

# Registration of Interests in Goods Regulation 2004

[2004-602]



New South Wales

## Status Information

### Currency of version

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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**  
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### Authorisation

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New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Regulation .....	4
2 Commencement .....	4
3 Definitions .....	4
<b>Part 2 Registration and disclosure of interests</b> .....	5
<b>Division 1 Registration and disclosure of interests in motor vehicles</b> .....	5
4 Definitions .....	5
5 Prime identifier for motor vehicles .....	5
6 Prescribed information relating to motor vehicles .....	6
7 Particulars in search certificates relating to motor vehicles .....	7
<b>Division 2 Registration and disclosure of interests in boats</b> .....	8
8 Definitions .....	8
9 Dealer in boats .....	9
10 Prescribed goods—boats .....	9
11 Prime identifier for boats .....	9
12 Prescribed information relating to boats .....	9
13 Particulars in search certificates relating to boats .....	10
<b>Part 3 Registration and search fees</b> .....	11
14 Prescribed registration fees .....	11

15 Fees for recording other prescribed information relating to boats.....	11
16 Certificate fees .....	12
<b>Part 4 Variation and cancellation of interests .....</b>	<b>12</b>
17 Variation of recorded information .....	12
18 Cancellation of registration of interests.....	13
<b>Part 5 Administrative service fees.....</b>	<b>13</b>
19 Account customer applications.....	13
20 Computer software installation.....	13
21 Registrable interests inquiries .....	13
22 Transfer of registrable interests.....	14
23 Training programs.....	14
<b>Part 6 Participating States .....</b>	<b>14</b>
24 Application of Part .....	14
25 Australian Capital Territory to be a participating State.....	14
26 Northern Territory to be a participating State.....	15
27 Queensland to be a participating State .....	15
28 South Australia to be a participating State.....	15
29 Victoria to be a participating State.....	15
<b>Part 7 Miscellaneous .....</b>	<b>16</b>
30 Liability of authorities supplying registrable information.....	16
31 Fees payable to Director-General .....	16
32 Prescribed penalty notice offences and penalties .....	16
33 Savings.....	16
<b>Schedule 1 Penalty notices .....</b>	<b>16</b>

# Registration of Interests in Goods Regulation 2004



New South Wales

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Registration of Interests in Goods Act 1986*.

REBA PAIGE MEAGHER, M.P., Minister for Fair Trading

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Registration of Interests in Goods Regulation 2004*.

### 2 Commencement

This Regulation commences on 1 September 2004.

#### Note—

This Regulation replaces the *Registration of Interests in Goods Regulation 1999* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**account customer** means a person who has an arrangement, approved by the Director-General, to pay fees incurred by the person under the Act or this Regulation on a monthly basis or on such other basis as the Director-General may approve.

**account number** means the number allocated by the Director-General to the account of an account customer.

**boat** means a **registrable vessel** within the meaning of the *Water Traffic Regulations—N.S.W.* that is registered under those Regulations.

**creditor's reference number** means a number (comprising letters or numbers or both), in such format as the Director-General may approve for the purpose, assigned by a creditor to identify a registrable interest in prescribed goods.

**Director-General** has the same meaning as in the Act.

**Note—**

Clause 32 (4) of the [Public Sector Employment and Management \(General\) Order 2003](#) provides that a reference to the Director-General of the Department of Fair Trading, being a reference in or in relation to legislation administered by the Minister for Fair Trading, is to be construed as a reference to the Commissioner for Fair Trading, Department of Commerce.

**NEVDIS database** means the National Exchange of Vehicle and Driver Information database operated by Austroads.

**on-line connection** means a connection to the Register provided by or through the facilities of a computer communication system and accessed through a telecommunications network that allows for:

- (a) the input, output or examination of computer data or computer programs, or
  - (b) the transmission of computer data from one computer to another,
- but does not include email.

**the Act** or **the Principal Act** means the [Registration of Interests in Goods Act 1986](#).

- (2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Registration and disclosure of interests

### Division 1 Registration and disclosure of interests in motor vehicles

#### 4 Definitions

In this Division:

**registration number** includes a temporary identification number assigned to a motor vehicle by an unregistered vehicle permit issued in respect of the motor vehicle under the [Road Transport \(Vehicle Registration\) Act 1997](#) or similar legislation of a participating State.

