



New South Wales

Motor Dealers and Repairers Amendment Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Motor Dealers and Repairers Act 2013* (*the Act*) to address the recommendations of the statutory review of the Act, including to—

- (a) insert a new legislative framework to permit and regulate the online sale of motor vehicles by motor dealers, and
- (b) replace the requirement for motor dealers, motor vehicle recyclers and motor vehicle repairers to maintain separate registers for specified matters with a more general requirement to keep certain records in relation to their business, and
- (c) make changes relating to the consumer guarantee for motor vehicles under the *Australian Consumer Law (NSW)* (*ACL*), and
- (d) make it an offence to possess a device capable of rendering the odometer of a motor vehicle inoperative or inaccurate, and
- (e) make it an offence for a motor vehicle recycler to buy a motor vehicle or motor vehicle part or accessory with cash or to buy or sell an unidentified vehicle, and
- (f) make changes relating to the disciplinary process for licence holders and former licence holders, and
- (g) make changes to the period within which a person may make a claim for compensation from the Motor Dealers and Repairers Compensation Fund, and
- (h) increase the maximum monetary penalty for various offences, and
- (i) make other minor and consequential amendments.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Motor Dealers and Repairers Act 2013 No 107

Schedule 1[1] inserts proposed definitions of *NSW Fair Trading website*, *online motor dealer*, *online purchaser* and *required qualifications or experience*.

Schedule 1[2], [3], [53] and [62] make changes consequent on administrative changes to government departments.

Schedule 1[4] inserts a regulation-making power to enable a regulation to exempt a person from the prohibition in section 11 on unlicensed motor dealers in relation to the offer or display for sale of a motor vehicle at a declared trade show. The exemption may be subject to conditions imposed by a regulation or the Secretary.

Schedule 1[5]–[7], [9]–[11], [13]–[15], [17], [32] and [34] increase the maximum monetary penalty for various offences. **Schedule 1[8], [12] and [16]** make consequential amendments.

Schedule 1[18] inserts a proposed section that makes it an offence for a motor dealer to fail to display the motor dealer's licence number on the motor dealer's website and on all advertising material distributed or displayed by the motor dealer.

Schedule 1[19] requires an applicant for a motor dealer's licence who intends to use a website to offer for sale and sell motor vehicles to include the URL of the website in the application. **Schedule 1[21]** requires the applicant to also include, in the application, the addresses of premises intended to be used for storage or as an office and of other premises of a kind prescribed by a regulation. **Schedule 1[20]** makes a consequential amendment.

Schedule 1[22] inserts a note stating it is an offence under the *Crimes Act 1900*, Part 5A to knowingly provide false or misleading information or to knowingly produce documents that are false or misleading in purported compliance with a law of the State.

Schedule 1[23]–[25], when read with the proposed new definition of required qualifications or experience, provide that the Secretary may specify, by notice published on the NSW Fair Trading website, qualifications or experience a person must have to be granted a licence under the Act. If the applicant is a body corporate, the officers of the body corporate must have the required qualifications or experience.

Schedule 1[26] requires the Secretary to cancel a person's licence in circumstances where the Secretary would refuse an application for a licence by the person. The Secretary must provide written notice informing the person of the cancellation of the person's licence, the reasons for the cancellation and the date on which the cancellation takes effect.

Schedule 1[28] enables disciplinary action to be commenced against a former licence holder up to 5 years after the person last ceased to be a licence holder. Currently, disciplinary action must not be commenced against a former licence holder more than 12 months after the person last ceased to be a licence holder. **Schedule 1[27]** makes a consequential amendment. **Schedule 1[63]** makes a consequential amendment of a savings and transitional nature.

Schedule 1[29] inserts a proposed section that enables disciplinary action to be commenced against an individual who is a member of a partnership or an officer of a body corporate that is the holder of a licence if the holder has engaged in improper conduct. The individual's response to a show cause notice will be sufficient if the Secretary is satisfied of certain conditions.

