

2009

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Fair Trading (Motor Vehicle Repair Industry) Bill 2009

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2009

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## **Fair Trading (Motor Vehicle Repair Industry) Bill 2009**

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### **A Bill for**

An Act to provide for the licensing and regulation of people in the motor vehicle repair industry, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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J2009-443

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Fair Trading (Motor Vehicle Repair Industry)*  
4 *Act 2009*.

5 **2 Commencement**

6 This Act commences on a day fixed by the Minister by written  
7 notice.

8 *Note 1* The naming and commencement provisions automatically commence on  
9 the notification day (see Legislation Act, s 75 (1)).

10 *Note 2* A single day or time may be fixed, or different days or times may be  
11 fixed, for the commencement of different provisions (see Legislation  
12 Act, s 77 (1)).

13 *Note 3* If a provision has not commenced within 6 months beginning on the  
14 notification day, it automatically commences on the first day after that  
15 period (see Legislation Act, s 79).

16 **3 Dictionary**

17 The dictionary at the end of this Act is part of this Act.

18 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
19 Act, and includes references (*signpost definitions*) to other terms  
20 defined elsewhere.

21 For example, the signpost definition ‘*consumer*—see the *Fair Trading*  
22 *Act 1992*, section 6.’ means that the term ‘consumer’ is defined in that  
23 section and the definition applies to this Act.

24 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
25 the entire Act unless the definition, or another provision of the Act,  
26 provides otherwise or the contrary intention otherwise appears (see  
27 Legislation Act, s 155 and s 156 (1)).

1   **4**       **Notes**

2           A note included in this Act is explanatory and is not part of this Act.

3           *Note*     See the Legislation Act, s 127 (1), (4) and (5) for the legal status of  
4                    notes.

5   **5**       **Offences against Act—application of Criminal Code etc**

6           Other legislation applies in relation to offences against this Act.

7           *Note 1*   *Criminal Code*

8                    The Criminal Code, ch 2 applies to all offences against this Act (see  
9                    Code, pt 2.1).

10                  The chapter sets out the general principles of criminal responsibility  
11                  (including burdens of proof and general defences), and defines terms  
12                  used for offences to which the Code applies (eg *conduct*, *intention*,  
13                  *recklessness* and *strict liability*).

14           *Note 2*   *Penalty units*

15                    The Legislation Act, s 133 deals with the meaning of offence penalties  
16                    that are expressed in penalty units.

1 **Part 2 Important concepts**

2 **6 Carrying on business as motor vehicle repairer**

3 (1) A person *carries on business as a motor vehicle repairer* if the  
4 person performs motor vehicle repair work for reward.

5 (2) *Motor vehicle repair work* means—

6 (a) any of the following work performed on a motor vehicle,  
7 motor vehicle part or motor vehicle system:

8 (i) examining or assessing condition or performance  
9 improvement;

10 (ii) diagnosing and detecting of faults;

11 (iii) overhauling;

12 (iv) dismantling and assembling;

13 (v) servicing and maintenance;

14 (vi) replacing and adjusting of objects for performance  
15 improvement;

16 (vii) painting and treatment;

17 (viii) modifying, altering, installing or fitting work; or

18 (b) giving advice on any of the work mentioned in paragraph (a);  
19 or

20 (c) any other work prescribed by regulation to be motor vehicle  
21 repair work.

22 (3) However, *motor vehicle repair work* does not include any work  
23 prescribed by regulation not to be motor vehicle repair work.

24 *Note* Power to make a statutory instrument (including a regulation) includes  
25 power to make different provision for different categories (see  
26 Legislation Act, s 48).



- 1     **7**           **Certain people not taken to carry on business as motor**  
2                   **vehicle repairer**
- 3           For this Act, a person does not carry on business as a motor vehicle  
4           repairer only because the person—
- 5           (a) performs motor vehicle repair work in the course of  
6           employment by another person; or
- 7           (b) is a member of a partnership that carries on the business; or
- 8           (c) publishes, on behalf of another person, an advertisement  
9           about—
- 10                 (i) a business carried on, or to be carried on, by the other  
11                 person; or
- 12                 (ii) a service provided, or to be provided, by the other person.

