

Motor vehicle insurer and repairer factsheet

New requirements 2023

New fair trading laws in South Australia that impact motor vehicle insurers and repairers will be subject to compliance and enforcement by Consumer and Business Services from 1 December 2023.

Insurers must declare their relationships with repairers and whether policy holders have a choice of repairer.

The laws were introduced on 1 June 2023 with a 6-month grace period for insurers to implement systems and provide the information.

The changes are listed below.

Disclosing interest in repairer

[Fair Trading Act 1987](#)

Section 28K – Insurer must disclose relevant interest in relation to the repairer

- (1) An insurer must, before engaging or authorising a repairer to undertake repairs under a policy of insurance issued by the insurer, disclose to the holder of the insurance policy in the prescribed manner any relevant interest held by the insurer in relation to the repairer.
- (2) An insurer must, at the prescribed times and in the prescribed manner, disclose to the holder of an insurance policy issued by the insurer whether or not the insurance policy contains a provision allowing the holder of the insurance policy to make a choice as to which repairer may be engaged to undertake repairs under the insurance policy.
- (3) In this section, an insurer holds a **relevant interest** in relation to a repairer if—
 - (a) the insurer owns, or has any financial interest in, the business of the repairer; or
 - (b) the insurer has entered into a contract or other arrangement with the repairer in relation to engaging the services of the repairer under a policy of insurance issued by the insurer.

Disclosure of relevant interest

Fair Trading Regulations 2010

Regulation 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.

Disclosure of choice of repairer

[*Fair Trading Regulations 2010*](#)

Regulation 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

Exempt transactions

[*Fair Trading Regulations 2010*](#)

Regulation 4C – Exempt transactions (section 28K of Act)

(1) Pursuant to section 97(2)(c) of the Act, an insurer is exempt from the requirement to make a disclosure to the holder of an insurance policy under section 28K of the Act if—

- (a) the policy relates to a motor vehicle that is not a designated motor vehicle; or
- (b) the holder of the policy is not the owner of the motor vehicle to which repairs are to be undertaken under the policy.

(2) In this regulation—

class C licence means a motor vehicle licence of class C prescribed for the purposes of section 72(1) of the *Motor Vehicles Act 1959*;

designated motor vehicle means a motor vehicle authorised to be driven by a class C licence, other than—

(a) a quad bike; or

(b) a special purpose vehicle within the meaning of the *Motor Vehicles (National Heavy Vehicles Registration Fees) Regulations 2008*.

Penalties

Failure to make appropriate disclosures as required could result in civil penalties being ordered by a court of up to \$10,000 for an individual or \$50,000 for a business.

Further information

More information is available from Consumer and Business Services on 131 882 or www.cbs.sa.gov.au.