**vehicle identification number**, in relation to a motor vehicle, means the number allocated to the vehicle in accordance with the requirements of the Australian Design Rules under the [Motor Vehicle Standards Act 1989](#) of the Commonwealth.

#### 5 Prime identifier for motor vehicles

For the purposes of the Act, the **prime identifier** for a motor vehicle is:

- (a) the chassis number (if the vehicle was manufactured before 1 January 1989), or
- (b) the vehicle identification number (if the vehicle was manufactured on or after 1 January 1989).

## 6 Prescribed information relating to motor vehicles

(1) For the purposes of section 5 (1A) (b) of the Act, the following information is prescribed information in relation to a registrable interest in a motor vehicle:

**Note—**

Section 5 (1A) (b) of the Act requires an application to specify the prime identifier of the goods in addition to the prescribed information.

(a) as to the motor vehicle:

- (i) the motor vehicle type,
- (ii) the motor vehicle make,
- (iii) the body type of the motor vehicle,
- (iv) the registration number of the motor vehicle (if applicable),
- (v) the State or Territory of registration of the motor vehicle (if applicable),
- (vi) the engine number of the motor vehicle (if applicable),
- (vii) the year of manufacture of the motor vehicle,

(b) as to the registrable interest:

- (i) the name and address of the person applying to be registered as the creditor who has the interest,
- (ii) the creditor's reference number for the interest,
- (iii) the type of interest,
- (iv) the date on which the interest will cease to be a registrable interest,
- (v) in the case of an application by an account customer—the account customer's account number.

(2) For the purposes of section 5 (2) of the Act, the information set out in subclause (1), together with the time and date of recording the registrable interest in the Register, is prescribed information in relation to a registrable interest in a motor vehicle.

(3) For the purposes of section 5 (3) of the Act, the following information is prescribed information in relation to motor vehicles:

- (a) information received from the Roads and Traffic Authority in relation to a motor vehicle whose registration has been cancelled under section 67 of the [Fines Act 1996](#),
- (b) information received from the Roads and Traffic Authority in relation to a motor

vehicle whose registration is subject to an exemption under the *Road Transport (Vehicle Registration) Act 1997*,

- (c) information received from the Roads and Traffic Authority in relation to the odometer reading of a motor vehicle,
- (d) information received by the Director-General that the odometer of a motor vehicle has been interfered with so that the reading of the odometer is incorrect,
- (e) information received from a participating State in relation to a cancellation similar to that referred to in paragraph (a), or an exemption or concession similar to that referred to in paragraph (b), effected or given under a law of the participating State,
- (f) information recorded in the NEVDIS database in relation to a motor vehicle,
- (g) information received by the Director-General that a motor vehicle belongs to a class of motor vehicles whose physical or mechanical state has a common fault, being information that, in the opinion of the Director-General, should be drawn to a prospective purchaser's attention,
- (h) information received by the Director-General in relation to an interest in a motor vehicle, if that information is recorded in a register kept in accordance with a law of a State (whether or not a participating State) that provides for the registration of interests in goods that arise under the law of that State,
- (i) information received from the Roads and Traffic Authority in relation to motor vehicles that are wrecked or written off (as defined in Division 3 of Part 4 of the *Road Transport (General) Act 1999*),
- (j) information received from the Roads and Traffic Authority in relation to motor vehicles that are or will be required to be presented for inspection or examination (either by the Authority or police) owing to known or suspected irregularity or other doubt concerning their prime identifiers,
- (k) information received from the Commissioner of Police in relation to motor vehicles reported to the Commissioner as having been stolen or otherwise unlawfully obtained.

## **7 Particulars in search certificates relating to motor vehicles**

- (1) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a motor vehicle (other than a certificate contained in an account customer's statement of account) are as follows:
  - (a) as to the motor vehicle:
    - (i) the motor vehicle type,

- (ii) the motor vehicle make,
  - (iii) the body type of the motor vehicle,
  - (iv) the registration number of the motor vehicle (if applicable),
  - (v) the engine number of the motor vehicle (if applicable),
  - (vi) the prime identifier for the motor vehicle,
  - (vii) the year of manufacture of the motor vehicle,
- (b) as to each interest registered in relation to the motor vehicle:
- (i) the creditor's reference number for the interest,
  - (ii) the date on which the interest was registered,
  - (iii) the name and address of the creditor who has the interest,
  - (iv) the type of interest.
- (2) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a motor vehicle (being a certificate contained in an account customer's statement of account) are as follows:
- (a) the motor vehicle type,
  - (b) the registration number of the motor vehicle (if applicable),
  - (c) the engine number of the motor vehicle (if applicable),
  - (d) the prime identifier for the motor vehicle.

