

South Australia

Motor Vehicles Variation Regulations 2004

under the *Motor Vehicles Act 1959*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Motor Vehicles Variation Regulations 2004*.

2—Commencement

These regulations will come into operation on 20 September 2004.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Motor Vehicles Regulations 1996*

4—Substitution of regulation 23B

Regulation 23B—delete the regulation and substitute:

23B—Classes of vehicles Registrar may refuse to register

For the purposes of section 24(3)(ca) of the Act, the following classes of vehicles are prescribed:

- (a) written-off vehicles within the meaning of Part 4A of these regulations;
- (b) interstate written-off vehicles within the meaning of Part 4A of these regulations.

5—Insertion of Part 4A

After Part 4 insert:

Part 4A—Written-off vehicles

47A—Interpretation

- (1) In this Part, unless the contrary intention appears—

corresponding law—means a law of another State or a Territory of the Commonwealth that corresponds to the provisions of this Part;

interstate written-off vehicle means a motor vehicle that, for the purposes of a corresponding law, is recorded in a register maintained by the vehicle registration authority of another State or a Territory of the Commonwealth as a written-off vehicle, statutory write-off, repairable write-off or wrecked vehicle (as defined in that corresponding law);

notifiable vehicle means—

- (a) a written-off vehicle that is less than 15 years of age (determined from its date of manufacture) and is—
 - (i) a motor vehicle (other than a motor bike or trailer) with a GVM not greater than 4.5 tonnes; or
 - (ii) a motor bike; or
 - (iii) a caravan; or
 - (iv) a trailer with a GVM greater than 4.5 tonnes; or
- (b) an interstate written-off vehicle; or
- (c) where a vehicle referred to in paragraph (a) or (b) is wrecked or wholly or partly disassembled, any part of the vehicle that bears a vehicle identification plate or vehicle identification number;

repairable write-off means a motor vehicle that is written off and is not a statutory write-off;

sell means sell whether by treaty or auction and whether on one's own behalf or on behalf of others;

statutory write-off means a motor vehicle that is written off and is—

- (a) a motor vehicle (other than a motor bike or a trailer) that has been—
 - (i) immersed in salt water above the door sill level for any period; or
 - (ii) immersed in fresh water up to the dashboard or steering wheel for more than 48 hours; or
- (b) a motor bike that has been—
 - (i) fully immersed in salt water for any period; or
 - (ii) fully immersed in fresh water for more than 48 hours; or
- (c) a motor vehicle that is burnt to such an extent that it is fit only for wrecking or scrap; or
- (d) a motor vehicle that is stripped of all, or a combination of most, interior and exterior body parts, panels and components (such as, for example, the engine, wheels, bonnet, guards, doors, boot lid); or
- (e) a motor vehicle (other than a motor bike or a trailer) that is damaged by at least 3 of the following impact damage indicators:
 - (i) damage to an area of the roof equal to or exceeding 300mm by 300mm in size;
 - (ii) damage to an area of the cabin floor pan equal to or exceeding 300mm by 300mm in size;
 - (iii) damage to an area of the firewall equal to or exceeding 300mm by 300mm in size;
 - (iv) any damage to the suspension;
 - (v) damage to a major mechanical component such as the engine block or transmission casings (for example, where the component is cracked or broken); or
- (f) a motor bike that has impact damage (excluding scratching) to the suspension and at least 2 areas of structural frame damage;

total loss means a motor vehicle damaged by accident, collision, demolition, dismantling, fire, flood, trespass or other event to the extent that its fair salvage value, when added to the cost of repairing it for use on a road or road related area, would be more than its fair market value immediately before the event that caused the damage;

vehicle dealer means a person who carries on the business of selling motor vehicles;

vehicle registration authority, in relation to another State or a Territory of the Commonwealth, means the person or body responsible for registering vehicles in that State or Territory;

vehicle wrecker means a person who carries on the business of wrecking motor vehicles or disassembling motor vehicles for salvage;

written off—see subregulation (2);

written-off vehicle means—

- (a) a statutory write-off; or
- (b) a repairable write-off;

written-off vehicle notices means notices (including labels) issued by the Registrar for the purpose of being affixed to written-off vehicles or vehicle parts in accordance with regulation 47C.

- (2) For the purposes of this Part, a motor vehicle is ***written off*** if the vehicle—
 - (a) is a total loss; or
 - (b) is to be, or has been, wrecked or wholly or partly disassembled for salvage; or
 - (c) is to be, or has been, sold or acquired for wrecking or disassembling for salvage.

47B—Application of Part

- (1) This Part applies to a motor vehicle if the vehicle would be required to be registered under the Act in order to be driven on a road, whether or not the vehicle is in fact registered.
- (2) Despite subregulation (1), this Part does not apply to a golf cart or moped.

47C—Registrar to be given notice of, and notices to be affixed to, written-off vehicles

- (1) Subject to this regulation—
 - (a) an insurer who makes a determination that a motor vehicle is a total loss for insurance purposes must, if the vehicle is a notifiable vehicle—

