

Road Traffic (Written-Off Vehicle Register) Regulations 2003

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THE TEXT OF THE LEGISLATION FOLLOWS

Road Traffic (Written-Off Vehicle Register) Regulations 2003

CONTENTS

Part 1 — Preliminary		
1.	Citation	1
2.	Interpretation	1
3.	Modified penalties for infringements	5
4.	Total loss — meaning	5
5.	Written off vehicles	5
6.	Notifiable vehicles	5
7.	Statutory write-offs	6
8.	Repairable write-offs	7
Part 2 — Dealing with notifiable vehicles		
9.	Notification and marking of write-offs	8
10.	Written-off vehicle notices	9
11.	Written-off warning labels	9
12.	Defacing vehicle identifiers of statutory write-offs	10
Part 3 — Registration of written-off vehicles		
13.	The Written-Off Vehicle Register	11
14.	WOVR to include particulars of notifiable vehicles	11
15.	Public access to information on WOVR	11
16.	Cancellation of entry in WOVR	12
17.	Implementing the national scheme	12

Contents

Notes

Compilation table

13

Western Australia

Road Traffic Act 1974

Road Traffic (Written-Off Vehicle Register) Regulations 2003

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Road Traffic (Written-Off Vehicle Register) Regulations 2003*.

2. Interpretation

In these regulations, unless the contrary intention appears —

“assessor”, in relation to a vehicle, means —

- (a) the insurer (if any) of the vehicle; or
- (b) an insurer, dealer or wrecker who has possession or control of the vehicle and who is in a position to assess whether the vehicle is a write-off;

“Australian Design Rules” means the *Australian Design Rules for Motor Vehicles and Trailers*, 3rd edition, published by the Federal Office of Road Safety of the Commonwealth Department of Transport and Regional Development;

“compliance period”, in relation to a notifiable vehicle, has the meaning given in regulation 9(3);

r. 2

“corresponding administrator” means a person who is responsible for the day-to-day administration of a corresponding law;

“corresponding law” means a law of another State or a Territory that corresponds to these regulations;

“corresponding WOVR” means a register (however described), that is established and maintained under a corresponding law;

“damaged vehicle” means a vehicle that does not comply with the Vehicle Standards as a result of being damaged;

“dealer” means a person —

- (a) who carries on any class or description of business that is prescribed in regulation 8 of the *Motor Vehicle Dealers (Licensing) Regulations 1974*;
- (b) who carries on the business of hiring vehicles, where the right to purchase the vehicle is not included in that hiring; or
- (c) whose ordinary business is not that of buying or selling vehicles but who carries on or acts in that business only for one or more of the following purposes —
 - (i) for the purpose of the hiring, under a hire-purchase agreement, of the vehicle bought or sold;
 - (ii) for the purpose of effectuating a security over the vehicle bought or sold;
 - (iii) for the purpose of the hiring, where the right to purchase the vehicle is not included in that hiring, of the vehicle bought or sold; or
 - (iv) for the purpose of disposing of a vehicle acquired by the person in connection with a purpose referred to in subparagraph (i), (ii) or (iii);

“hire purchase agreement” has the meaning given to that term in the *Hire-Purchase Act 1959* except that it includes an agreement that would, but for paragraph (e) of the definition of that term in section 2(1) of that Act, be a hire-purchase agreement under that Act;

“identifier” means —

- (a) in relation to a vehicle manufactured before 1 July 1988 —
 - (i) if the vehicle has an individual chassis identification number or an engine identification number in accordance with regulation 52 of the Vehicles Standards — that number; or
 - (ii) if there is no such number — any number legibly and durably stamped on the vehicle by the vehicle’s manufacturer;
- (b) in relation to a vehicle manufactured after 30 June 1988 —
 - (i) if the vehicle has a vehicle identification number allocated in accordance with a national standard incorporated in the Australian Design Rules — that number; or
 - (ii) in any other case — any number legibly and durably stamped on the vehicle by the vehicle’s manufacturer to identify the vehicle;
- (c) if the Director General has, under a written law, allotted a number to replace a number mentioned in paragraph (a) or (b) — the replacement number; or
- (d) if a number referred to in paragraph (a), (b) or (c) has been replaced under a corresponding law of the Commonwealth, another State or a Territory — the replacement number;

“insurer”, in relation to a vehicle, means —

r. 2

- (a) a person who insures the vehicle in the course of carrying on a business of insurance; or
- (b) if the vehicle is owned by a corporation and is not insured — the corporation;

“MRC” (which stands for “mass rating for charging”) has the same meaning as it has in the *Road Traffic (Licensing) Regulations 1975*;

“notifiable”, in relation to a vehicle, means notifiable under regulation 6;

“number” includes letter;

“number plate” means a number plate, identification tablet, special plate or name plate within the meaning of the *Road Traffic (Licensing) Regulations 1975*;