Schedule 1[30] enables the Secretary to require, as a disciplinary action against a person, the payment of an amount of up to \$11,000, for an individual, or \$50,000, for a body corporate.

Schedule 1[31] provides that the Secretary must not do so in relation to certain grounds for disciplinary action or if the person has already been found guilty of an offence relating to the grounds on which the disciplinary action is proposed to be taken. **Schedule 1[57]** enables a person on whom a payment requirement is imposed to apply to the Civil and Administrative Tribunal for an administrative review of the decision.

Schedule 1[35] enables the Secretary to impose conditions on the approval of the repair or replacement of an odometer, including in circumstances in which an odometer cannot be reset or has reached its operational limit.

Schedule 1[36] updates section 53 and makes it an offence to possess a device capable of rendering the odometer of a motor vehicle inoperative or inaccurate, unless a person is a licensed motor vehicle repairer and lawfully repairs or replaces odometers in the course of carrying on a business as a motor vehicle repairer.

Schedule 1[37] removes the current exception to the requirement that a person must not offer or display for sale, or sell, by auction a motor vehicle to which a number-plate is attached unless a current inspection report is attached to the vehicle.

Schedule 1[38] inserts a further regulation-making power relating to dealers' notices.

Schedule 1[39] inserts proposed Part 4, Division 3A relating to the online sale of motor vehicles. An online motor dealer is a motor dealer who uses a website to offer for sale and sell motor vehicles. An online purchaser means a purchaser of a motor vehicle from an online motor dealer through the online motor dealer's website. Key provisions include—

- (a) proposed section 66C, which requires an online motor dealer to give an online purchaser, and a prospective online purchaser, the opportunity to carry out inspections of a motor vehicle at certain points in an online sales transaction and at certain places, and
- (b) proposed section 66D, which enables a cap to be imposed on the deposit an online purchaser may be required to pay to an online motor dealer before the online purchaser takes possession of a motor vehicle.

Schedule 1[43] provides that a person who has already enforced certain consumer guarantees under the ACL may not, if the consumer guarantees are fully complied with, also take action against the motor dealer under the dealer guarantee in relation to a matter that has been dealt with under the consumer guarantees. **Schedule 1[40] and [41]** make consequential amendments.

Schedule 1[44] and [45] make amendments to existing provisions relating to dealer-financed purchases of motor vehicles consequent on the amendments relating to the online sale of motor vehicles. **Schedule 1[33] and [42]** make other consequential amendments relating to the online sale of motor vehicles.

Schedule 1[46] inserts proposed section 99A, which makes it an offence for a motor vehicle recycler to buy a motor vehicle or motor vehicle part or accessory with cash, by cheque payable to cash or in kind with goods and services. **Schedule 1[46]** inserts proposed section 99B, which also makes it an offence for a motor vehicle recycler to buy or sell a motor vehicle if the vehicle's unique identifier, within the meaning of the *Crimes Act 1900*, section 154E, has been removed, obliterated, defaced or altered, unless the motor vehicle recycler has received written authorisation from a police officer to buy or sell the vehicle.

Schedule 1[47] replaces the requirement for the holder of a motor dealer's licence, a motor vehicle recycler's licence or a motor vehicle repairer's licence to maintain separate registers for specified matters relating to the holder's business with the requirement that the holders of the licences instead maintain certain records in relation to their business. The Secretary may, by notice published on the NSW Fair Trading website, specify the records required to be kept, including the form of the records. A regulation may also make provision about the records required to be kept. **Schedule 1[50]–[52], [54] and [58]** make consequential amendments. In particular, **Schedule 1[54]** recasts an existing evidentiary provision relating to registers to apply instead to records and **Schedule 1[58]** recasts an existing offence relating to false and misleading information in registers to apply instead to records.