- 1 **Part 3** **Licences**
- 2 **Division 3.1** **Requirement for licence**
- 3 **8** **Person carrying on business as motor vehicle repairer to**  
4 **be licensed**
- 5 (1) A person commits an offence if—
- 6 (a) the person carries on business as a motor vehicle repairer; and
- 7 (b) either—
- 8 (i) the person does not hold a licence; or
- 9 (ii) if the person is a partner in a partnership that carries on  
10 the business—no partner in the partnership holds a  
11 licence.
- 12 Maximum penalty: 50 penalty units.
- 13 (2) A person commits an offence if the person—
- 14 (a) carries on business as a motor vehicle repairer at premises; and
- 15 (b) either—
- 16 (i) does not hold a licence authorising the person to carry on  
17 business as a motor vehicle repairer at the premises; or
- 18 (ii) if the person is a partner in a partnership that carries on  
19 the business—no partner in the partnership holds a  
20 licence authorising the person to carry on business as a  
21 motor vehicle repairer at the premises.
- 22 Maximum penalty: 20 penalty units.
- 23 (3) An offence against this section is a strict liability offence.

1 **Division 3.2 Eligibility for licence**

2 **9 Eligibility for licence**

- 3 (1) An individual is eligible for a licence if the individual—  
4 (a) is an adult; and  
5 (b) is not a disqualified person.  
6 (2) A person in a partnership is eligible for a licence if—  
7 (a) the person is eligible under subsection (1); and  
8 (b) no partner in the partnership is a disqualified person.  
9 (3) A corporation is eligible for a licence if—  
10 (a) at least 1 director of the corporation holds a licence; and  
11 (b) no director of the corporation is a disqualified person.

12 **10 Meaning of *disqualified person***

- 13 (1) A person is a *disqualified person* if the person has committed or  
14 engaged in a disqualifying act.  
15 (2) However, even if a person has committed or engaged in a  
16 disqualifying act, the person is not a *disqualified person* if the  
17 commissioner is satisfied that, in all the circumstances, it would be  
18 reasonable not to regard the person as a disqualified person.  
19 (3) In making a decision under subsection (2) in relation to a person, the  
20 commissioner must have regard to—  
21 (a) the circumstances of the disqualifying act; and  
22 (b) whether the person cooperated in the investigation of the  
23 disqualifying act; and  
24 (c) the extent to which the person provided restitution for any loss  
25 suffered because of the disqualifying act; and

- 1 (d) the time since the disqualifying act was committed or engaged  
2 in; and
- 3 (e) whether the disqualifying act was an isolated event.
- 4 (4) Subsection (3) does not limit the matters to which the commissioner  
5 may have regard in making the decision.
- 6 (5) A director of a corporation is taken to have committed a  
7 disqualifying act if the director was a director of the corporation  
8 when the corporation committed the disqualifying act.
- 9 (6) In this section:
- 10 ***disqualifying act*** means—
- 11 (a) a contravention of this Act (including a requirement made by  
12 the commissioner under this Act) or a corresponding law of a  
13 State, whether or not the contravention is an offence; or
- 14 (b) a contravention of a condition of a licence; or
- 15 (c) a contravention of the *Fair Trading (Motor Vehicle Service*  
16 *and Repair Industry) Code of Practice 1999*; or
- 17 (d) an offence against the *Trade Practices Act 1974* (Cwlth); or
- 18 (e) an offence against the *Fair Trading Act 1992* or a  
19 corresponding law of a State; or
- 20 (f) an offence against a law of the Territory, the Commonwealth, a  
21 State, another Territory or a foreign country punishable by  
22 imprisonment for longer than 1 year.

1 **Division 3.3** **Licence procedures and details**

2 **11** **Application for motor vehicle repair licence**

- 3 (1) A person may apply to the commissioner for a motor vehicle repair  
4 licence.

5 *Note 1* If a form is approved under s 48 for this provision, the form must be  
6 used.

7 *Note 2* A fee may be determined under s 47 for this provision.

8 *Note 3* The Legislation Act contains provisions about the making of  
9 determinations and regulations relating to fees (see pt 6.3).