“repair”, in relation to a vehicle, means to repair the vehicle as much as is necessary for the vehicle to comply with the Vehicle Standards;

“repairable write-off”, in relation to a vehicle, has the meaning given in regulation 8;

“statutory write-off” has the meaning given in regulation 7;

“total loss”, in relation to a vehicle, has the meaning given in regulation 4;

“Vehicle Standards” means the *Road Traffic (Vehicle Standards) Rules 2002*;

“WOVR” stands for the Written-Off Vehicle Register established and maintained under regulation 13;

“wrecker” means a person who carries on the business of —

- (a) destroying or dismantling vehicles, parts of vehicles, or vehicle accessories; or
- (b) buying and selling vehicles (including substantially destroyed or dismantled vehicles), parts of vehicles, or vehicle accessories;

“written-off”, in relation to a vehicle, has the meaning given in regulation 5;

“written-off vehicle notice” means a notice under regulation 10;

“written-off warning label” means a label to be attached to a statutory write-off under regulation 9(1)(b) and in accordance with regulation 11.

[Regulation 2 amended in Gazette 16 Sep 2005 p. 4324-5.]

3. Modified penalties for infringements

The offences in these regulations that are followed by a penalty expressed as a “modified penalty” are offences that are prescribed for the purposes of section 102 of the Act, and the modified penalty directly following the offence is the prescribed penalty in respect of that offence if dealt with under that section in the manner prescribed in the *Road Traffic (Infringements) Regulations 1975*.

4. Total loss — meaning

A damaged vehicle is a total loss if the sum of the market value of the vehicle and the cost of repairing it so that it complies with the Vehicle Standards would be greater than the market value of the vehicle immediately before it was damaged.

5. Written off vehicles

A vehicle is written off when it is assessed as a total loss by an assessor.

6. Notifiable vehicles

A written-off vehicle is notifiable if —

- (a) it is a motor vehicle, motor cycle, trailer or semi-trailer;
- (b) in the case of a motor vehicle, trailer or semi-trailer — the vehicle’s MRC does not exceed 4.5 t; and
- (c) it was manufactured within the period of 15 years ending on the day on which the damage occurred (if

r. 7

known) or otherwise on the day on which the vehicle was written off.

7. Statutory write-offs

- (1) A notifiable vehicle is a statutory write-off if —
 - (a) it has been stripped of all or most of its interior and exterior body parts, panels and other components; or
 - (b) it is burnt to such an extent that it is fit only for wrecking or scrap.
- (2) A notifiable vehicle (except a motor cycle) is a statutory write-off if 3 or more of the following apply to the vehicle —
 - (a) an area 300 mm x 300 mm or more of the vehicle's roof has sustained impact damage;
 - (b) an area 300 mm x 300 mm or more of the vehicle's cabin floor pan has sustained impact damage;
 - (c) an area 300 mm x 300 mm or more of the vehicle's firewall has sustained impact damage;
 - (d) the vehicle's suspension has sustained impact damage;
 - (e) a major mechanical component of the vehicle is cracked or broken.
- (3) A notifiable vehicle (except a motor cycle) is a statutory write-off if —
 - (a) it has been immersed in salt water above the doorsill level for any period; or
 - (b) it has been immersed in fresh water up to the level of the dashboard or steering wheel for more than 48 hours.
- (4) A notifiable motor cycle, notifiable trailer or notifiable semi-trailer is a statutory write-off if it has sustained —
 - (a) impact damage, (except scratching) to its suspension; and
 - (b) structural damage to its frame in 2 or more places.

- (5) A notifiable motor cycle is a statutory write-off if it has been fully immersed in salt water for any period, or fully immersed in fresh water for more than 48 hours.

8. Repairable write-offs

A notifiable vehicle is a repairable write-off if it is not a statutory write-off.

Part 2 — Dealing with notifiable vehicles

9. Notification and marking of write-offs

- (1) An assessor who is in possession or control of a notifiable vehicle must, within the compliance period —
- (a) give the Director General a written-off vehicle notice in accordance with regulation 10; and
 - (b) if the vehicle is a statutory write-off —
 - (i) attach a written-off warning label to the vehicle in accordance with regulation 11; and
 - (ii) deface its identifier in accordance with regulation 12.

Penalty: 20 PU

Modified penalty: 4 PU

- (2) However, an assessor who comes into possession or control of a notifiable vehicle is not required to comply with subregulation (1) if the subregulation has already been complied with in relation to the vehicle.
- (3) The compliance period is —
- (a) for the assessor by whom the vehicle was written off — 7 days after the day on which the assessment was made; or
 - (b) for another assessor — 7 days after the day on which the assessor obtained possession or control of it.
- (4) An assessor must not do any of the following unless subregulation (1) has been complied with —
- (a) transfer possession of the vehicle or part of it to another person;
 - (b) wreck or dismantle the vehicle;

- (c) separate from the vehicle the part of the vehicle on which its identifier is located.

