



Australian Capital Territory

Traders (Licensing) Regulation 2017

SL2017-21

made under the

Traders (Licensing) Act 2016

Republication No 1

Effective: 22 August 2017 – 1 October 2018

Republication date: 22 August 2017

Regulation not amended

About this republication

The republished law

This is a republication of the *Traders (Licensing) Regulation 2017*, made under the *Traders (Licensing) Act 2016* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 August 2017. It also includes any commencement, repeal or expiry affecting this republished law.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial amendments

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



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Part 1 Preliminary

1 Name of regulation

This regulation is the *Traders (Licensing) Regulation 2017*.

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

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

For example, the signpost definition ‘*motor vehicle repair work*—see the *Fair Trading (Motor Vehicle Repair Industry) Act 2010*, dictionary.’ means that the term ‘motor vehicle repair work’ is defined in that dictionary and the definition applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Notes

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

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

Part 2 Eligibility of entity

5 Eligibility requirement—Act, s 17 (1)

Each relevant person for an entity must be an adult.

Note An entity may be an individual, a partnership, a corporation or an association. For the relevant person for each form of entity see the [Act](#), dictionary, definition of *relevant person*.

Part 3 Suitability of entity

6 Meaning of *insolvent*—pt 3

In this part:

insolvent—a corporation is taken to be *insolvent* if the corporation—

- (a) has had a receiver or other controller appointed; or
- (b) has entered into a deed of company arrangement with the corporation's creditors; or
- (c) is otherwise under external administration under the [Corporations Act](#), chapter 5.

7 Suitability information—Act, s 18 (a) (i)

- (1) Information about the following in relation to an entity is prescribed:
 - (a) a contravention of a relevant law;
 - (b) a conviction or a finding of guilt for an offence under a relevant law;
 - (c) a conviction or finding of guilt for an offence involving fraud or dishonest conduct;
 - (d) a contravention of a licence condition for a licence issued under a relevant law;
 - (e) being refused a licence under a relevant law;
 - (f) having a licence cancelled or revoked under a relevant law;
 - (g) whether it is in the public interest to issue a licence to the entity.

Note A conviction does not include a spent conviction or an extinguished conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i) and s 19H (1) (c) (i)).

- (2) Information about the following in relation to a relevant person for an entity is prescribed:

- (a) a matter prescribed for an entity in subsection (1);
- (b) in the past 3 years being or having been—
 - (i) involved in the management of a corporation when the corporation was insolvent; or
 - (ii) bankrupt or personally insolvent.

Note **Bankrupt or personally insolvent**—see the [Legislation Act](#), dict, pt 1.

- (3) By making an application for a traders licence, an entity permits the commissioner to enquire about and access prescribed suitability information in relation to the entity and each relevant person for the entity, including a person who becomes a relevant person after the entity is licensed.

Note It is a condition of a licence that a licensee must tell the commissioner if a person becomes a relevant person for the licensee (see s 9 (1) (f)).

- (4) In this section:

corresponding law, for an entity, means—

- (a) the [Australian Consumer Law \(ACT\)](#); and
- (b) the [Competition and Consumer Act 2010](#) (Cwlth); and
- (c) a law of another jurisdiction corresponding, or substantially corresponding, to—
 - (i) the Act; or
 - (ii) the operational Act for the entity's trader category; or

- (iii) the *Australian Consumer Law (ACT)*.

Note A reference to an Act (including a Commonwealth Act) includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

relevant law, for an entity, means—

- (a) the Act; and
- (b) the operational Act for the entity's trader category; and
- (c) a corresponding law for the entity.

8 Suitability information—entity in certain trader categories—Act, s 18 (a) (i)

- (1) This section applies to an entity in the following trader categories:
 - (a) motor vehicle dealer;
 - (b) motor vehicle wholesaler.
- (2) Information about the following in relation to the entity is prescribed:
 - (a) if the entity is a corporation—the entity being or having been insolvent in the last 3 years;
 - (b) in relation to the entity's proposed business operation—
 - (i) the entity's material and financial resources; and
 - (ii) the scope of the proposed business operation; and
 - (iii) any liability the entity may incur in the course of carrying on business.

Part 4 Licence conditions— Act, s 20 (1) (c)

9 Notification of certain new information

- (1) It is a condition of a licence that a licensee must tell the commissioner the following:
- (a) if the licensee's name changes—the new name;
 - (b) if the licensee's trading name changes—the new trading name;
 - (c) if the licensee's trading address changes—the new trading address;
 - (d) if the licensee's email address changes—the new email address;
 - (e) if a person ceases to be a relevant person for the licensee—
 - (i) the name of the person; and
 - (ii) the date on which the person will cease or ceased to be a relevant person;
 - (f) if a person becomes a relevant person for the licensee—
 - (i) the name of the person; and
 - (ii) the date on which the person will become or became a relevant person for the licensee;
 - (g) any other change in circumstances that relates to whether the licensee is a suitable entity.

Examples—par (g)

- 1 a finding of guilt for an offence under an operational Act
- 2 a relevant person becoming bankrupt or personally insolvent

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) It is a condition of a licence that the licensee tells the commissioner the information required under subsection (1) no more than 10 business days after the day the information becomes relevant.

Examples—day information becomes relevant

- 1 the day a new trading name is first used
- 2 the day a person ceases to be a relevant person

Part 5 Licensing and licence management

10 Transferable licences—Act, s 24 (1)

The following trader categories are prescribed:

- (a) car market operator;
- (b) motor vehicle dealer;
- (c) motor vehicle repairer;
- (d) motor vehicle wholesaler;
- (e) pawnbroker;
- (f) second-hand dealer.