- 10 (2) The application must be accompanied by—

11 (a) a police certificate for the applicant, dated not earlier than  
12 2 months before the day the application is made; and

13 (b) a signed statement to the effect that, apart from the licence, the  
14 applicant has obtained all planning and other approvals  
15 required to carry on the motor vehicle repair business at each  
16 premises where the applicant proposes to carry on business  
17 under the licence.

- 18 (3) The commissioner may, in writing, require the applicant to give the  
19 commissioner additional information or documents that the  
20 commissioner reasonably needs to decide the application.

- 21 (4) If the applicant does not comply with a requirement made of the  
22 applicant under subsection (3), the commissioner may refuse to  
23 consider the application further.

24 **12** **Decision on application**

- 25 (1) Within 60 days after the day the commissioner receives an  
26 application for a motor vehicle repair licence, the commissioner  
27 must—

28 (a) issue the licence; or

- 1 (b) refuse to issue the licence.
- 2 *Note* Failure to issue a licence within the 60-day period is taken to be a  
3 decision not to issue the licence (see *ACT Civil and Administrative*  
4 *Tribunal Act 2008*, s 12).
- 5 (2) The commissioner must issue the licence if satisfied that the  
6 applicant—
- 7 (a) is eligible for the licence under section 9; and
- 8 (b) can comply with any conditions to which the licence is subject;  
9 and
- 10 (c) can satisfy anything else prescribed by regulation.

11 **13 Licence conditions**

- 12 (1) A licence is subject to the conditions set out in division 3.4 (Licence  
13 conditions).
- 14 (2) A licence is also subject to any conditions—
- 15 (a) prescribed by regulation; or
- 16 (b) imposed on the licence by the commissioner.

17 **Examples—conditions**

- 18 1 that an approved code of practice or standard must be complied with
- 19 2 that particular requirements about inspection and reporting must be complied  
20 with
- 21 3 that stated records must be kept

22 *Note* An example is part of the Act, is not exhaustive and may extend, but  
23 does not limit, the meaning of the provision in which it appears (see  
24 *Legislation Act*, s 126 and s 132).

- 1           (3) The commissioner may impose—
- 2               (a) a condition on a licence when the licence is issued or renewed;
- 3               and
- 4               (b) a condition on, or amend a condition of, a licence at any other
- 5               time under section 19 (Amendment of licence on
- 6               commissioner's initiative) or section 20 (Amendment of
- 7               licence on application).

8   **14       Form of licence**

- 9           A licence must—
- 10           (a) be in writing; and
- 11           (b) state the name of the person to whom the licence is issued; and
- 12           (c) if the licensee carries on business as a motor vehicle repairer
- 13           under a name other than the licensee's name—state the name
- 14           under which the licensee carries on business; and
- 15           (d) have a unique identifying number (the *licence number*); and
- 16           (e) state the premises where the licensee is authorised to carry on
- 17           business as a motor vehicle repairer; and
- 18           (f) state the period for which the licence is given; and
- 19           (g) include anything prescribed by regulation.

20   **15       Replacement licence**

- 21           (1) The commissioner may issue a replacement licence to a licensee if
- 22           satisfied that the licensee's original licence has been lost, stolen or
- 23           destroyed.

- 1 (2) For subsection (1), the commissioner may require the licensee to  
2 give the commissioner a statutory declaration signed by the licensee,  
3 stating that the original licence has been lost, stolen or destroyed.

4 *Note 1* A fee may be determined under s 47 for this provision.

5 *Note 2* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of  
6 statutory declarations under ACT laws.

7 **16 Licence term**

8 A licence is issued for the period of up to 12 months stated in the  
9 licence.

10 **17 Licence not transferable**

11 A licence is not transferable.

12 **18 Renewal of licence**

- 13 (1) A licensee may apply, in writing, to the commissioner to renew the  
14 licence.

15 *Note 1* If a form is approved under s 48 for an application, the form must be  
16 used.

17 *Note 2* A fee may be determined under s 47 for this provision.

- 18 (2) The commissioner may, in writing, require the licensee to give the  
19 commissioner additional information or documents that the  
20 commissioner reasonably needs to decide the application.

- 21 (3) If the applicant does not comply with a requirement made of the  
22 applicant under subsection (2), the commissioner may refuse to  
23 consider the application further.