Schedule 1[48] enables the Secretary to serve a rectification order on a motor dealer if the Secretary is satisfied that an act, matter or thing done or required to be done by the motor dealer to comply with a consumer guarantee under the ACL has not been done or is incomplete or defective. The motor dealer may be required under the rectification order to take steps to ensure the act, matter or thing is completed or the defect is rectified. **Schedule 1[49]** makes a consequential amendment.

Schedule 1[55] increases the period within which a person who has incurred certain losses in connection with a motor vehicle may make a claim for compensation from the Motor Dealers and Repairers Compensation Fund. A claim may be made within 18 months, instead of 12 months, after the loss is incurred or the claimant becomes aware of the loss. **Schedule 1[56]** provides that a claim may also be made within 12 months of the claimant obtaining a judgment or order of a court in relation to the loss if the judgment or order has not been paid and was obtained within 18 months after the loss was incurred or the claimant became aware of the loss.

Schedule 1[59] inserts a regulation-making power to regulate online motor dealers.

Schedule 1[60] widens the scope of an existing regulation-making power to enable a regulation to prohibit or regulate the employment, by a licence holder, of certain categories of persons.

Schedule 1[61] enables the Secretary to exempt a licence holder from a regulation that prohibits or regulates the employment of certain categories of persons.

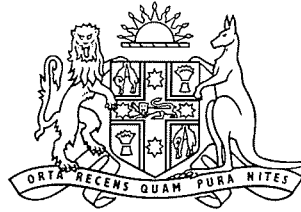


New South Wales

Motor Dealers and Repairers Amendment Bill 2023

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New South Wales

Motor Dealers and Repairers Amendment Bill 2023

No. , 2023

A Bill for

An Act to amend the *Motor Dealers and Repairers Act 2013* to give effect to the recommendations of a statutory review of that Act; and for other purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Motor Dealers and Repairers Amendment Act 2023*.

3

2 Commencement

4

This Act commences on a day or days to be appointed by proclamation.

5

Schedule 1	Amendment of Motor Dealers and Repairers Act 2013 No 107	1
		2
[1] Section 4 Definitions		3
	Insert in alphabetical order in section 4(1)—	4
	<i>consumer guarantee</i> —see section 67(1).	5
	<i>NSW Fair Trading website</i> means—	6
	(a) the website with the URL www.fairtrading.nsw.gov.au , or	7
	(b) another website used by the Secretary to provide public access to information for this Act.	8 9
	<i>online motor dealer</i> means a motor dealer who uses a website to offer for sale and sell motor vehicles.	10 11
	<i>online motor dealer’s website</i> means the website used by an online motor dealer.	12 13
	<i>online purchaser</i> means a purchaser of a motor vehicle from an online motor dealer through the online motor dealer’s website.	14 15
	<i>required qualifications or experience</i> , in relation to a licence application, means the qualifications, experience or other criteria specified by the Secretary, by notice published on the NSW Fair Trading website, for—	16 17 18
	(a) an individual who is an applicant for a licence, or	19
	(b) the officers of a body corporate that is an applicant for a licence.	20
[2] Section 4(1), definition of “Secretary”, paragraph (a)		21
	Omit “, Department of Finance, Services and Innovation”.	22
	Insert instead “within the department in which this Act is administered”.	23
[3] Section 4(1), definition of “Secretary”, paragraph (b)		24
	Omit “Department of Finance, Services and Innovation”.	25
	Insert instead “department in which this Act is administered”.	26
[4] Section 11 Unlicensed motor dealers		27
	Insert at the end of the section—	28
	(2) A regulation may exempt a person or class of persons from this section in relation to the offer or display for sale of a motor vehicle at a declared trade show.	29 30 31
	(3) The exemption may be subject to conditions imposed by—	32
	(a) a regulation, or	33
	(b) the Secretary by notice published on the NSW Fair Trading website.	34
	(4) In this section—	35
	<i>declared trade show</i> means a trade show declared by the Secretary by notice published on the NSW Fair Trading website.	36 37
[5] Section 15 Repair work must be done by licensed motor vehicle repairers		38
	Insert at the end of section 15(1), before the note—	39
	Maximum penalty—50 penalty units.	40