## **Division 2 Registration and disclosure of interests in boats**

### **8 Definitions**

In this Division:

**dealer** in relation to a boat, means a person prescribed by clause 9.

**hull identification number** has the same meaning as in the [Water Traffic Regulations—N.S.W.](#)

**official number** of a boat registered under the [Shipping Registration Act 1981](#) of the Commonwealth means the number by which the boat is identified in the Australian Register of Ships kept under that Act.

**registration number** means the number endorsed on the certificate of registration of a boat issued under the [Water Traffic Regulations—N.S.W.](#)



## 9 Dealer in boats

- (1) For the purposes of paragraph (b) of the definition of **dealer** in section 3 (1) of the Act, a person who, in the course of carrying on business, sells, exchanges or acts as an agent for the selling or exchanging of boats (but who is not a financier) is prescribed as a dealer in boats.
- (2) In this clause, **financier** has the same meaning as in the definition of that term in section 4 (1) of the *Motor Dealers Act 1974* except that references in that definition to motor vehicles are to be read as if they were references to boats.

## 10 Prescribed goods—boats

For the purposes of paragraph (b) of the definition of **prescribed goods** in section 3 (1) of the Act, a boat is prescribed goods.

## 11 Prime identifier for boats

For the purposes of the Act, the **prime identifier** for a boat is the hull identification number.

## 12 Prescribed information relating to boats

- (1) For the purposes of section 5 (1A) (b) of the Act, the following information is prescribed information in relation to a registrable interest in a boat:

### Note—

Section 5 (1A) (b) of the Act requires an application to specify the prime identifier of the goods in addition to the prescribed information.

#### (a) as to the boat:

- (i) the hull manufacturer,
- (ii) the year of manufacture of the hull,
- (iii) the registration number of the boat,
- (iv) the official number (if applicable),
- (v) the length of the boat (expressed in metres),
- (vi) the make of the engine or engines (if applicable),
- (vii) the engine number or numbers (if applicable),

#### (b) as to the registrable interest:

- (i) the name and address of the person applying to be registered as the creditor who has the interest,

- (ii) the creditor's reference number for the interest,
  - (iii) the type of interest,
  - (iv) the date on which the interest will cease to be a registrable interest,
  - (v) in the case of an application by an account customer—the account customer's account number.
- (2) For the purposes of section 5 (2) of the Act, the information set out in subclause (1), together with the time and date of recording the registrable interest in the Register, is prescribed information in relation to a registrable interest in a boat.
- (3) For the purposes of section 5 (3) of the Act, the following information is prescribed information in relation to boats:
- (a) information of a kind referred to in subclause (1) received from a creditor or the agent of a creditor in relation to a boat,
  - (b) information received from the Commissioner of Police in relation to a boat reported to the Commissioner as having been stolen or otherwise unlawfully obtained,
  - (c) information relating to mortgages over boats recorded in the Australian Register of Ships kept under the *Shipping Registration Act 1981* of the Commonwealth,
  - (d) information received by the Director-General in relation to an interest in a boat, if that information is recorded in a register kept in accordance with a law of a State or Territory that provides for the registration of interests in goods that arise under the law of that State or Territory.

### **13 Particulars in search certificates relating to boats**

- (1) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a boat (other than a certificate contained in an account customer's statement of account) are as follows:
- (a) as to the boat:
    - (i) the hull manufacturer,
    - (ii) the year of manufacture of the hull,
    - (iii) the registration number of the boat,
    - (iv) the official number of the boat (if applicable),
    - (v) the engine number or numbers of the boat (if applicable),
    - (vi) the prime identifier for the boat,

- (b) as to each interest registered in relation to the boat:
  - (i) the creditor's reference number for the interest,
  - (ii) the date on which the interest was registered,
  - (iii) the name and address of the creditor who has the interest,
  - (iv) the type of interest.

(2) For the purposes of section 8 (1) (c) of the Act, the prescribed particulars to be included in a certificate under that section in relation to a boat (being a certificate contained in an account customer's statement of account) are as follows:

- (a) the registration number of the boat,
- (b) the engine number or numbers of the boat (if applicable),
- (c) the prime identifier for the boat.