- 24 (4) On an application to renew a licence, the commissioner must—

- 25 (a) renew the licence; or  
26 (b) refuse to renew the licence.



1 (5) The commissioner must renew the licence if satisfied of the matters  
2 mentioned in section 12 (2) in relation to the applicant.

3 (6) If a licensee applies to renew a licence under this section, the licence  
4 remains in force until the application is decided.

5 **19 Amendment of licence on commissioner's initiative**

6 (1) The commissioner may, at any time and on the commissioner's own  
7 initiative, amend a licence (including by imposing a condition on, or  
8 amending a condition of, the licence).

9 (2) However, the commissioner may amend a licence only if—

10 (a) the commissioner has given the licensee written notice of the  
11 proposed amendment; and

12 (b) the notice states that written comments on the proposal may be  
13 made to the commissioner before the end of a stated period of  
14 at least 14 days after the day the notice is given to the licensee;  
15 and

16 (c) the commissioner has considered any comments made before  
17 the end of the stated period.

18 (3) Subsection (2) does not apply if the licensee applied for, or agreed  
19 in writing to, the amendment.

20 **20 Amendment of licence on application**

21 (1) A licensee may apply to the commissioner to amend the licensee's  
22 licence (including by removing or amending a condition of the  
23 licence).

24 *Note 1* If a form is approved under s 48 for an application, the form must be  
25 used.

26 *Note 2* A fee may be determined under s 47 for this provision.

- 1 (2) The commissioner may, in writing, require the applicant to give the  
2 commissioner additional information or documents that the  
3 commissioner reasonably needs to decide the application.
- 4 (3) If the applicant does not comply with a requirement made of the  
5 applicant under subsection (2), the commissioner may refuse to  
6 consider the application further.
- 7 (4) On an application by a person to amend a licence, the commissioner  
8 must—
- 9 (a) amend the licence in the way applied for; or  
10 (b) refuse to amend the licence.
- 11 (5) In deciding whether to amend the licence, the commissioner may  
12 consider anything the commissioner may consider under  
13 section 12 (2) in relation to an application for a licence.

14 **21 Surrendering licence**

- 15 (1) A licensee may surrender the licence by giving written notice of the  
16 surrender to the commissioner.
- 17 (2) The licensee must, with the notice—
- 18 (a) return the licence to the commissioner; or  
19 (b) if the licence has been lost, stolen or destroyed—give the  
20 commissioner a statutory declaration signed by the licensee  
21 stating that the licence has been lost, stolen or destroyed.

22 *Note* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of  
23 statutory declarations under ACT laws.

1 **Division 3.4** **Licence conditions**

2 *Note* A licence is also subject to conditions prescribed by regulation or  
3 imposed on the licence by the commissioner—see s 13.

4 **22** **Licence condition—equipment, materials and skill for**  
5 **carrying out work**

6 It is a condition of a licence that motor vehicle repair work  
7 performed by the licensee or an employee of the licensee on a motor  
8 vehicle, part or system be performed with the equipment, materials  
9 and skill necessary to carry out the work satisfactorily, having  
10 regard to the age and make of the vehicle, part or system.

11 **23** **Licence condition—agreement for repairs**

12 (1) It is a condition of a licence that the licensee, before performing  
13 motor vehicle repair work for a person that is expected to cost the  
14 person \$150 or more—

15 (a) give the person an estimate of the cost of the work; and

16 (b) give the estimate in writing if asked by the person to do so.

17 (2) However, if it is not reasonably practicable to give an estimate of  
18 the cost of work without first undertaking diagnostic work, it is a  
19 condition of the licence that a licensee, when performing the  
20 diagnostic work for a person—

21 (a) give the person a written estimate of the cost of the work; and

22 (b) if the diagnosis is likely to result in any damage to the motor  
23 vehicle—tell the person of that fact in writing; and

24 (c) obtain the person's written authorisation for the licensee to  
25 perform the diagnostic work, unless the person has agreed  
26 otherwise; and

27 (d) after the diagnosis and before the licensee repairs the vehicle—

28 (i) give the person an estimate of the cost of repairs; and

1 (ii) obtain the person's authority to perform the repairs  
2 specified in the estimate.

