



New South Wales

# Motor Vehicle Repairs Regulation 2011

under the

Motor Vehicle Repairs Act 1980

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Vehicle Repairs Act 1980*.

ANTHONY ROBERTS, MP  
Minister for Fair Trading

## Explanatory note

The object of this Regulation is to remake, with some amendments, the provisions of the *Motor Vehicle Repairs Regulation 1999*, which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation includes a provision prescribing an officer who may authorise proceedings for an offence under the *Motor Vehicle Repairs Act 1980* (*the Act*) to be taken and prosecuted.

The Regulation makes provision with respect to the following:

- (a) the records to be kept by a licensed motor vehicle repairer in relation to certain motor vehicle parts acquired by the repairer,
- (b) the classes of work that are repair work for the purposes of the Act,
- (c) the fees payable for the purposes of the Act,
- (d) the offences under the Act that are penalty notice offences,
- (e) the amendment of licences,
- (f) the resources that an applicant for a licence is required to have,
- (g) the display of signs and licences,
- (h) the particulars to be contained in the Register of Undertakings,
- (i) the persons who may issue evidentiary certificates,
- (j) savings and formal matters.

This Regulation is made under the *Motor Vehicle Repairs Act 1980*, including sections 4 (1) (the definition of *repair work*), 18 (1) (g) and (3) (f), 20 (1) (f), 48 (3), 78 (2), 87 (1) (a), 87A and 89 (the general regulation-making power).

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## Motor Vehicle Repairs Regulation 2011

under the

Motor Vehicle Repairs Act 1980

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Motor Vehicle Repairs Regulation 2011*.

#### 2 Commencement

This Regulation commences on 1 September 2011 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Motor Vehicle Repairs Regulation 1999* which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

*licensee* means the holder of a licence.

*parts acquired by purchase* means traceable parts that a licensee acquires by purchase in the course of carrying on the business of a repairer.

*parts acquired otherwise than by purchase* means traceable parts that a licensee acquires otherwise than by purchase in the course of carrying on the business of a repairer.

*record of traceable parts* means a record referred to in clause 4.

*the Act* means the *Motor Vehicle Repairs Act 1980*.

*traceable part* means any of the following:

- (a) major body components, being:
  - (i) chassis and major body sections, and
  - (ii) bonnets, and
  - (iii) right and left front doors, and
  - (iv) right and left front mudguards, and
  - (v) front and rear bumper bars, and
  - (vi) front apron panels,

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- (b) major mechanical components, being:
    - (i) engines and engine blocks, and
    - (ii) gearboxes and transmissions,
  - (c) major car accessories, being car radio, tape or compact disc equipment.
- (2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Records

### 4 Licensee to keep records

- (1) A licensee must keep records, in accordance with this Part, of all traceable parts acquired by the licensee.  
Maximum penalty: 20 penalty units.
- (2) The records may be kept in writing or in electronic form.
- (3) The records must distinguish between parts acquired by purchase and parts acquired otherwise than by purchase.
- (4) The record of a part must include the following:
  - (a) if the part was acquired by purchase—the invoice, receipt or other document (or a copy of it) issued to the licensee in connection with the licensee's acquisition of the part,
  - (b) if the part was acquired otherwise than by purchase—the date on which the part was removed from a vehicle or otherwise acquired by the licensee and the identity of:
    - (i) the vehicle from which the part was removed, or
    - (ii) the person from whom the part was acquired,
  - (c) the date on which the part was fitted, sold or otherwise disposed of by the licensee and the identity of:
    - (i) the vehicle to which the part was fitted, or
    - (ii) the person to whom the part was sold or otherwise disposed of.

### 5 Records kept in writing

- (1) A record of traceable parts that is kept in writing:
  - (a) must be in English and be readily decipherable, and
  - (b) must not be torn, defaced or otherwise mutilated or contain any erasures.
- (2) This clause does not prohibit matter in a record from being altered by deleting particulars (such as by placing a line through the particulars) if those deleted particulars remain readily decipherable.

### 6 Records kept in electronic form

A record of traceable parts that is kept in electronic form must be kept by means of software that ensures that:

- (a) the information in the record:
  - (i) is capable of being displayed and printed, on demand, at each place of business to which the licence relates, and

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Part 2 Records

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- (ii) is in a format that is readily intelligible when it is so displayed or printed, and
- (iii) includes the date on which each entry in the record was made, and
- (b) in the event that any information in the record is amended or deleted, a record is kept of:
  - (i) the information in the form in which it was before it was amended or deleted, and
  - (ii) the date on which the information was amended or deleted.