- (i) as soon as practicable after making the determination, but before selling or otherwise disposing of the vehicle, affix written-off vehicle notices to the vehicle in accordance with this regulation; and
 - (ii) within 7 days after making the determination, give notice in relation to the vehicle to the Registrar in accordance with this regulation;
- (b) a person who brings a notifiable vehicle into the State from another State or a Territory of the Commonwealth must—
 - (i) as soon as practicable after bringing the vehicle into the State, but before selling or otherwise disposing of the vehicle, affix written-off vehicle notices to the vehicle in accordance with this regulation; and
 - (ii) within 7 days after bringing the vehicle into the State, give notice in relation to the vehicle to the Registrar in accordance with this regulation;
- (c) a vehicle dealer who comes into possession of a notifiable vehicle must—
 - (i) as soon as practicable after coming into possession of the vehicle, but before selling or otherwise disposing of the vehicle, affix written-off vehicle notices to the vehicle in accordance with this regulation; and
 - (ii) within 7 days after coming into possession of the vehicle, give notice in relation to the vehicle to the Registrar in accordance with this regulation;
- (d) a vehicle wrecker who acquires a notifiable vehicle must—
 - (i) as soon as practicable after acquiring the vehicle, but before commencing to dismantle the vehicle, or selling or otherwise disposing of the vehicle, affix written-off vehicle notices to the vehicle in accordance with this regulation; and
 - (ii) within 7 days after acquiring the vehicle, give notice in relation to the vehicle to the Registrar in accordance with this regulation;
- (e) a person (other than a person referred to in a preceding paragraph of this subregulation) who is in possession of a notifiable vehicle must, before selling or otherwise disposing of the vehicle—
 - (i) affix written-off vehicle notices to the vehicle in accordance with this regulation; and
 - (ii) give notice in relation to the vehicle to the Registrar in accordance with this regulation.

- (2) A person is not required to affix written-off vehicle notices to a notifiable vehicle under subregulation (1) if—
 - (a) such notices are already affixed to the vehicle in accordance with this regulation and (except where the person is a person referred to in subregulation (1)(d) or (e)) any identification of the vehicle as a statutory write-off or repairable write-off by the notices is correct; or
 - (b) in the case of an interstate written-off vehicle, the notices required to be affixed under the corresponding law of the relevant State or Territory are so affixed.
- (3) A person is not required to give notice in relation to a notifiable vehicle to the Registrar under subregulation (1) if—
 - (a) notice has already been given in relation to the vehicle to the Registrar in accordance with this regulation and (except where the person is a person referred to in subregulation (1)(d) or (e)) the previous notification correctly identifies whether the vehicle is a statutory write-off or a repairable write-off; or
 - (b) the vehicle is an interstate written-off vehicle.
- (4) Written-off vehicle notices must be affixed to a notifiable vehicle in the manner determined by the Minister and specified on the notices or on accompanying material.
- (5) A notice required to be given to the Registrar in accordance with this regulation—
 - (a) must be given in the manner and form determined by the Minister; and
 - (b) must—
 - (i) (except in the case of a notice given by a person referred to in subregulation (1)(e)) specify whether the notifiable vehicle is a statutory write-off or a repairable write-off; and
 - (ii) contain particulars of such other matters as may be determined by the Minister.
- (6) Written-off vehicle notices affixed to a notifiable vehicle in accordance with this regulation (or, in the case of an interstate written-off vehicle, notices affixed in accordance with the relevant corresponding law) must not be defaced, altered or removed from the vehicle except—
 - (a) at a time or in a manner determined by the Minister and (except in the case of notices affixed in accordance with a corresponding law) specified in the notice; or
 - (b) by or with the approval of an inspector.

- (7) A person who contravenes or fails to comply with a requirement of this regulation is guilty of an offence.

Maximum penalty:

- (a) In the case of an offence committed in the course of a trade or business—\$2 500;
- (b) In any other case—\$750.

Expiation fee:

In the case of an alleged offence not committed in the course of a trade or business—\$210.

- (8) Without limiting the circumstances in which an insurer referred to in subregulation (1)(a) may be taken to have determined that a motor vehicle is a total loss, an insurer will for the purposes of that subregulation be taken to have made such a determination if the insurer—

- (a) allows a claim for the full insured value of the vehicle; or
- (b) sells or otherwise disposes of the vehicle to a third party.

- (9) A reference in this regulation to commencing to dismantle, selling or otherwise disposing of, affixing written-off vehicle notices to or removing written-off vehicle notices from, a vehicle, includes a reference to dismantling, selling or otherwise disposing of, affixing notices to or removing notices from, a part of the vehicle.

47D—Offence to drive written-off vehicle on road

- (1) A person must not drive a notified written-off vehicle on a road except to or from—
- (a) a place at which the vehicle is to be or has been repaired; or
 - (b) a place at which the vehicle is to be or has been inspected by an inspector.

Maximum penalty:

- (a) In the case of an offence committed in the course of a trade or business—\$2 500;
- (b) In any other case—\$750.

Expiation fee:

In the case of an alleged offence not committed in the course of a trade or business—\$210.

- (2) In this regulation—

notified written-off vehicle means—

- (a) a motor vehicle recorded as a written-off vehicle by the Registrar following notification under this Part; or
- (b) an interstate written-off vehicle.

6—Revocation of regulation 53

Regulation 53—delete the regulation

7—Insertion of regulation 58

After regulation 57 insert:

58—Meaning of written-off motor vehicle for purposes of section 145(8) of the Act

For the purposes of section 145(8) of the Act, the following classes of motor vehicles are written-off vehicles:

- (a) written-off vehicles within the meaning of Part 4A of these regulations;
- (b) interstate written-off vehicles within the meaning of Part 4A of these regulations.

8—Variation of Schedule 4—Prescribed alterations and additions

- (1) Schedule 4, clause 11—after "motor vehicle" insert:

(other than a notifiable vehicle)

- (2) Schedule 4, clause 12—delete the clause and substitute:

12 The removal, alteration, defacement or obliteration of—

- (a) a vehicle identification plate or vehicle identification number (other than a plate or number of a notifiable vehicle); or
- (b) an engine number,

except where, in relation to the removal of a vehicle identification plate (or a plate bearing a vehicle identification number or engine number), the plate is put back into place on the vehicle.

- (3) Schedule 4—after clause 13 insert:

14 In this Schedule—

notifiable vehicle has the same meaning as in Part 4A.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 2 September 2004

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