3 (3) It is a condition of a licence that the licensee, when performing  
4 motor vehicle repair work for a person after giving an estimate to  
5 the person, tell the person of any variation in the cost from the  
6 estimate.

7 (4) It is a condition of a licence that the licensee keep records of written  
8 or verbal estimates and quotes given to people.

9 **24 Licence condition—additional repairs**

10 It is a condition of a licence that the licensee, before performing  
11 work for a person or using parts not agreed to by a person in the  
12 estimate of work—

13 (a) explain to the person—

14 (i) what the additional work or part is; and

15 (ii) what the cost of the work or part is; and

16 (b) obtain the person's authorisation to—

17 (i) conduct the work or install the part; and

18 (ii) charge for the additional work or installation.

19 **25 Licence condition—time to carry out work**

20 It is a condition of a licence that the licensee—

21 (a) complete motor vehicle repair work in a reasonable time; and

22 (b) tell the person for whom the work was done how much time  
23 was spent performing the work.

1   **26**           **Licence condition—replaced parts**

2           (1) It is a condition of a licence that the licensee, on completing motor  
3           vehicle repair work for a person, offer to give the person any part  
4           that was replaced as part of the work.

5           (2) If the person chooses not to accept the replaced part under  
6           subsection (1), the licensee must not charge a fee for disposal of the  
7           part.

8   **27**           **Licence condition—information sheet**

9           It is a condition of a licence that the licensee, before performing  
10          motor vehicle repair work for a person, give the person an  
11          information sheet approved by the commissioner about motor  
12          vehicle repair work.

13   **28**           **Licence condition—warranties and guarantees**

14          It is a condition of a licence that the licensee, on completing motor  
15          vehicle repair work for a person, give the person a signed copy of  
16          any warranty or guarantee relating to workmanship, parts or service  
17          provided by the licensee.

18   **29**           **Licence condition—display of licence**

19          It is a condition of a licence that the licence, or a copy of the licence,  
20          be displayed in a prominent place at premises where business is  
21          carried on under the licence.

22   **30**           **Licence condition—notification of change of name or**  
23                   **address**

24          It is a condition of a licence that, if the licensee changes name,  
25          address or any other detail on the licence, the licensee must tell the  
26          commissioner, in writing, about the change as soon as practicable  
27          (but not later than 7 days) after the day the change happens.

1 **Part 4 Occupational discipline**

2 **31 Meaning of *licensee*—pt 4**

3 In this part:

4 *licensee* includes a former licensee.

5 **32 Grounds for disciplinary action**

6 (1) Each of the following is a *ground for occupational discipline* in  
7 relation to a licensee:

8 (a) the licensee gave information to the commissioner in relation  
9 to the application for, or an application for amendment of, the  
10 licensee's licence that was false or misleading in a material  
11 particular;

12 (b) the licensee has contravened, or is contravening, this Act,  
13 whether or not the licensee has been convicted or found guilty  
14 of an offence for the contravention;

15 (c) the licensee has contravened, or is contravening, a territory law  
16 (other than this Act) or a law of the Commonwealth, a State or  
17 another Territory, whether or not the licensee has been  
18 convicted or found guilty of an offence for the contravention;

19 (d) the licensee has contravened, or is contravening, an order of  
20 the ACAT;

21 (e) the licensee has contravened, or is contravening a condition of  
22 the licence;

23 (f) the licence was obtained by fraud or mistake;

24 (g) a ground prescribed by regulation for this section.

25 (2) A ground for occupational discipline applies to a former licensee if  
26 the ground applied to the licensee while licensed.

1     **33           Application to ACAT for occupational discipline**

2           If the commissioner believes on reasonable grounds that a ground  
3           for occupational discipline exists in relation to a licensee, the  
4           commissioner may apply to the ACAT for an occupational  
5           discipline order in relation to the licensee.

6           *Note*     The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out  
7           occupational discipline orders the ACAT may make.

8     **34           Considerations before making occupational discipline**  
9           **orders**

10          (1) This section applies if the ACAT is considering an application for  
11          occupational discipline in relation to a licensee.