[6] Section 15(1A)	1
Insert at the end of the subsection, before the note—	2
Maximum penalty—	3
(a) for an individual—50 penalty units, or	4
(b) for a body corporate—250 penalty units.	5
[7] Section 15(2)	6
Insert at the end of the subsection—	7
Maximum penalty—50 penalty units.	8
[8] Section 15	9
Omit the penalty provision from the end of the section.	10
[9] Section 16 Repair work must be done by holder of tradesperson’s certificate	11
Insert at the end of section 16(1), before the note—	12
Maximum penalty—50 penalty units.	13
[10] Section 16(1A)	14
Insert at the end of the subsection, before the note—	15
Maximum penalty—	16
(a) for an individual—50 penalty units, or	17
(b) for a body corporate—250 penalty units.	18
[11] Section 16(2)	19
Insert at the end of the subsection—	20
Maximum penalty—50 penalty units.	21
[12] Section 16	22
Omit the penalty provision from the end of the section.	23
[13] Sections 17, 47(2), 48(1), 49, 57(1), 58(1), 59, 63(3), 64, 83(1), 89(1), 90, 91, 92(1), 94, 95(1), 97–99, 103(4) and 184	24
Omit “20 penalty units” wherever occurring in the penalty provisions.	25
Insert instead “50 penalty units”.	26
[14] Section 18 Transfer or loan of tradesperson’s certificate	27
Insert at the end of section 18(1)—	28
Maximum penalty—50 penalty units.	29
[15] Section 18(2)	30
Insert at the end of the subsection—	31
Maximum penalty—20 penalty units.	32
[16] Section 18	33
Omit the penalty provision from the end of the section.	34
[17] Section 19 Production of licences and certificates	35
Omit “10 penalty units” from the penalty provision. Insert instead “20 penalty units”.	36
	37

[18] Section 19A	1
Insert after section 19—	2
19A Licence number must appear on website and advertising	3
(1) A motor dealer must ensure the motor dealer’s licence number is displayed, in accordance with subsection (2), on—	4
(a) the website of the motor dealer, whether or not the dealer is an online motor dealer, and	5
(b) all advertising material distributed or displayed by the motor dealer.	6
Maximum penalty—20 penalty units.	7
(2) For subsection (1), the motor dealer’s licence number must be—	8
(a) displayed in a reasonably prominent position on—	9
(i) the website, and	10
(ii) advertising material, and	11
(b) clearly legible, and	12
(c) identified as the licence number of the motor dealer.	13
(3) In this section—	14
<i>licence number</i> means the unique identifier referred to in the <i>Licensing and Registration (Uniform Procedures) Act 2002</i> , section 20.	15
[19] Section 20B Application for licence to carry on business at premises	16
Insert after section 20B(2)(a)—	17
(a1) if the applicant intends to be an online motor dealer—the URL of the applicant’s proposed online motor dealer’s website,	18
[20] Section 20B(3)	19
Insert “, URL” after “premises”.	20
[21] Section 20B(4A)	21
Insert after section 20B(4)—	22
(4A) If an applicant intends to be an online motor dealer, the applicant must include the addresses of the following premises under subsection (2)(a)—	23
(a) premises intended for storage, including the storage of—	24
(i) motor vehicles, or	25
(ii) records,	26
(b) premises intended for use as an office,	27
(c) premises of a kind prescribed by a regulation.	28
[22] Section 20B, note	29
Insert at the end of the section—	30
Note— It is an offence under the <i>Crimes Act 1900</i> , Part 5A to knowingly provide false or misleading information or to knowingly produce documents that are false or misleading in purported compliance with a law of the State.	31
[23] Section 25 Grounds for refusal—licences other than tradespersons’ certificates	32
Omit section 25(2)(e). Insert instead—	33