### **Part 3 Registration and search fees**

#### **14 Prescribed registration fees**

For the purposes of section 5 (1A) (c) of the Act, the prescribed fee for an application for registration of a registrable interest in prescribed goods is:

- (a) if the application is made by on-line connection—\$7 for each interest specified in the application, or
- (b) if the application is made by email—\$8.50 for each interest specified in the application, or
- (c) if the application is made in any other way—\$17 for each interest specified in the application.

#### **15 Fees for recording other prescribed information relating to boats**

- (1) The fee payable by a creditor who applies to the Director-General to record in the Register a reference to other prescribed information in relation to a boat that does not have a prime identifier, as referred to in section 5 (3) of the Act, is:
  - (a) if the application is made by on-line connection—\$7 for each boat specified in the application, or
  - (b) if the application is made by email—\$8.50 for each boat in the application, or
  - (c) if the application is made in any other way—\$17 for each boat specified in the application.

- (2) If a prime identifier is affixed to a boat after the date on which any such information has been recorded in the Register in relation to the boat, no additional fee is payable for the recording of that prime identifier.

## **16 Certificate fees**

- (1) For the purposes of section 8 (6) of the Act, the prescribed fee for a certificate under section 8 (1) of the Act is:
- (a) in the case of an application made by an account customer who requests that the certificate take the form of a statement of account:
    - (i) if the application is made by on-line connection—\$4.30 for each item, or
    - (ii) if the application is made in any other way—\$6.30 for each item, or
  - (b) in the case of an application made by an account customer who requests an individual certificate for each item:
    - (i) if the application is made by on-line connection—\$9 for each item (or \$8 for each item if the certificate is delivered electronically), or
    - (ii) if the application is made in any other way—\$10 for each item (or \$9 for each item if the certificate is delivered electronically), or
  - (c) in the case of an application made by a person other than an account customer—\$10 for each certificate (plus \$2 for a facsimile copy of the certificate, if requested by the customer).
- (2) For the purposes of section 8 (6) of the Act, the prescribed fee for a certificate under section 8 (5) of the Act is \$120.

## **Part 4 Variation and cancellation of interests**

### **17 Variation of recorded information**

- (1) For the purposes of section 6 (2) of the Act, the prescribed fee for an application for a variation of the information recorded in the Register is:
- (a) if the application is made by on-line connection—\$4.30 for each interest in respect of which the application is made, or
  - (b) if the application is made by email—\$4.80 for each interest in respect of which the application is made, or
  - (c) if the application is made in any other way—\$8 for each interest in respect of which the application is made.
- (2) For the purposes of section 6 (3) of the Act, each of the following circumstances are

prescribed circumstances relating to a motor vehicle:

- (a) the receipt by the Director-General of information provided by the Roads and Traffic Authority,
  - (b) the receipt by the Director-General of information provided by a department or authority of a participating State that has functions similar to those of the Roads and Traffic Authority in relation to the registration of motor vehicles.
- (3) For the purposes of section 6 (3) of the Act, the receipt by the Director-General of information provided by the Waterways Authority is a prescribed circumstance relating to a boat.
- (4) For the purposes of section 6 (6) (b) of the Act, the prescribed fee payable by a person to whom notice is given of a variation under section 6 (3) of the Act is \$6 for each interest about which the person is notified.

## **18 Cancellation of registration of interests**

For the purposes of section 7 (2) (b) of the Act, the prescribed document is a document signed by the creditor who has the registered interest in a motor vehicle or boat, or by an agent of the creditor, setting out the following particulars:

- (a) the date on which the interest ceased to be a registrable interest,
- (b) the creditor's reference number for that interest,
- (c) if the creditor is an account customer, the creditor's account number.

## **Part 5 Administrative service fees**

### **19 Account customer applications**

The fee payable for an application for approval to become an account customer is \$25.

### **20 Computer software installation**

The fee payable for the installation of an on-line computer software package is:

- (a) for each site visit—\$50, and
- (b) for each hour of the installation—\$75 (up to a maximum of \$150).

### **21 Registrable interests inquiries**

- (1) The fee payable by an account customer for a listing of interests registered in that customer's name is:
- (a) if the inquiry is made by on-line connection—\$10 (plus 30 cents for each page of the list supplied), or

(b) if the inquiry is made in any other way—\$20, and an additional fee, for each list supplied, of:

- (i) if the list is supplied in the form of a written document—40 cents for each page of the list, or
- (ii) if the list is supplied in the form of a computer disk or by email—1 cent for each interest included in the list.

