Chairperson, and

(h) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as Chairperson, and:

- (i) his or her service as Chairperson shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred, and
 - (j) he or she shall be deemed to be an officer or employee for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.
- (3) If the Chairperson would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme the Chairperson shall not be so entitled upon his or her becoming (whether upon his or her appointment as Chairperson or at any later time while the Chairperson holds office as Chairperson) a contributor to any other superannuation scheme, and the provisions of subclause (2) (j) of this clause cease to apply to or in respect of the Chairperson in any case where the Chairperson becomes a contributor to such another superannuation scheme.
- (4) Subclause (3) of this clause does not prevent the payment to the Chairperson upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to the Chairperson if the Chairperson had ceased, by reason of his or her resignation, to be an officer or employee for the purposes of that scheme.
- (5) The Chairperson shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

13 Chairperson entitled to reappointment in former employment in certain cases

- (1) In this clause:

retiring age means:

- (a) in relation to a person who was immediately before his or her appointment as Chairperson, an officer of the Public Service or an officer of the Teaching Service within the meaning of the [Teaching Service Act 1970](#)—the age of 60 years, and
- (b) in relation to a person who was, immediately before his or her appointment as Chairperson, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his or her appointment as Chairperson), as the case may be, of that statutory body are entitled to retire.

statutory body means any body declared under clause 14 to be a statutory body for the purposes of this Schedule.

- (2) A person who ceases to be Chairperson otherwise than pursuant to clause 10 (subclause (1) (b) excepted), shall, if the person has not attained the retiring age, be

entitled to be appointed, where, immediately before his or her appointment as Chairperson, the person was:

- (a) an officer of the Public Service—to some office in the Public Service,
- (b) an officer of the Teaching Service—to some office in the Teaching Service, or
- (c) an officer or employee of a statutory body—to some office in the service of that body,

not lower in classification and salary than that which the person held immediately before his or her appointment as Chairperson.

14 Declaration of statutory bodies

The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Schedule 2 Provisions relating to meetings of the Council

(Section 9 (2))

1 Quorum

The number of members which constitutes a quorum at any meeting of the Council is 6.

2 Meetings

A duly convened meeting of the Council at which a quorum is present shall be competent to transact any business of the Council.

3 Determination of questions

Questions arising at a meeting of the Council shall be determined by a majority of votes of the members present and voting.

4 Decisions

A decision of a majority of the members present and voting at a meeting of the Council shall be the decision of the Council.

5 Presiding at meeting

At a meeting of the Council:

- (a) the Chairperson,
- (b) in the absence of the Chairperson, where there is an alternate member for the Chairperson, that alternate member, or
- (c) in the absence of the Chairperson and, where there is an alternate member for the

Chairperson, in the absence of that alternate member, a member elected by the members present at the meeting from their number,

shall preside.

6 Votes

The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

7 General procedure

(1) The procedure for the calling of, and for the conduct of business at, meetings of the Council shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Council.

(2) The first meeting of the Council shall be called in such manner as the Minister directs.

8 Minutes

The Council shall cause full and accurate minutes to be kept of its proceedings at meetings and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the day on which it was held.

9 Transaction of business outside meetings

(1) Except in relation to its functions under Part 4, the Council may, if it thinks fit, transact any of its business by the circulation of papers, and a resolution in writing approved in writing by a majority of the members of the Council shall be as valid and effectual as if it had been passed at a meeting of the Council by the votes of the members approving the resolution.

(2) Where there is an equality of votes in respect of any business transacted under subclause (1) of this clause, the Chairperson shall have a casting vote as well as a deliberative vote.

Schedules 3, 4 (Repealed)

Schedule 5 Savings and transitional provisions

(Section 90)

1 Regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Regulatory Reduction Act 1996, but only in relation to amendments made to this Act or the regulations

Motor Vehicle Repairs Amendment Act 1998

Business Licences Repeal and Miscellaneous Amendments Act 2001

- (2) Any such provision may, if the regulations so provide, take effect as from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than its date of publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

2 Provision consequent on enactment of *Motor Vehicle Repairs Amendment Act 1998*

- (1) Any person holding office immediately before the commencement of this clause as a member of the Council under section 8 (1) (h) ceases to hold that office on the commencement and is not entitled to any remuneration or compensation because of losing that office.
- (2) Any such person is eligible to be appointed to the Council if otherwise qualified.
- (3) Any person holding office immediately before the commencement of this clause as a member of the Council under section 8 (1) (f) or (g) continues to hold that office, for the remainder of the existing term, as representative of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch, and The Australian Workers' Union, New South Wales, respectively.
- (4) Nothing in the amendments made by the *Motor Vehicle Repairs Amendment Act 1998* to Schedule 3 (constitution and membership of the Disputes Committee) affects any person holding office as a member of that Committee immediately before the commencement of this clause.

3 Provision consequent on enactment of *Statute Law (Miscellaneous Provisions) Act 1999*

Any act, matter or thing done:

- (a) on or after 30 June 1987 in respect of the work of an exhaust repairer, or
- (b) on or after 1 April 1992 in respect of the work of a radiator repairer,

that would have been valid if the amendments made by the *Statute Law (Miscellaneous Provisions) Act 1999* to section 4 had been in force at the time that the act, matter or thing was done is validated.