	(e) that the applicant does not have the required qualifications or experience for the licence,	1 2
[24]	Section 25(3)(b)	3
	Omit the paragraph. Insert instead—	4
	(b) the officers of the body corporate do not have the required qualifications or experience for the licence,	5 6
[25]	Section 26 Mandatory grounds for refusal—tradespersons' certificates	7
	Omit section 26(2).	8
[26]	Section 37	9
	Insert after section 36—	10
	37 Cancellation of licence	11
	(1) The Secretary must cancel a person's licence if the Secretary would be required under section 25 to refuse an application for a licence by the person.	12 13
	(2) If the Secretary cancels a person's licence under subsection (1), the Secretary must, by written notice given to the person, inform the person the licence has been cancelled under this section.	14 15 16
	(3) The notice must—	17
	(a) set out the reasons for the cancellation, and	18
	(b) specify the date, not earlier than the date the notice is given to the person, on which the cancellation takes effect.	19 20
	(4) The cancellation takes effect on the date specified in the notice.	21
[27]	Section 38 Grounds for disciplinary action—all licences	22
	Omit "not" from section 38(1)(c). Insert instead "no longer".	23
[28]	Section 38(2)	24
	Omit "12 months". Insert instead "5 years".	25
[29]	Section 39A	26
	Insert after section 39—	27
	39A Members of partnerships or officers of bodies corporate	28
	(1) Disciplinary action may be taken under this division against an individual who is a member of a partnership or an officer of a body corporate that is the holder of a licence if the holder of the licence has engaged in improper conduct.	29 30 31
	(2) The reference in subsection (1) to an individual who is a member of a partnership includes a reference to an individual who is an officer of a body corporate that is a member of a partnership.	32 33 34
	(3) It is a sufficient response to the show cause notice given to the individual under section 41 if the individual's submissions to the Secretary satisfy the Secretary that—	35 36 37
	(a) the improper conduct occurred without the individual's knowledge, or	38
	(b) the individual was not in a position to influence the conduct of the other members of the partnership or other officers of the body corporate, of	39 40