11 Notification of application in certain trader categories

- (1) This section applies if an entity in 1 of the following trader categories makes an application under the [Act](#), section 22 (Licence application) or section 24 (Transfer application):

- (a) car market operator;
- (b) motor vehicle dealer;
- (c) motor vehicle wholesaler.

- (2) The relevant person for the applicant must, within 7 days of making the application, give public notice of the application.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (3) The public notice must state—
- (a) the name of the applicant; and
 - (b) the name of each relevant person; and
 - (c) the type of licence applied for; and

- (d) the proposed trading name of the applicant; and
- (e) the proposed trading address or addresses of the applicant; and
- (f) how to contact the commissioner; and
- (g) that any person who objects to the issue of the licence to the applicant may tell the commissioner, in writing, about the objection within 14 days of publication of the notice.

Note In deciding whether an entity is a suitable entity to hold a licence the commissioner must consider whether it is in the public interest to issue a licence to an applicant (see s 7 (1) (g)).

Part 6 Motor vehicle repairer licences

12 Definitions—pt 6

In this part:

licence means a licence issued for a trader in the motor vehicle repairer trader category.

motor vehicle repair work—see the *Fair Trading (Motor Vehicle Repair Industry) Act 2010*, dictionary.

13 Motor vehicle repairer—equipment, materials and skill for carrying out work

- (1) The Minister may give directions about the equipment, materials and skills necessary to perform work on a motor vehicle, part or system satisfactorily.
- (2) It is a requirement of a licence that motor vehicle repair work performed by the licensee, or an employee of the licensee, on a motor vehicle, part or system must be performed in accordance with any directions under subsection (1).
- (3) A direction is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

14 Motor vehicle repairer—agreement for repairs

- (1) It is a requirement of a licence that, before performing motor vehicle repair work for a person that is expected to cost the person \$150 or more, the licensee must—
 - (a) give the person an estimate of the cost of the work; and
 - (b) give the estimate, in writing, if asked by the person to do so.

- (2) However, if it is not reasonably practicable to give an estimate of the cost of work without first undertaking diagnostic work, it is a requirement of the licence that, when performing the diagnostic work for a person, the licensee must—
- (a) give the person a written estimate of the cost of the diagnostic work; and
 - (b) if the diagnosis is likely to result in any damage to the motor vehicle—tell the person of that fact in writing; and
 - (c) obtain the person’s written authorisation for the licensee to perform the diagnostic work, unless the person has agreed otherwise; and
 - (d) after the diagnosis and before the licensee repairs the vehicle—
 - (i) give the person an estimate of the cost of repairs; and
 - (ii) obtain the person’s authority to perform the repairs specified in the estimate.
- (3) It is a requirement of a licence that, when performing motor vehicle repair work for a person after giving an estimate to the person, the licensee must tell the person of any variation in the cost from the estimate.
- (4) It is a requirement of a licence that the licensee must keep records of written or verbal estimates and quotes given to a person.

15 Motor vehicle repairer—additional repairs

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

- (a) explain to the person—
 - (i) what the additional work or part is; and
 - (ii) what the cost of the work or part is; and

- (b) obtain the person's authorisation to—
 - (i) conduct the work or install the part; and
 - (ii) charge for the additional work or installation.

16 Motor vehicle repairer—time to carry out work

It is a requirement of a licence that the licensee must—

- (a) complete motor vehicle repair work within a reasonable time; and
- (b) tell the person for whom the work was done how much time was spent performing the work.

17 Motor vehicle repairer—replaced parts

- (1) It is a requirement of a licence that, on completing motor vehicle repair work for a person, the licensee must offer to give the person any part that was replaced as part of the work.
- (2) It is a requirement of a licence that the licensee must not charge the person a fee for the disposal of a replaced part or oil unless there is a sign clearly displayed at the licensee's premises stating that a fee will be charged for the disposal.
- (3) If the person chooses to take the replaced part away from the licensee's premises, the licensee must refund any fee paid for the disposal of the part.

18 Motor vehicle repairer—information sheet

- (1) The commissioner may approve an information sheet about motor vehicle repair work.
- (2) It is a requirement of a licence that, before performing motor vehicle repair work for a person, the licensee must make available any information sheet approved under subsection (1).

- (3) An approved information sheet is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

19 Motor vehicle repairer—warranties and guarantees

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

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- adult
- bankrupt or personally insolvent
- Corporations Act
- entity
- liability
- public notice.

Note 3 Terms used in this regulation have the same meaning that they have in the [Traders \(Licensing\) Act 2016](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Traders \(Licensing\) Act 2016](#), dict:

- car market operator (see s 8)
- commissioner
- motor vehicle dealer (see s 9)
- motor vehicle repairer (see s 10)
- motor vehicle wholesaler (see s 11)
- operational Act (see s 6)
- relevant person
- suitable entity (see s 18)
- trader (see s 7)
- trader category (see s 7)
- trading address (see s 15)
- trading name (see s 15).

insolvent, for part 3 (Suitability of entity)—see section 7.

licence, for part 6 (Motor vehicle repairer licences)—see section 13.

motor vehicle repair work, for part 6 (Motor vehicle repairer licences)—see the [Fair Trading \(Motor Vehicle Repair Industry\) Act 2010](#), dictionary.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Traders (Licensing) Regulation 2017 SL2017-21

notified LR 20 July 2017

s 1, s 2 commenced 20 July 2017 (LA s 75 (1))

remainder commenced 22 August 2017 (s 2 and see [Traders \(Licensing\) Act 2016](#) A2016-46, s 2)

4 Amendment history

Commencement

s 2 om LA s 89 (4)

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