

# Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006 No 76

[2006-76]



New South Wales

## Status Information

### Currency of version

Repealed version for 27 October 2006 to 27 October 2006 (accessed 23 December 2024 at 10:11)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Repeal**

The Act was repealed by sec 4 (1) of this Act with effect from 28.10.2006.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 28 October 2006

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# Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006 No 76



New South Wales

An Act to amend the *Fair Trading Act 1987* with respect to an industry code of conduct for the motor vehicle insurance and repair industries; and for other purposes.

## 1 Name of Act

This Act is the *Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006*.

## 2 Commencement

This Act commences on the date of assent to this Act.

## 3 Amendment of *Fair Trading Act 1987 No 68*

The *Fair Trading Act 1987* is amended as set out in Schedule 1.

## 4 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

## Schedule 1 Amendments

(Section 3)

### [1] Part 5E

Insert after Part 5D:

## Part 5E Industry code for motor vehicle insurers and

## repairers

### 60V Definitions

In this Part:

***applicable industry code of conduct*** means a code of conduct declared under section 60X (1).

***insurer*** means an insurer who is in the business of insuring motor vehicles in respect of property damage and who, in the course of that business, engages or authorises repairers to repair motor vehicles.

***repairer*** means a person who is in the business of repairing motor vehicles that have been damaged.

### 60W Object of Part

The object of this Part is to provide for fair, timely and transparent conduct between insurers and repairers so that consumers with damaged motor vehicles are not unduly inconvenienced or unfairly treated as a result of the business practices in, or disputes between, the motor vehicle insurance and repair industries.

### 60X Declaration of industry code of conduct in relation to motor vehicle insurers and repairers

- (1) The regulations may declare that a code of conduct specified or referred to in the regulations is an applicable industry code of conduct for the purposes of this Part in relation to the conduct of the business of insurers and repairers.
- (2) A regulation that declares a code of conduct under subsection (1) may:
  - (a) exclude any class of motor vehicles from the application of the code, and
  - (b) exclude any provision of the code that relates to the voluntary application of that code.
- (3) The regulations may contain provisions of a savings or transitional nature consequent on the declaration of an applicable industry code of conduct.

### 60Y Compliance with applicable industry code of conduct

- (1) An insurer or repairer must, in trade or commerce, comply with an applicable industry code of conduct.
- (2) If an alleged contravention of an applicable industry code of conduct is the subject of a dispute between an insurer and repairer, the provisions of Part 6 for enforcement or remedies in respect of the contravention do not apply unless:

- (a) the dispute resolution procedures under the code have been followed but the dispute has not been resolved, or
  - (b) the insurer or repairer refuses to take part in those procedures.
- (3) An insurer or repairer may only take action under Part 6 if the insurer or repairer is not the party refusing to take part in the dispute resolution procedures under the applicable industry code of conduct.
- (4) The Minister and the Director-General may decline to take action under Part 6 with respect to an alleged contravention of an applicable industry code of conduct if they consider that it is not in the public interest to take that action.

**[2] Section 62 Offences against this Act**

Omit “other than section 42 or 43” from section 62 (1).

Insert instead “other than section 42, 43 or 60Y”.

**[3] Section 65 Injunctions**

Insert “, 5E” after “, 5D” in section 65 (1) (a).

**[4] Section 66 Other injunctions**

Insert “, 5E” after “, 5D” in section 66 (1) (a) (i).

**[5] Section 67 Order to disclose information or publish advertisement**

Insert “, 5E” after “, 5D”.

**[6] Section 68 Actions for damages**

Omit “or 5D” from section 68 (1). Insert instead “, 5D or 5E”.

**[7] Section 69 Finding in proceedings to be evidence**

Omit “or 5D”. Insert instead “, 5D or 5E”.

**[8] Section 72 Other orders**

Omit “contravened a provision of Part 3, 4, 5, 5B, 5C, 5D or 8” wherever occurring from section 72 (1) and (2).

Insert instead “contravened a provision of Part 3, 4, 5, 5B, 5C, 5D, 5E or 8”.

**[9] Section 72 (3)**

Omit “contravention of Part 3, 4, 5, 5B, 5C, 5D or 8”.

Insert instead “contravention of Part 3, 4, 5, 5B, 5C, 5D, 5E or 8”.

**[10] Section 72 (4)**

Omit “contravention of a provision of Part 3, 4, 5, 5B, 5C, 5D or 8”.

Insert instead “contravention of a provision of Part 3, 4, 5, 5B, 5C, 5D, 5E or 8”.

**[11] Schedule 5 Savings and transitional provisions**

Insert at the end of clause 12 (1):

*Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Act 2006*