which the individual was a member or an officer, to prevent the improper conduct, or	1
(c) the individual, being in the position, used all due diligence to prevent the occurrence of the improper conduct.	2
(4) In this section—	3
<i>improper conduct</i> means conduct that constitutes a ground for disciplinary action under section 38 or 39.	4
[30] Section 45 Secretary may take disciplinary action	5
Insert after section 45(1)(d)—	6
(d1) require the person to pay to the Secretary the following within a specified time—	7
(i) for an individual—an amount up to \$11,000,	8
(ii) for a body corporate—an amount up to \$50,000,	9
[31] Section 45(4)	10
Insert after section 45(3)—	11
(4) The Secretary must not require a person to pay an amount under subsection (1)(d1)—	12
(a) in relation to grounds for disciplinary action mentioned in section 38(1)(c)–(f), 39(j) or 40, or	13
(b) if the person has been found guilty of an offence in relation to the grounds specified in the show cause notice given to the person.	14
[32] Section 47 Offences	15
Omit “20 penalty units” from section 47(1), penalty provision.	16
Insert instead “200 penalty units”.	17
[33] Section 48 Motor vehicles must be sold at licensed premises	18
Omit section 48(5). Insert instead—	19
(5) Exception—online motor dealers	20
A person is not guilty of an offence against this section if a motor vehicle is displayed for sale at another place if—	21
(a) the person is an online motor dealer, and	22
(b) the place is a place agreed to under section 66C(1)(b).	23
[34] Section 52 Odometer tampering	24
Omit “200 penalty units” in section 52(1). Insert instead “500 penalty units”.	25
[35] Section 52(5A)	26
Insert after section 52(5)—	27
(5A) An approval by the Secretary under subsection (5)(a) may be given subject to conditions, including in circumstances in which an odometer cannot be reset or has reached its operational limit.	28
[36] Section 53	29
Omit the section. Insert instead—	30
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53	Devices to facilitate odometer tampering	1
(1)	A person must not possess a device capable of rendering the odometer of a motor vehicle inoperative or inaccurate. Maximum penalty—500 penalty units.	2 3 4
(2)	A person must not fit to a motor vehicle a device capable of rendering the odometer of the motor vehicle inoperative or inaccurate. Maximum penalty—500 penalty units.	5 6 7
(3)	It is a defence in proceedings for an offence under subsection (1) if the defendant—	8 9
(a)	holds a motor vehicle repairer’s licence, and	10
(b)	lawfully repairs or replaces the odometers of motor vehicles in the course of carrying on a business as a motor vehicle repairer.	11 12
[37]	Section 57 Sale at auction with number-plates	13
	Omit section 57(2).	14
[38]	Section 62 Dealers’ notices—disclosure and other requirements	15
	Insert after section 62(3)—	16
(4)	A regulation may make further provision about dealers’ notices, including—	17
(a)	the storage, including electronic storage, of dealers’ notices, and	18
(b)	the production of dealers’ notices.	19
[39]	Part 4, Division 3A	20
	Insert after Division 3—	21
	Division 3A Online sale of motor vehicles	22
66A	Preliminary	23
(1)	To avoid doubt, a motor dealer may carry on a business as a motor dealer wholly or partly as an online motor dealer.	24 25
(2)	If a motor dealer carries on a business as a motor dealer partly as an online motor dealer, a reference in this Act to an online motor dealer applies to the motor dealer only when acting as an online motor dealer.	26 27 28
66B	Disclosure requirements	29
(1)	This section applies in relation to a requirement of this Act for a current inspection report, dealer’s notice or other document to be attached to a motor vehicle.	30 31 32
(2)	The requirement is taken to have been satisfied—	33
(a)	by a motor dealer who carries on a business wholly as an online motor dealer—if the report, notice or document is publicly available on the online motor dealer’s website, or	34 35 36
(b)	by a motor dealer who carries on a business partly as an online motor dealer—if the report, notice or document is publicly available on the online motor dealer’s website in addition to being attached to the motor vehicle as otherwise required by this Act.	37 38 39 40

66C Opportunities to inspect motor vehicles	1
(1) Before an online purchaser purchases a motor vehicle from an online motor dealer, the online motor dealer must give the prospective online purchaser an opportunity to carry out an inspection of the motor vehicle at—	2
(a) the place at which the motor vehicle is ordinarily stored, or	3
(b) a place agreed to by the prospective online purchaser and the online motor dealer.	4
Maximum penalty—20 penalty units.	5
(2) The online motor dealer must also give the online purchaser an opportunity to carry out an inspection of the motor vehicle purchased by the online purchaser—	6
(a) at the time the motor vehicle is delivered to the online purchaser but before the online purchaser takes possession of the motor vehicle, or	7
(b) at the time the online purchaser collects the motor vehicle but before the online purchaser takes possession of the motor vehicle.	8
Maximum penalty—20 penalty units.	9
(3) A regulation may make provision about—	10
(a) places at which motor vehicles may be made available for inspection or collection, and	11
(b) requirements relating to the safety of online purchasers and prospective online purchasers while at the places.	12
66D Maximum deposit	13
An online motor dealer must not require an online purchaser to pay more than the percentage, if any, prescribed by a regulation of a motor vehicle’s purchase price before the online purchaser takes possession of the motor vehicle.	14
Maximum penalty—100 penalty units.	15
[40] Section 67 Definitions	16
Insert in alphabetical order in section 67(1)—	17
<i>consumer guarantee</i> means a guarantee that applies under the <i>Australian Consumer Law (NSW)</i> , Part 3-2, sections 54–57.	18
[41] Section 67(1), definition of “defective vehicle”	19
Omit “guarantee (a <i>consumer guarantee</i>) that applies under sections 54–57 of Part 3-2 of the <i>Australian Consumer Law (NSW)</i> ”.	20
Insert instead “consumer guarantee”.	21
[42] Section 73 Damage not covered by dealer guarantee	22
Omit “a reasonable inspection at the time of sale.” from section 73(c). Insert instead—	23
a reasonable inspection—	24
(i) at the time of sale, or	25
(ii) for a motor vehicle purchased by an online purchaser—at the time the online purchaser took possession of the motor vehicle.	26
[43] Section 77 Effect on Australian Consumer Law remedies	27
Insert at the end of the section—	28