### 7 Completion of records

A licensee who keeps a record of traceable parts:

- (a) must ensure that all information that is required to be entered in the record in relation to any transaction or event is entered within one business day after the transaction or event occurs, and
- (b) must ensure that no information is entered in the record otherwise than by a person authorised by the licensee, and
- (c) if the record is kept in electronic form—must ensure that the information in the record is backed up at intervals of no more than one week.

Maximum penalty: 20 penalty units.

### 8 Retention of records

A licensee who keeps a record of traceable parts must:

- (a) retain the record (together with all copies of records that have been printed out and verified in relation to the record) for at least 6 years after the date on which the last entry was made in it, and
- (b) if required to do so by an inspector before the expiration of that period, make available to the inspector, the record or in the case of a record kept in electronic form:
  - (i) a computer at which the inspector can view the information contained in the record, or
  - (ii) a print-out of the information contained in the record.

Maximum penalty: 20 penalty units.

### 9 False or misleading entries

A person must not make an entry in a record of traceable parts knowing that the entry is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

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## Part 3 General

### 10 Classes of repair work

For the purposes of the definition of *repair work* in section 4 (1) of the Act, each of the classes of work set out in Schedule 1 is prescribed as a class of repair work.

### 11 Fees

The fees specified in Column 2 of Schedule 2 are payable in respect of the matters specified in Column 1 of that Schedule.

### 12 Amendment of licences

For the purposes of section 20 (1) (f) of the Act, the amendment of a licence to reflect any of the following is prescribed:

- (a) the acquisition by the licensee of a new registered business name under the *Business Names Act 2002*,
- (b) the loss by the licensee of a former registered business name under the *Business Names Act 2002*,
- (c) in the case of a licence for a corporation, a change in the corporation's corporate name.

### 13 Resources required by applicants for licences

For the purposes of section 18 (1) (g) and (3) (f) of the Act, an applicant for a licence in respect of a particular class of repair work must have, or employ at least one other person who has, a tradesperson's certificate in respect of that class of repair work.

### 14 Display of signs

A licensee must display in a prominent place at each place of business for which the licence is granted or, if the licensee carries on business solely from a vehicle, on the outside of the vehicle, a sign that:

- (a) contains the words "licensed vehicle repairer", and
- (b) specifies the class or classes of repair work for which the licence is granted, and
- (c) contains the words "licence number" followed by the number of the licence, and
- (d) has lettering of at least 65 millimetres in height.

Maximum penalty: 20 penalty units.

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Clause 15 Motor Vehicle Repairs Regulation 2011

Part 3 General

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### 15 Display of licence

A licensee must display the licence (or a copy of it) in a prominent place:

- (a) at each place of business for which the licence is granted, and
- (b) inside each vehicle from which the licensee carries on business.

Maximum penalty: 20 penalty units.

### 16 Register of Undertakings

For the purposes of section 48 (3) of the Act, the Register of Undertakings must contain the following particulars in relation to each deed executed by a repairer under Part 5 of the Act:

- (a) the repairer's name and licence number,
- (b) the address of the repairer's premises (if any),
- (c) the date on which the deed was executed by the repairer,
- (d) brief particulars of the circumstances and unjust conduct that led to the execution of the deed,
- (e) a summary of the undertakings given by the repairer in the deed.

### 17 Evidentiary certificates

For the purposes of section 78 (2) of the Act, the Director-General of the Department of Finance and Services and the persons holding the following positions in that Department are prescribed officers:

- (a) the Assistant Commissioner, Compliance and Enforcement, NSW Fair Trading,
- (b) the Assistant Commissioner, Customer and Property Services, NSW Fair Trading,
- (c) the Director, Property and Licensing, NSW Fair Trading.

### 18 Prescribed officer for proceedings

- (1) For the purposes of section 87 (1) (a) of the Act, the Commissioner for Fair Trading or any officer of the Department of Finance and Services authorised in writing by the Commissioner for the purposes of this clause are the prescribed officers.
- (2) In this clause, *Commissioner for Fair Trading* means
  - (a) the Commissioner for Fair Trading, Department of Finance and Services, or
  - (b) if there is no such position in that Department—the Director-General of that Department.

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**19 Penalty notices**

For the purposes of section 87A of the Act:

- (a) an offence under a provision of the Act or this Regulation specified in Column 1 of Schedule 3 is prescribed as a penalty notice offence, and
- (b) the amount of penalty for each such offence is the amount specified opposite the provision in Column 2 of that Schedule.