12          (2) Without limiting the matters the ACAT must consider in relation to  
13          the licensee, the ACAT must consider the following:

14                  (a) the degree of responsibility of the licensee for the act or  
15                  omission that made up the ground for occupational discipline;

16                  (b) the extent to which it is necessary to discourage the licensee  
17                  and others from doing something, or not doing something, that  
18                  made up the disciplinary ground;

19                  (c) whether, and the extent to which, it is necessary to protect the  
20                  public from the licensee;

21                  (d) the desirability of making the licensee responsible for the  
22                  consequences of the licensee's actions or omissions;

23                  (e) the desirability of maintaining public confidence in the  
24                  regulatory system set up by this Act.

25          *Note*     The *ACT Civil and Administrative Tribunal Act 2008*, s 65 (3) sets out  
26          other considerations that must be taken into account by the ACAT.

- 1     **35           Information about cancellations etc to be given to**  
2     **corresponding authorities**
- 3           (1) This section applies if the ACAT cancels or suspends a licensee's  
4           licence or disqualifies a licensee from applying for a licence.
- 5           (2) The commissioner may give the corresponding authority of each  
6           State the following information about the licensee:
- 7               (a) the name and any other identifying details of the licensee;
- 8               (b) a short description of the ground for occupational discipline on  
9               which the occupational discipline order was based;
- 10              (c) whether the licence has been cancelled or suspended or the  
11              licence disqualified;
- 12              (d) if the licence has been suspended—the period of suspension;
- 13              (e) if the licensee has been disqualified—the period of  
14              disqualification.
- 15           (3) This section does not limit any other requirement or power, under  
16           this Act or another law in force in the ACT, to give information to  
17           an entity in another jurisdiction.
- 18           (4) In this section:
- 19               *corresponding authority*, of a State, means the entity responsible in  
20           the State for regulation of the motor vehicle repair industry.
- 21     **36           Effect of licence suspension**
- 22           If a licence is suspended, the licence does not authorise the licensee  
23           to carry on any activity under the licence during the suspension.



## 1      **Part 5**                                      **Licence register**

### 2      **37**                      **Licence register**

- 3                      (1) The commissioner must keep a register of licences.
- 4                      (2) The register may include information about licences given to the  
5                                      commissioner under this Act and any other information the  
6                                      commissioner considers appropriate.
- 7                      (3) The register may be kept in any form, including electronically, that  
8                                      the commissioner decides.
- 9                      (4) The register may be kept in 1 or more parts, as the commissioner  
10                                      considers appropriate.
- 11                      (5) The commissioner must make information in the register available  
12                                      for public inspection.

#### 13                      **Example**

14                      the register may be available on a website

15                      *Note*      An example is part of the Act, is not exhaustive and may extend, but  
16                                      does not limit, the meaning of the provision in which it appears (see  
17                                      Legislation Act, s 126 and s 132).

### 18      **38**                      **Correcting register and keeping it up-to-date**

- 19                      (1) The commissioner may correct a mistake, error or omission in the  
20                                      register.
- 21                      (2) The commissioner may change a detail included in the register to  
22                                      keep the register up-to-date.

1 **Part 6 Offences**

2 *Note* For investigations by the commissioner—see the *Fair Trading*  
3 *(Consumer Affairs) Act 1973*, div 3.2.

4 **39 Unlicensed person advertising**

- 5 (1) A person commits an offence if—
- 6 (a) the person advertises that the person performs or will perform  
7 motor vehicle repair work for reward; and
- 8 (b) either—
- 9 (i) the person does not hold a licence; or
- 10 (ii) if the person is a partner in a partnership—no partner in  
11 the partnership holds a licence.

12 Maximum penalty: 10 penalty units.

- 13 (2) An offence against this section is a strict liability offence.

14 **40 Licensee advertising without details**

- 15 (1) A licensee commits an offence if—
- 16 (a) the licensee advertises that the person performs, or will  
17 perform, motor vehicle repair work for reward; and
- 18 (b) the licensee does not include in the advertisement—
- 19 (i) the licence number; and
- 20 (ii) the address of the premises where the work is or is to be  
21 performed.

22 Maximum penalty: 10 penalty units.

- 23 (2) An offence against this section is a strict liability offence.