(2)	A person who has enforced a consumer guarantee in relation to the condition of or a defect in a motor vehicle is not, if the consumer guarantee is fully complied with, entitled to take action against the motor dealer under the dealer guarantee in relation to an aspect of the motor vehicle that has been dealt with under the consumer guarantee.	1 2 3 4 5
[44]	Section 80 Cooling off period for dealer-financed purchases	6
	Insert at the end of section 80(b)—	7
	, or	8
	(c) for a motor vehicle purchased by an online purchaser, at 5pm on the next day.	9 10
[45]	Section 86 Return of motor vehicles	11
	Insert at the end of the section—	12
	(2) An online purchaser of a motor vehicle is not required to return a motor vehicle as required by this division if the online purchaser permits the collection of the motor vehicle.	13 14 15
[46]	Sections 99A and 99B	16
	Insert after section 99—	17
99A	Requirement for cashless transactions	18
	A motor vehicle recycler must not, in the course of carrying on a business of a motor vehicle recycler, buy a motor vehicle or a motor vehicle part or accessory—	19 20 21
	(a) with cash, or	22
	(b) by cheque payable to cash, or	23
	(c) in kind with goods or services.	24
	Maximum penalty—100 penalty units.	25
99B	Prohibitions on buying or disposing of unidentified vehicles	26
	(1) A motor vehicle recycler must not, other than with the written authorisation of a police officer, buy a motor vehicle if the unique identifier for the motor vehicle has been removed, obliterated, defaced or altered (an <i>unidentified vehicle</i>).	27 28 29 30
	Maximum penalty—100 penalty units.	31
	(2) A motor vehicle recycler who receives or is in possession of an unidentified vehicle must not, other than with the written authorisation of a police officer, sell or dispose of the unidentified vehicle.	32 33 34
	Maximum penalty—100 penalty units.	35
	(3) In this section—	36
	<i>unique identifier</i> , for a motor vehicle, has the same meaning as in the <i>Crimes Act 1900</i> , section 154E.	37 38
[47]	Section 100	39
	Omit the section. Insert instead—	40

100	Records must be kept by motor dealers, motor vehicle recyclers and motor vehicle repairers	1 2
(1)	The holder of a motor dealer’s licence, a motor vehicle recycler’s licence or a motor vehicle repairer’s licence must keep or cause to be kept records in relation to the holder’s business. Maximum penalty—50 penalty units.	3 4 5 6
(2)	The Secretary may, by notice published on the NSW Fair Trading website, specify the records required to be kept under this section, including the form of the records.	7 8 9
(3)	A regulation may also make provision about records required to be kept under this section, including the following—	10 11
(a)	the records to be kept,	12
(b)	the form of the records,	13
(c)	the storage, including electronic storage, of the records,	14
(d)	the production of the records.	15
[48]	Section 113 Secretary may make rectification order	16
	Omit section 113(1)(a). Insert instead—	17
(a)	that an act, matter or thing done or required to be done by or on behalf of a motor dealer to comply with a dealer guarantee or consumer guarantee—	18 19 20
(i)	has not been done, or	21
(ii)	is incomplete, or	22
(iii)	is defective, or	23
[49]	Section 113(1)	24
	Omit “the work”. Insert instead “the act, matter or thing or work”.	25
[50]	Section 151 Powers of entry, inspection etc	26
	Omit section 151(2)(b) and (4).	27
[51]	Section 151(2)(c)	28
	Insert “including in electronic form,” after “extracts from,”.	29
[52]	Section 151(2)(c) and (d)	30
	Omit “(including registers)” wherever occurring.	31
[53]	Section 156 Proceedings	32
	Omit “the Department of Transport” wherever occurring in section 156(1)(c). Insert instead “the department in which the <i>Road Transport Act 2013</i> is administered”.	33 34
[54]	Section 162	35
	Omit the section. Insert instead—	36
162	Evidence as to entries in records	37
	A record required to be kept under this Act is admissible as evidence of the following in proceedings in all courts and before all persons and bodies authorised by law to receive evidence—	38 39 40