Penalty: 20 PU

Modified penalty: 4 PU

[Regulation 9 amended in Gazette 16 Sep 2005 p. 4325.]

10. Written-off vehicle notices

For the purposes of regulation 9(1)(a), a written-off vehicle notice given by an assessor must include particulars of the following —

- (a) the assessor's name;
- (b) the assessor's residential address, business address, email address, telephone number and fax number (if any);
- (c) if the assessor is a body corporate — the name and residential address of an individual authorised by the body corporate to deal with the vehicle;
- (d) the vehicle's number plate (if any);
- (e) the vehicle's identifier;
- (f) the date on or about which the vehicle was damaged (if known), or otherwise the date on which the vehicle was written off;
- (g) a detailed description of the nature and location of the damage to the vehicle given in a form approved by the Director General.

Penalty: 20 PU

Modified penalty: 4 PU

11. Written-off warning labels

- (1) For the purposes of regulation 9(1)(b), a written-off warning label must —
 - (a) be in a form approved by the Director General; and

r. 12

(b) be attached securely to the frame of the vehicle and as closely as possible to its identifier, but in a position where both the label and the identifier can easily be read without moving or removing the label or any part of the vehicle.

- (2) If the written-off warning label becomes obscured, damaged or detached from the vehicle, the assessor who has possession or control of the vehicle must attach another written-off warning label in accordance with subregulation (1)(b).

Penalty: 20 PU

Modified penalty: 4 PU

- (3) A person must not, without reasonable excuse, alter, damage, remove or otherwise interfere with a written-off warning label that has been attached to a vehicle.

Penalty: 20 PU

Modified penalty: 4 PU

[Regulation 11 amended in Gazette 16 Sep 2005 p. 4325.]

12. Defacing vehicle identifiers of statutory write-offs

- (1) For the purposes of regulation 9(1)(b)(ii), the vehicle's identifier is to be defaced by making a mark across it with a chisel or other suitable tool.
- (2) The mark must not obscure the vehicle's identifier, but must be deep enough to prevent, as far as possible, the removal of the mark.

Part 3 — Registration of written-off vehicles

13. The Written-Off Vehicle Register

The Director General is to establish and maintain a Written-Off Vehicle Register in a form determined by the Director General.

14. WOVR to include particulars of notifiable vehicles

- (1) When the Director General receives a written-off vehicle notice for a notifiable vehicle, the Director General is to register the vehicle by entering in the WOVR the particulars included in the written-off vehicle notice.
- (2) If there are reasonable grounds for suspecting that a damaged vehicle is a notifiable vehicle but the Director General has not received a written-off vehicle notice for the vehicle, the Director General may register the vehicle by entering in the WOVR any of the particulars listed in regulation 10 that are available for the vehicle.

15. Public access to information on WOVR

- (1) On the request of a person, the Director General is to tell the person —
 - (a) whether a particular vehicle, or a particular identifier, is or has ever been registered in the WOVR;
 - (b) if not, whether, to the knowledge of the Director General, the vehicle or the identifier is registered in a corresponding WOVR; and
 - (c) if the vehicle or the identifier is registered in the WOVR or a corresponding WOVR, whether it is registered as a repairable write-off or as a statutory write-off.
- (2) The Director General may make arrangements with the Commissioner for Fair Trading for the Commissioner to use information entered in the WOVR for the purposes of facilitating public access to the information.

[Regulation 15 amended in Gazette 16 Sep 2005 p. 4325.]

16. Cancellation of entry in WOVR

- (1) A person may apply to the Director General for cancellation of an entry in the WOVR that relates to a repairable write-off.
- (2) An application must —
 - (a) be made in the approved form;
 - (b) include particulars of the name and address of the applicant; and
 - (c) include any particulars required by the Director General to enable the Director General to determine whether the vehicle described in the application is the vehicle to which the entry in the WOVR relates.
- (3) The Director General may cancel the entry in the WOVR if satisfied that —
 - (a) the vehicle described in the application is the vehicle to which the entry relates; and
 - (b) the vehicle has not at any time sustained damage that would require it to be registered in the WOVR as a statutory write-off under these regulations.

17. Implementing the national scheme

The Director General may arrange with a corresponding administrator —

- (a) to make information obtained under or for the purposes of these regulations available to the corresponding administrator for the purposes of a corresponding law; and
- (b) to obtain for the purposes of these regulations any information obtained by the corresponding administrator under or for the purposes of a corresponding law.

Notes

- ¹ This is a compilation of the *Road Traffic (Written-Off Vehicle Register) Regulations 2003* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Road Traffic (Written-Off Vehicle Register) Regulations 2003</i>	31 Oct 2003 p. 4595-610	31 Oct 2003
<i>Road Traffic (Written-Off Vehicle Register) Amendment Regulations 2005</i>	16 Sep 2005 p. 4324-5	16 Sep 2005