**20 Savings**

Any act, matter or thing that, immediately before the repeal of the *Motor Vehicle Repairs Regulation 1999*, had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1 Classes of repair work

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### Schedule 1 Classes of repair work

(Clause 10)

#### **Automotive electricians—fixed workshops**

The work carried out by persons who repair electrical equipment, systems or circuits in motor vehicles and who work from fixed workshops.

#### **Automotive electricians—mobile workshops**

The work carried out by persons who repair electrical equipment, systems or circuits in motor vehicles and who work from mobile workshops.

#### **Body makers**

The work carried out by persons who make motor vehicle bodies otherwise than in the course of manufacturing new motor vehicles or who repair motor vehicle bodies.

#### **Brake mechanics**

The work carried out by persons who repair brake equipment or systems in motor vehicles.

#### **Exhaust repairers**

The work carried out by persons who repair exhaust systems on motor vehicles, but does not include persons who repair 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 specialists**

The work carried out by persons who repair the steering or suspension systems of motor vehicles.

#### **Liquefied petroleum gas mechanics**

The work carried out by persons who install or repair pipes, fittings, apparatus or appliances used for, or designed for use in, the conveyance or consumption of liquefied petroleum gas, in motor vehicles.

In this clause:

***liquefied petroleum gas*** means a liquid or gaseous substance that is a mixture of hydrocarbons basically consisting of any one or more of the following—butane, butene, propane or propene.

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**Motor cycle mechanics**

The work carried out by persons who repair the engines or transmissions or the fuel, induction, exhaust, electrical, steering, suspension, cooling or braking systems, of motor cycles only.

**Motor mechanics—fixed workshops**

The work carried out by persons who repair the engines or transmissions or the fuel, induction, exhaust, electrical, steering, suspension, cooling or braking systems, of motor vehicles and who work from fixed workshops.

**Motor mechanics—mobile workshops**

The work carried out by persons who repair the engines or transmissions or the fuel, induction, exhaust, electrical, steering, suspension, cooling or braking systems, of motor vehicles and who work from mobile workshops.

**Natural gas mechanics**

The work carried out by persons who install or repair pipes, fittings, apparatus or appliances used for, or designed for use in, the conveyance or consumption of natural gas, in motor vehicles.

In this clause:

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

**Panelbeaters**

The work carried out by persons who repair the structural components, frames or panel work of motor vehicles.

**Radiator repairers**

The work carried out by persons who repair the radiators, heating equipment, thermostats or fuel tanks of motor vehicles.

**Transmission specialists**

The work carried out by persons who repair the gears, clutches, drive shafts and differentials of motor vehicles and the controlling systems for those parts in motor vehicles.

**Vehicle painters—fixed workshops**

The work carried out by persons who paint motor vehicles and who work from fixed workshops.

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Schedule 1      Classes of repair work

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### **Vehicle painters—mobile workshops**

The work carried out by persons who paint motor vehicles and who work from mobile workshops.

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**Schedule 2 Fees**

(Clause 11)

<b>Column 1</b>	<b>Column 2</b>
	<b>Fee \$</b>
Grant of a tradesperson's certificate under section 24 of the Act	60
Application for a licence made under section 16 (1) of the Act:	
(a) if made by the holder of a previous licence (whether for the same premises as those the subject of the previous licence or for other premises) and if made within 12 months after the surrender, cancellation or revocation of the previous licence—for each place of business or mobile workshop in or with respect to which the applicant proposes to carry on business, or	301
(b) in any other case:	
(i) an initial application fee, and	434
(ii) for each place of business or mobile workshop in or with respect to which the applicant proposes to carry on business	196
An inspection made by the Authority	71
Annual licence fee under section 21 of the Act—for each place of business or mobile workshop	196

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Schedule 3 Penalty notices

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### Schedule 3 Penalty notices

(Clause 19)

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty \$</b>
<b>Offences under the Act</b>	
Section 15 (1) (a)	5,500
Section 15 (1) (b)	5,500
Section 16 (5)	330
Section 16 (6)	330
Section 18B (2)	330
Section 20 (4)	330
Section 22 (1)	330
Section 22 (2)	330
Section 22 (3)	330
Section 33 (6)	330
Section 40 (a)	330
Section 40 (b)	330
Section 44 (4)	330
Section 44 (7)	330
Section 44 (8) (a)	330
Section 44 (8) (b)	330
Section 47 (4)	330
Section 49 (6)	330
Section 73 (2)	330
Section 75B (5)	330
Section 77C (4)	2,200
<b>Offences under this Regulation</b>	
Clause 4 (1)	330
Clause 7	330
Clause 8	330

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Penalty notices

Schedule 3

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<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty \$</b>
Clause 14	330
Clause 15	330

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