



Australian Capital Territory

Fair Trading (Motor Vehicle Repair Industry) Act 2010

A2010-16

Republication No 12

Effective: 22 August 2017

Republication date: 22 August 2017

Last amendment made by [A2017-4](#)
(republication for amendments by [A2016-46](#))

About this republication

The republished law

This is a republication of the *Fair Trading (Motor Vehicle Repair Industry) Act 2010* (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, amendment, repeal or expiry affecting this republished law to 22 August 2017.

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 changes

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 includes 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).



Australian Capital Territory

Fair Trading (Motor Vehicle Repair Industry) Act 2010

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R12
22/08/17

Fair Trading (Motor Vehicle Repair Industry) Act 2010
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Australian Capital Territory

Fair Trading (Motor Vehicle Repair Industry) Act 2010

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

Part 1 Preliminary

1 Name of Act

This Act is the *Fair Trading (Motor Vehicle Repair Industry) Act 2010*.

3 Dictionary

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

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

For example, the signpost definition ‘*consumer*—see the [Australian Consumer Law \(ACT\)](#), section 2 (1).’ means that the term ‘consumer’ is defined in that law and the definition applies to this Act.

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

4 Notes

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

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

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

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

Note 2 Penalty units

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Important concepts

7 Certain people not taken to carry on business as motor vehicle repairer

For this Act, a person does not carry on business as a motor vehicle repairer only because the person—

- (a) performs motor vehicle repair work in the course of employment by another person; or
- (b) is a member of a partnership that carries on the business; or
- (c) publishes, on behalf of another person, an advertisement about—
 - (i) a business carried on, or to be carried on, by the other person; or
 - (ii) a service provided, or to be provided, by the other person.

Part 6 Advisory committee

39 Establishment of advisory committee

The motor vehicle repair industry advisory committee (the *advisory committee*) is established.

40 Advisory committee functions

The advisory committee has the following functions:

- (a) advising the Minister about—
 - (i) the licensing, registration or training of people in the motor vehicle repair industry; and
 - (ii) matters affecting the interests of consumers in relation to motor vehicle repair work; and
 - (iii) unfair commercial practices that affect people who carry on business as a motor vehicle repairer; and
 - (iv) environmental issues in relation to disposal of the motor vehicle repair industry's waste;
- (b) advising the Minister about conditions of a licence under the *Traders (Licensing) Act 2016*;
- (c) any other function given to the advisory committee under this Act.

41 Advisory committee membership

The advisory committee is made up of—

- (a) the commissioner for fair trading; and
- (b) the following members (the *representative members*) appointed by the Minister:
 - (i) a representative of the industry body for the motor vehicle repair industry;

- (ii) a representative of people who carry on business as motor vehicle repairers;
- (iii) a representative of employees of people who carry on business as motor vehicle repairers;
- (iv) 2 people to represent the interests of consumers;
- (v) a representative of the community's interest in the environment.

42 Advisory committee—chair

The commissioner for fair trading is the chair of the advisory committee.

43 Advisory committee—general procedure

- (1) Meetings of the advisory committee are to be held when and where it decides.
- (2) However—
 - (a) the advisory committee must meet at least twice each year; and
 - (b) the commissioner may, by reasonable written notice given to the other advisory committee members, call a meeting.
- (3) The advisory committee may conduct its proceedings (including its meetings) as it considers appropriate.

44 Reimbursement of expenses for advisory committee members

- (1) A representative member of the advisory committee is not entitled to be paid for the exercise of the member's functions.
- (2) However, a representative member may apply to the commissioner for reimbursement of expenses reasonably incurred by the member for the purpose of attending a meeting of the advisory committee.

Part 7 Offences

Note For investigations by the commissioner—see the *Fair Trading (Australian Consumer Law) Act 1992*, div 3.2.

49 False or misleading representations

- (1) A person must not, in trade or commerce, in connection with the supply or possible supply of goods or services in relation to motor vehicle repair work or in connection with the promotion by any means of the supply or use of goods or services in relation to motor vehicle repair work—
- (a) falsely represent that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use; or
 - (b) falsely represent that services are of a particular standard, quality, value or grade; or
 - (c) falsely represent that goods are new; or
 - (d) falsely represent that a particular person has agreed to acquire goods or services; or
 - (e) represent that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits they do not have; or
 - (f) represent that the person has a sponsorship, approval or affiliation he or she does not have; or
 - (g) make a false or misleading representation in relation to the price of goods or services; or
 - (h) make a false or misleading representation about the availability of facilities for the repair of goods or of spare parts for goods; or
 - (i) make a false or misleading representation about the place of origin of goods; or

- (j) make a false or misleading representation about the need for any goods or services; or
 - (k) make a false or misleading representation about the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy; or
 - (l) make a false or misleading representation that services have been or are to be performed with the equipment, materials and skill necessary to carry out the work satisfactorily, having regard to the age and make of the vehicle, part or system.
- (2) A person does not contravene subsection (1) (i) if the person makes a representation about the country of origin of goods and the person complies with the *Competition and Consumer Act 2010* (Cwlth), part 5 (Consumer protection), division 1AA (Country of origin representations).
- (3) A person commits an offence if the person contravenes subsection (1).