- 1     **41           Return of amended, suspended or cancelled licences**
- 2           (1) A licensee commits an offence if—
- 3               (a) the licensee’s licence is—
- 4                     (i) amended under section 19 (Amendment of licence on
- 5                         commissioner’s initiative); or
- 6                     (ii) amended under section 20 (Amendment of licence on
- 7                         application); or
- 8                     (iii) suspended or cancelled by the ACAT; and
- 9               (b) the licensee fails to return the licence to the commissioner as
- 10                    soon as practicable (but not later than 7 days) after the day the
- 11                    licensee is told about the amendment, suspension or
- 12                    cancellation.
- 13               Maximum penalty: 20 penalty units.
- 14           (2) An offence against this section is a strict liability offence.

1 **Part 7** **Notification and review of**  
2 **decisions**

3 **42** **Meaning of *reviewable decision*—pt 7**

4 In this part:

5 *reviewable decision* means a decision mentioned in  
6 schedule 1, column 3 under a provision of this Act mentioned in  
7 column 2 in relation to the decision.

8 **43** **Reviewable decision notices**

9 If the commissioner makes a reviewable decision, the commissioner  
10 must give a reviewable decision notice to each person mentioned in  
11 schedule 1, column 4 in relation to the decision.

12 *Note 1* The commissioner must also take reasonable steps to give a reviewable  
13 decision notice to any other person whose interests are affected by the  
14 decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

15 *Note 2* The requirements for a reviewable decision notice are prescribed under  
16 the *ACT Civil and Administrative Tribunal Act 2008*.

17 **44** **Applications for review**

18 The following people may apply to the ACAT for a review of a  
19 reviewable decision:

20 (a) a person mentioned in schedule 1, column 4 in relation to the  
21 decision;

22 (b) any other person whose interests are affected by the decision.

23 *Note* If a form is approved under the *ACT Civil and Administrative Tribunal*  
24 *Act 2008* for the application, the form must be used.

1       **Part 8**                               **Miscellaneous**

2       **45**               **Exemptions by regulation**

3               A regulation may exempt a person from all or any of the provisions  
4               of this Act.

5       **46**               **Exemptions by Minister**

- 6               (1) A person may, in writing, apply to the Minister for exemption from  
7               all or any of the provisions of this Act.

8               *Note 1*   If a form is approved under s 48 for this provision, the form must be  
9               used.

10              *Note 2*   A fee may be determined under s 47 for this provision.

11              *Note 3*   A reference to an Act includes a reference to a provision of an Act (see  
12              Legislation Act, s 7 (3)).

- 13              (2) The application must state the grounds on which it is made.

- 14              (3) The Minister must not grant the exemption unless satisfied on  
15              reasonable grounds that the exemption is not likely to cause a  
16              substantial detriment to consumers.

- 17              (4) In deciding whether to grant an exemption, the Minister must also  
18              take into account any criteria prescribed by regulation.

- 19              (5) An exemption may be subject to conditions.

- 20              (6) The Minister may amend or revoke an exemption at any time on  
21              reasonable grounds.

- 22              (7) An exemption, and an amendment or revocation of an exemption, is  
23              a disallowable instrument.

24              *Note*     A disallowable instrument must be notified, and presented to the  
25              Legislative Assembly, under the Legislation Act.

1 **47 Determination of fees**

2 (1) The Minister may determine fees for this Act.

3 *Note* The Legislation Act contains provisions about the making of  
4 determinations and regulations relating to fees (see pt 6.3).

5 (2) A determination is a disallowable instrument.

6 *Note* A disallowable instrument must be notified, and presented to the  
7 Legislative Assembly, under the Legislation Act.

8 **48 Approved forms**

9 (1) The commissioner may approve forms for this Act.

10 (2) If the commissioner approves a form for a particular purpose, the  
11 approved form must be used for that purpose.

12 *Note* For other provisions about forms, see the Legislation Act, s 255.

13 (3) An approved form is a notifiable instrument.

14 *Note* A notifiable instrument must be notified under the Legislation Act.

15 **49 Regulation-making power**

16 The Executive may make regulations for this Act.

17 *Note* Regulations must be notified, and presented to the Legislative  
18 Assembly, under the Legislation Act.