	(a) matters required under this Act to be included in the record,	1
	(b) matters otherwise contained in the record.	2
[55]	Section 169 Making of claims	3
	Omit “12 months” from section 169(3)(a). Insert instead “18 months”.	4
[56]	Section 169(3)(a1)	5
	Insert after section 169(3)(a)—	6
	(a1) within 12 months of the claimant obtaining a judgment or order of a court in relation to the loss if—	7
	(i) the judgment or order was obtained within 18 months after the loss was incurred or the claimant became aware of the loss, and	8
	(ii) the judgment or order has not been paid, or	9
[57]	Section 176 Administrative reviews by Civil and Administrative Tribunal	12
	Insert at the end of section 176(1)(c)—	13
	or	14
	(d) requires the payment of an amount under section 45(1)(d1),	15
[58]	Section 183	16
	Omit the section. Insert instead—	17
	183 False or misleading records	18
	A person must not include information in a record required to be kept under this Act if the person knows the information is false or misleading in a material particular.	19
	Maximum penalty—50 penalty units.	20
[59]	Section 186 Regulations	23
	Insert after section 186(2)(e)—	24
	(e1) regulating online motor dealers, including the sale of motor vehicles by online motor dealers,	25
[60]	Section 186(2)(f)	26
	Omit “persons convicted of offences under this Act or of offences involving fraud or dishonesty or other prescribed offences, or of persons whose applications for licences have been refused or whose licences have been revoked,”.	27
	Insert instead—	28
	the following persons—	29
	(i) a person found guilty or convicted of, or charged with, offences under this Act, offences involving fraud or dishonesty or other prescribed offences, whether or not in New South Wales,	30
	(ii) a person who has been refused a licence or who is a director or officer of a body corporate that has been refused a licence,	31
	(iii) a person whose licence has been suspended, cancelled or revoked,	32
	(iv) a person who is disqualified from holding a licence or being involved in the direction, management or conduct of a business for which a licence is required,	33
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[61] Section 186(2A)	1
Insert after section 186(2)—	2
(2A) The Secretary may, in accordance with a regulation, exempt a person who is required to hold a licence from a regulation made under section 186(2)(f).	3 4
[62] Section 187 Delegation	5
Omit “Department of Finance, Services and Innovation” from section 187(a).	6
Insert instead “department in which this Act is administered”.	7
[63] Schedule 2 Savings, transitional and other provisions	8
Insert after Part 5—	9
Part 6 Provisions consequent on enactment of Motor Dealers and Repairers Amendment Act 2023	10 11
24 Definitions	12
In this part—	13
<i>amendment Act</i> means the <i>Motor Dealers and Repairers Amendment Act 2023</i> .	14 15
<i>existing motor dealer</i> means a person who was the holder of a motor dealer’s licence immediately before the commencement of clause 25.	16 17
25 Online motor dealers must notify Secretary	18
An existing motor dealer is not authorised by the existing motor dealer’s licence to carry on a business as an online motor dealer unless, at least 20 business days before starting to carry on the business, the existing motor dealer gives the Secretary in the approved form the information referred to in section 20B(2)(a1) and (4A).	19 20 21 22 23
26 Disciplinary action against former licence holders	24
Section 38(2), as in force immediately before its amendment by the amendment Act, continues to apply to a person who last ceased to be a licence holder before the commencement of the amendment.	25 26 27