Maximum penalty: 200 penalty units.

- (4) In this section:

goods—see the *Australian Consumer Law (ACT)*, section 2 (1).

price—see the *Australian Consumer Law (ACT)*, section 2 (1).

services—see the *Australian Consumer Law (ACT)*, section 2 (1).

supply—see the *Australian Consumer Law (ACT)*, section 2 (1).

trade or commerce—see the *Australian Consumer Law (ACT)*, section 2 (1).

Part 9 Miscellaneous

53 Exemptions by regulation

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

56 Approved forms

- (1) The commissioner may approve forms for this Act.
- (2) If the commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the [Legislation Act](#), s 255.

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

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

57 Regulation-making power

The Executive may make regulations for this Act.

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

Dictionary

(see s 3)

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

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

- ACAT
- Australian Consumer Law (ACT)
- Australian Criminal Intelligence Commission
- entity
- found guilty
- Minister (see s 162)
- occupational discipline order
- reviewable decision notice
- State.

advisory committee—see section 39.

commissioner means the commissioner for fair trading.

consumer—see the [Australian Consumer Law \(ACT\)](#), section 2 (1).

motor vehicle—see the [Sale of Motor Vehicles Act 1977](#), dictionary.

motor vehicle repair work—

(a) means—

- (i) any of the following work performed on a motor vehicle, motor vehicle part or motor vehicle system:
 - (A) examining or assessing condition or performance improvement;
 - (B) diagnosing and detecting of faults;
 - (C) overhauling;
 - (D) dismantling and assembling;
 - (E) servicing and maintenance;

- (F) replacing and adjusting of objects for performance improvement;
 - (G) painting and treatment;
 - (H) modifying, altering, installing or fitting work; and
 - (ii) giving advice on any of the work mentioned in subparagraph (i); and
 - (iii) any other work prescribed by regulation to be motor vehicle repair work; but
- (b) does not include any work prescribed by regulation not to be motor vehicle repair work.

representative members, of the advisory committee—see section 41.

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

Fair Trading (Motor Vehicle Repair Industry) Act 2010 A2010-16

notified LR 7 April 2010

s 1, s 2 commenced 7 April 2010 (LA s 75 (1))

remainder commenced 7 October 2010 (s 2 and LA s 79)

as amended by

[Fair Trading \(Australian Consumer Law\) Amendment Act 2010 A2010-54 sch 3 pt 3.8](#)

notified LR 16 December 2010

s 1, s 2 commenced 16 December 2010 (LA s 75 (1))

sch 3 pt 3.8 commenced 1 January 2011 (s 2 (1))

[Statute Law Amendment Act 2011 A2011-3 sch 3 pt 3.19](#)

notified LR 22 February 2011

s 1, s 2 commenced 22 February 2011 (LA s 75 (1))

sch 3 pt 3.19 commenced 1 March 2011 (s 2)

[Justice and Community Safety Legislation Amendment Act 2011 \(No 3\) A2011-49 sch 1 pt 1.4](#)

notified LR 22 November 2011

s 1, s 2 commenced 22 November 2011 (LA s 75 (1))

sch 1 pt 1.4 commenced 12 December 2011 (s 2 (2) (a) and see [Statute Law Amendment Act 2011 \(No 3\) A2011-52 s 2](#))

[Justice and Community Safety Legislation \(Red Tape Reduction No 1—Licence Periods\) Amendment Act 2013 A2013-28 pt 5](#)

notified LR 21 August 2013

s 1, s 2 commenced 21 August 2013 (LA s 75 (1))

pt 5 commenced 22 August 2013 (s 2)

[Red Tape Reduction Legislation Amendment Act 2014 A2014-47 pt 3](#)

notified LR 6 November 2014

s 1, s 2 commenced 6 November 2014 (LA s 75 (1))

pt 3 commenced 7 November 2014 (s 2)

