

South Australia

# **Fair Trading (Motor Vehicle Insurers and Repairers) Amendment Regulations 2023**

under the *Fair Trading Act 1987*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Fair Trading (Motor Vehicle Insurers and Repairers) Amendment Regulations 2023*.

### **2—Commencement**

These regulations come into operation on 1 June 2023.

## **Part 2—Amendment of *Fair Trading Regulations 2010***

### **3—Insertion of regulations 4A and 4B**

After regulation 4 insert:

#### **4A—Disclosure of relevant interest by insurer (section 28K(1) of Act)**

- (1) Subject to this regulation, for the purposes of section 28K(1) of the Act, an insurer must disclose any relevant interest held by the insurer in relation to a repairer in the manner set out in this regulation.
- (2) An insurer must provide the holder of the policy of insurance with—
  - (a) a statement of relevant interest; and
  - (b) a statement advising the holder of the policy of the availability of all statements of relevant interest on the insurer's website in accordance with subregulation (4).

- (3) A statement required to be provided by an insurer to the holder of a policy of insurance under subregulation (2) must—
- (a) be given to the holder of the policy personally; or
  - (b) be read out to the holder of the policy over the telephone; or
  - (c) be posted in an envelope addressed to the holder of the policy—
    - (i) at the holder of the policy's last known address; or
    - (ii) at an address for service provided by the holder of the policy; or
  - (d) be provided by electronic means agreed by the insurer and the holder of the policy.
- (4) An insurer must make available a list of all current statements of relevant interest on the insurer's website in a manner—
- (a) that is easily accessible to holders of a policy of insurance; and
  - (b) that allows the holder of a policy of insurance to search the statements of relevant interest.
- (5) Pursuant to section 97(2)(c) of the Act, an insurer is exempt from complying with the requirement in section 28K(1) of the Act in relation to a relevant interest of a kind described in paragraph (b) of the definition of *relevant interest* in subsection (3) of that section if the contract or arrangement under which the repairer is engaged or authorised to undertake repairs—
- (a) facilitates the undertaking of repairs on a one-off basis; and
  - (b) does not establish an arrangement between the insurer and the repairer for undertaking repairs on behalf of the insurer on an ongoing basis.
- (6) In this regulation—
- statement of relevant interest* means the name, address and contact details of the repairer in relation to whom the insurer holds a relevant interest.

**4B—Disclosure of choice of repairer by insurer (section 28K(2) of Act)**

- (1) For the purposes of section 28K(2) of the Act, an insurer must, at the time the holder of an insurance policy—
- (a) enters into a contract of insurance; and
  - (b) renews a contract of insurance; and
  - (c) makes a claim against a contract of insurance,
- provide to the holder of the policy—

- (d) if the insurance policy contains a provision allowing the holder of an insurance policy to make a choice as to which repairer may be engaged to undertake repairs under the insurance policy—a statement of that fact; or
  - (e) if the insurance policy does not contain a provision allowing the holder of an insurance policy to make a choice as to which repairer may be engaged to undertake repairs under the insurance policy—a statement of that fact.
- (2) A statement required to be provided by an insurer to the holder of an insurance policy under subregulation (1) must—
- (a) be given to the holder of the policy personally; or
  - (b) be read out to the holder of the policy over the telephone; or
  - (c) be posted in an envelope addressed to the holder of the policy—
    - (i) at the holder of the policy's last known address; or
    - (ii) at an address for service provided by the holder of the policy; or
  - (d) be provided by electronic means agreed by the insurer and the holder of the policy.

**Editorial note—**

As required by section 10AA(2) of the *Legislative Instruments 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 23 February 2023

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