19 **50 Legislation repealed**

20 The following legislative instruments are repealed:

- 21 • *Fair Trading (Motor Vehicle Service and Repair Industry) Code*  
22 *of Practice 1999 (NI1999-278)*  
23 • *Fair Trading (Motor Vehicle Service and Repair Industry)*  
24 *Determination 1999 (NI1999-279).*

1       **Part 9**                               **Transitional**

2       **51**           **Definitions—pt 9**

3           In this part:

4           *commencement day* means the day this Act commences.

5           *repealed code* means the *Fair Trading (Motor Vehicle Service and*  
6           *Repair Industry) Code of Practice 1999* as in force immediately  
7           before the commencement day.

8       **52**           **Principals under repealed code licensed**

9           A principal registered under the repealed code immediately before  
10          the commencement day is taken to be licensed under section 12  
11          (Decision on application) until the day the person's registration  
12          would have expired under the repealed code.

13      **53**           **Registration under repealed code**

14          For section 29 (Licence condition—display of licence), a  
15          registration under the repealed code is taken to be a licence for this  
16          Act.

17          *Note*       It is a condition of a licence that the licence, or a copy of the licence, be  
18                       displayed in a prominent place at premises where business is carried on  
19                       under the licence—see s 29.

20      **54**           **Transitional regulations**

21          (1) A regulation may prescribe transitional matters necessary or  
22          convenient to be prescribed because of the enactment of this Act.

23          (2) A regulation may modify this part (including in relation to another  
24          territory law) to make provision in relation to anything that, in the  
25          Executive's opinion, is not, or is not adequately or appropriately,  
26          dealt with in this part.

1 (3) A regulation under subsection (2) has effect despite anything  
2 elsewhere in this Act or another territory law.

3 **55 Expiry—pt 9**

4 This part expires 1 year after the day it commences.

5 **56 Fair Trading (Consumer Affairs) Act 1973**  
6 **Dictionary, definition of *fair trading legislation*, new**  
7 **paragraph (ca)**

8 *insert*

9 (ca) the *Fair Trading (Motor Vehicle Repair Industry) Act 2009*; or



1 **Schedule 1      Reviewable decisions**  
 2 (see s 42)

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 person</b>
1	9 (3) (b)	find person disqualified person	person found disqualified
2	12 (1) (b)	refuse to issue licence	applicant
3	13 (3) (a)	impose condition on licence	licensee
4	18 (4) (b)	refuse to renew licence	licensee
5	19 (1)	amend licence	licensee
6	20 (4) (b)	refuse to amend licence	licensee
7	46 (3)	refuse to grant exemption	applicant
8	46 (6)	revoke, or amend condition of, exemption	exemption holder

## 1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • ACAT
- 7 • Corporations Act
- 8 • entity
- 9 • Minister (see s 162)
- 10 • occupational discipline order
- 11 • reviewable decision notice
- 12 • State.

13 *carries on business as a motor vehicle repairer*—see section 6 (1).

14 *commissioner* means the commissioner for fair trading.

15 *consumer*—see the *Fair Trading Act 1992*, section 6.

16 *corporation*—see the Corporations Act.

17 *disqualified person*—see section 10.

18 *ground for occupational discipline*—see section 32.

19 *licence* means a motor vehicle repair licence issued under  
20 section 12.

21 *licence number*—see section 14 (d).

22 *licensee*, for part 4 (Occupational discipline)—see section 31.

23 *motor vehicle*—see the *Sale of Motor Vehicles Act 1977*, dictionary.

24 *motor vehicle repair work*—see section 6 (2) and (3).

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1           ***police certificate***, for a person, means a written statement by the  
2           Australian Federal Police indicating—

3           (a) whether, according to the records held by the Australian  
4           Federal Police, the person has been charged with, or convicted  
5           of, an offence against a law of—

6                   (i) the Territory; or

7                   (ii) the Commonwealth; or

8                   (iii) a State; or

9                   (iv) another country; and

10          (b) if so—particulars of each offence.

11          *Note*     A conviction does not include a spent conviction (see *Spent Convictions*  
12                  *Act 2000*, s 16 (c) (i)).

13          ***register*** means the register of licences kept under part 5.

14          ***reviewable decision***, for part 7 (Notification and review of  
15          decisions)—see section 42.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2009.

**2 Notification**

Notified under the Legislation Act on 2009.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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