Endnotes

3 Legislation history

Spent Convictions (Historical Homosexual Convictions Extinguishment) Amendment Act 2015 A2015-45 sch 1 pt 1.4

notified LR 6 November 2015

s 1, s 2 commenced 6 November 2015 (LA s 75 (1))

sch 1 pt 1.4 commenced 7 November 2015 (s 2)

Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 3 pt 3.23, sch 4 pt 4.4

notified LR 13 April 2016

s 1, s 2 commenced 13 April 2016 (LA s 75 (1))

sch 3 pt 3.23, sch 4 pt 4.4 commenced 27 April 2016 (s 2)

Traders (Licensing) Act 2016 A2016-46 sch 2 pt 2.2

notified LR 22 August 2016

s 1, s 2 commenced 22 August 2016 (LA s 75 (1))

sch 2 pt 2.2 commenced 22 August 2017 (s 2)

Statute Law Amendment Act 2017 A2017-4 sch 3 pt 3.12

notified LR 23 February 2017

s 1, s 2 commenced 23 February 2017 (LA s 75 (1))

sch 3 pt 3.12 commenced 9 March 2017 (s 2)

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Dictionary

s 3 am [A2010-54](#) amdt 3.22

Carrying on business as motor vehicle repairer

s 6 om [A2016-46](#) amdt 2.3

Licences

pt 3 hdg om [A2016-46](#) amdt 2.4

Requirement for licence

div 3.1 hdg om [A2016-46](#) amdt 2.4

Person carrying on business as motor vehicle repairer to be licensed

s 8 om [A2016-46](#) amdt 2.4

Eligibility for licence

div 3.2 hdg om [A2016-46](#) amdt 2.4

Eligibility for licence

s 9 om [A2016-46](#) amdt 2.4

Meaning of *disqualified person*

s 10 am [A2010-54](#) amdt 3.23
om [A2016-46](#) amdt 2.4

Licence procedures and details

div 3.3 hdg om [A2016-46](#) amdt 2.4

Application for motor vehicle repair licence

s 11 om [A2016-46](#) amdt 2.4

Decision on application

s 12 om [A2016-46](#) amdt 2.4

Licence conditions

s 13 om [A2016-46](#) amdt 2.4

Form of licence

s 14 om [A2016-46](#) amdt 2.4

Replacement licence

s 15 am [A2016-18](#) amdt 3.103, amdt 3.104
om [A2016-46](#) amdt 2.4

Licence term

s 16 am [A2013-28](#) s 11
om [A2016-46](#) amdt 2.4

Endnotes

4 Amendment history

Licence not transferable

s 17 om [A2016-46](#) amdt 2.4

Renewal of licence

s 18 om [A2016-46](#) amdt 2.4

Amendment of licence on commissioner's initiative

s 19 om [A2016-46](#) amdt 2.4

Amendment of licence on application

s 20 om [A2016-46](#) amdt 2.4

Surrendering licence

s 21 am [A2016-18](#) amdt 3.105, amdt 3.106
om [A2016-46](#) amdt 2.4

Licence conditions

div 3.4 hdg om [A2016-46](#) amdt 2.4

Licence condition—equipment, materials and skill for carrying out work

s 22 om [A2016-46](#) amdt 2.4

Licence condition—agreement for repairs

s 23 om [A2016-46](#) amdt 2.4

Licence condition—additional repairs

s 24 om [A2016-46](#) amdt 2.4

Licence condition—time to carry out work

s 25 om [A2016-46](#) amdt 2.4

Licence condition—replaced parts

s 26 om [A2016-46](#) amdt 2.4

Licence condition—information sheet

s 27 om [A2016-46](#) amdt 2.4

Licence condition—warranties and guarantees

s 28 om [A2016-46](#) amdt 2.4

Licence condition—display of licence

s 29 om [A2016-18](#) amdt 4.5

Licence condition—notification of change of name or address

s 30 om [A2016-46](#) amdt 2.4

Occupational discipline

pt 4 hdg om [A2016-46](#) amdt 2.4

Meaning of *licensee*—pt 4

s 31 om [A2016-46](#) amdt 2.4

Grounds for disciplinary action

s 32 om [A2016-46](#) amdt 2.4

Application to ACAT for occupational discipline

s 33 om [A2016-46](#) amdt 2.4

Considerations before making occupational discipline orders

s 34 om [A2016-46](#) amdt 2.4

Information about cancellations etc to be given to corresponding authorities

s 35 am [A2011-3](#) amdt 3.206
om [A2016-46](#) amdt 2.4

Effect of licence suspension

s 36 om [A2016-46](#) amdt 2.4

Licence register

pt 5 hdg om [A2016-46](#) amdt 2.4

Licence register

s 37 om [A2016-46](#) amdt 2.4

Correcting register and keeping it up-to-date

s 38 om [A2016-46](#) amdt 2.4

Advisory committee functions

s 40 am [A2016-46](#) amdt 2.5, amdt 2.6

Advisory committee to report on impact of Act etc

s 45 exp 7 October 2012 (s 45 (5))