(2) The fee payable by an account customer for a search of the Register, using creditors' reference numbers only, is:

- (a) if the search is made by on-line connection—\$4.30 for each interest, or
- (b) if the search is made in any other way—\$6.30 for each interest.

## **22 Transfer of registrable interests**

The fee payable for the transfer of interests registered in the name of one account customer into the name of another is:

- (a) for each order—\$20, and
- (b) for each interest transferred—\$4.30.

## **23 Training programs**

The fee payable for providing an account customer training program in relation to the operation of the Register is:

- (a) for each full day—\$100, and
- (b) for each half day—\$50.

## **Part 6 Participating States**

### **24 Application of Part**

This Part applies only to prescribed goods that are motor vehicles.

### **25 Australian Capital Territory to be a participating State**

- (1) The Australian Capital Territory is a Territory prescribed for the purposes of the definition of **participating State** in section 3 (1) of the Principal Act.
- (2) Section 32E of the Australian Capital Territory Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) of the Principal Act.
- (3) Section 32F of the Australian Capital Territory Act is a prescribed provision for the purposes of section 14 (2) of the Principal Act.

- (4) In this clause, **Australian Capital Territory Act** means the *Sale of Motor Vehicles Act 1977* of the Australian Capital Territory.

## 26 Northern Territory to be a participating State

- (1) The Northern Territory is a Territory prescribed for the purposes of the definition of **participating State** in section 3 (1) of the Principal Act.
- (2) Section 13 of the Northern Territory Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) of the Principal Act.
- (3) Section 14 of the Northern Territory Act is a prescribed provision for the purposes of section 14 (2) of the Principal Act.
- (4) Sections 16 and 17 of the Northern Territory Act are prescribed provisions for the purposes of section 15 (2) (b) of the Principal Act.
- (5) In this clause, **Northern Territory Act** means the *Registration of Interests in Motor Vehicles and Other Goods Act* of the Northern Territory.

## 27 Queensland to be a participating State

- (1) Queensland is a State prescribed for the purposes of the definition of **participating State** in section 3 (1) of the Principal Act.
- (2) Section 26 of the Queensland Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) and (2) of the Principal Act.
- (3) In this clause, **Queensland Act** means the *Motor Vehicles and Boats Securities Act 1986* of Queensland.

## 28 South Australia to be a participating State

- (1) South Australia is a State prescribed for the purposes of the definition of **participating State** in section 3 (1) of the Principal Act.
- (2) Section 11 of the South Australian Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (1) (c) and 14 (1) of the Principal Act.
- (3) In this clause, **South Australian Act** means the *Goods Securities Act 1986* of South Australia.

## 29 Victoria to be a participating State

- (1) Victoria is a State prescribed for the purposes of the definition of **participating State** in section 3 (1) of the Principal Act.
- (2) Section 7 (7) and (8) of the Victorian Act are prescribed provisions for the purposes of section 14 (2) of the Principal Act.

(3) Section 25 of the Victorian Act is a prescribed provision for the purposes of section 15 (2) (b) of the Principal Act.

(4) In this clause, **Victorian Act** means the *Chattel Securities Act 1987* of Victoria.

## Part 7 Miscellaneous

### 30 Liability of authorities supplying registrable information

For the purposes of section 8 (9) of the Act, the Roads and Traffic Authority is a prescribed authority.

### 31 Fees payable to Director-General

(1) Fees specified in this Regulation are payable to the Director-General.

(2) The Director-General may, in any case, waive or remit the whole or part of a fee.

### 32 Prescribed penalty notice offences and penalties

For the purposes of section 19A of the Act:

(a) an offence under a provision of the Act specified in Column 1 of Schedule 1 is a prescribed offence, and

(b) the amount specified in Column 2 of that Schedule in respect of such an offence is the prescribed amount of penalty for the offence.

### 33 Savings

Any act, matter or thing that, immediately before the repeal of the *Registration of Interests in Goods Regulation 1999*, had effect under that Regulation is taken to have effect under this Regulation.

## Schedule 1 Penalty notices

(Clause 32)

Column 1	Column 2
Provision	Penalty
<b>Offences under <i>Registration of Interests in Goods Act 1986</i></b>	
Section 17 (2)	\$220