

MOTOR DEALERS AND REPAIRERS AMENDMENT BILL 2023

Statement of Public Interest

Need: Why is the policy needed based on factual evidence and stakeholder input?

The *Motor Dealers and Repairers Amendment Bill 2023* (the **Bill**) is a result of the *Statutory Review of the Motor Dealers and Repairers Act 2013* (the **Review**), which was tabled in the Legislative Council and Legislative Assembly on 26 November 2020.

The *Motor Dealers and Repairers Act 2013* (the **Act**) and the *Motor Dealers and Repairers Regulation 2014* (the **Regulation**) provide the regulatory framework for the buying, selling and repair of motor vehicles in New South Wales.

The Review was required under section 191 of the Act, to ensure that its policy objectives remain valid, and the terms of the Act remain appropriate for securing those objectives.

Stakeholder views were essential to the formation of the Review's recommendations and to the design of the Bill. During the two rounds of formal consultation, 97 written submissions and 271 survey responses were received.

The Review also took into consideration advice from authorised officers specialising in automotive complaints and enquiries data from NSW Fair Trading, NSW Small Business Commission, consumer representatives such as Legal Aid NSW and peak industry bodies such as the Motor Traders Association of NSW, Institute of Automotive Mechanical Engineers, Australian Automotive Dealers Association, Federal Chamber of Automotive Industries and Australian Automotive Aftermarket Association.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill seeks to make improvements to key areas of the motor industry including:

- easing regulatory burdens through modernising recordkeeping requirements
- improvements to consumer and industry safety and protection
- increased transparency and accountability of prescribed parts – vehicle components for which records of acquisition and disposal of must be kept preventing theft.
- strengthened compliance mechanisms and increased penalties
- regulation that responds to ever-changing challenges faced by industry such as changes in technology and shifting consumer preferences.

The amendments will ensure the Act remains fit-for-purpose in an industry where market forces and improvements in technology have resulted in a dynamic and shifting environment for both industry and consumers. There is strong public interest in ensuring industry and consumer confidence in the motor industry and effective legislation in NSW.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Based on the stakeholder feedback, the Review made 17 recommendations which covered a range of regulatory and non-regulatory solutions. Of the 17 recommendations, 11 are related to proposal to amend the Act in this Bill. Other recommendations from the Review will be addressed in the remake of the Regulation.

Analysis: What were the pros/cons and benefits/costs of each option considered?

If the legislative amendments are not made, the motor dealers' industry will be unable to sell motor vehicles online end-to-end. The emergence of online sales platforms and shifting consumer preferences have seen the uptake of entire online motor dealing models emerge around the world. The legislation is critical in ensuring that NSW motor dealers are able to

compete in the online marketplace, and NSW consumers are able to engage in sales methods that suit their needs and preferences.

The Bill will also close a regulatory gap between the *Scrap Metal Industry Act 2016* and the Act where motor recyclers and scrap metal dealers are paying cash for vehicles and failing to make records of these vehicles. The prohibition of cash payments will create an additional transparency and accountability requirement for the acquisition of end-of-life vehicles and help prevent criminal activity involving stolen vehicles and parts.

The Bill will also make some changes (supported in the future Regulation remake) which will ease the recordkeeping burden for motor dealers, repairers, and recyclers by allowing industry to use existing systems to maintain required records. This will reduce duplication and red tape for businesses.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Minister for Better Regulation and Fair Trading is responsible for administering the legislation being amended, with support from the Department of Customer Service (the **Department**).

The Bill should be introduced into Parliament in August 2023, to allow the Bill to pass and the remake of the supporting Regulation to be completed. The Regulation will need to be remade prior to its repeal on 1 September 2024 as per the standard repeal requirements. Important reforms in the Bill will also require amendments to the Regulation to allow for the successful implementation of the new regulatory scheme, particularly in relation to the new online sales model and recordkeeping requirements.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

Stakeholder views were essential to the formation of the Review's recommendations and design of the Bill.

Consultation for the Review process commenced with the release of a discussion paper which sought feedback on specific issues. During this six-week consultation, the Department held two stakeholder roundtables and received 74 submissions which were all reviewed and considered as part of the Review.

Following on from the tabling of the Review report, further roundtables were held with industry stakeholder to discuss the implementation of the recommendations.

A public consultation on the draft Bill was conducted in February and March 2022. The consultation resulted in 271 people completing the online survey and 374 individuals taking a quick poll related to the Bill. There were also 23 written submissions. Overall, stakeholders were broadly supportive of the policy measures put forward in the Bill.

Further consultation was conducted with stakeholders to refine aspects of the Bill, in response to feedback from submissions. Following this refinement process, stakeholders expressed support for the 2022 draft Bill.

Since this time, further issues have emerged via consultation and, separately, at the national level regarding the second-hand car market, including odometer tampering. The Department undertook targeted consultations with key industry stakeholders in August 2023 on new amendments that were not included in the previous draft Bill. Key industry stakeholders were also consulted on the current draft of the Bill, prior to introduction to Parliament.