Unlicensed person advertising

s 46 om [A2016-46](#) amdt 2.7

Return of amended, suspended or cancelled licences

s 48 om [A2016-46](#) amdt 2.7

Offences

pt 7 hdg note am [A2010-54](#) amdt 3.24

Licensee advertising without details

s 47 om [A2014-47](#) s 6

False or misleading representations

s 49 am [A2010-54](#) amdt 3.25, amdt 3.26

Notification and review of decisions

pt 8 hdg om [A2016-46](#) amdt 2.8

Meaning of *reviewable decision*—pt 8

s 50 om [A2016-46](#) amdt 2.8

Reviewable decision notices

s 51 om [A2016-46](#) amdt 2.8

Applications for review

s 52 om [A2016-46](#) amdt 2.8

Endnotes

4 Amendment history

Exemptions by Minister

s 54 om [A2016-46](#) amdt 2.9

Determination of fees

s 55 om [A2016-46](#) amdt 2.9

Legislation repealed

s 58 om LA s 89 (3)

Transitional

pt 10 hdg exp 7 October 2011 (s 63)

Definitions—pt 10

s 59 exp 7 October 2011 (s 63)
def **commencement day** exp 7 October 2011 (s 63)
def **repealed code** exp 7 October 2011 (s 63)

Principals under repealed code licensed

s 60 exp 7 October 2011 (s 63)

Registration under repealed code

s 61 exp 7 October 2011 (s 63)

Transitional regulations

s 62 exp 7 October 2011 (s 63)

Expiry—pt 10

s 63 exp 7 October 2011 (s 63)

Fair Trading (Consumer Affairs) Act 1973

s 64 om LA s 89 (3)

Reviewable decisions

sch 1 om [A2016-46](#) amdt 2.10

Dictionary

dict am [A2010-54](#) amdt 3.28; [A2011-49](#) amdt 1.8; [A2017-4](#)
amdt 3.58-3.60; [A2016-46](#) amdt 2.11
def **carries on business as a motor vehicle repairer** om
[A2016-46](#) amdt 2.12
def **consumer** sub [A2010-54](#) amdt 3.29
def **corporation** om [A2016-46](#) amdt 2.12
def **disqualified person** om [A2016-46](#) amdt 2.12
def **ground for occupational discipline** om [A2016-46](#)
amdt 2.12
def **licence** om [A2016-46](#) amdt 2.12
def **licence number** om [A2016-46](#) amdt 2.12
def **licensee** om [A2016-46](#) amdt 2.12
def **motor vehicle repair work** sub [A2016-46](#) amdt 2.13

def **police certificate** am [A2011-49](#) amdt 1.9; [A2015-45](#)
amdt 1.4; [A2017-4](#) amdt 3.61
om [A2016-46](#) amdt 2.14
def **register** om [A2016-46](#) amdt 2.14
def **reviewable decision** om R12 LA

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 7 Oct 2010	7 Oct 2010- 31 Dec 2010	not amended	new Act
R2 1 Jan 2011	1 Jan 2011– 28 Feb 2011	A2010-54	amendments by A2010-54
R3 1 Mar 2011	1 Mar 2011– 7 Oct 2011	A2011-3	amendments by A2011-3
R4 8 Oct 2011	8 Oct 2011– 11 Dec 2011	A2011-3	expiry of transitional provision (pt 10)
R5 12 Dec 2011	12 Dec 2011– 7 Oct 2012	A2011-49	amendments by A2011-49
R6 8 Oct 2012	8 Oct 2012– 21 Aug 2013	A2011-49	expiry of provision (s 45)
R7 22 Aug 2013	22 Aug 2013- 6 Nov 2014	A2013-28	amendments by A2013-28
R8 7 Nov 2014	7 Nov 2014- 6 Nov 2015	A2014-47	amendments by A2014-47
R9 7 Nov 2015	7 Nov 2015- 26 Apr 2016	A2015-45	amendments by A2015-45
R10 27 Apr 2016	27 Apr 2016- 8 Mar 2017	A2016-18	amendments by A2016-18
R11 9 Mar 2017	9 Mar 2017- 21 Aug 2017	A2017-4	amendments by A2017-4

6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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