



New South Wales

Motor Dealers and Repairers Amendment (Takata Airbag Recall) Regulation 2017

under the

Motor Dealers and Repairers Act 2013

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Dealers and Repairers Act 2013*.

Minister for Innovation and Better Regulation

Explanatory note

The object of this Regulation is to prescribe, on a temporary basis for 3 years, the circumstances in which a motor vehicle repairer, motor dealer or transport service owner may permit an employee to do work involving the removal and replacement of airbags as part of the recall of airbags manufactured by the Takata Corporation even though the person doing the work does not hold a tradesperson's certificate that authorises such work or is not an apprentice or trainee who is being appropriately supervised.

The circumstances that are prescribed are that the person doing the work holds a specified qualification, is appropriately supervised and only does work involving airbags that are part of the recall. Record keeping obligations are also required to be met.

This Regulation also updates references to a superseded training package.

This Regulation is made under the *Motor Dealers and Repairers Act 2013*, including sections 16 (1) (c), 26 (2) and 186 (the general regulation-making power).

Motor Dealers and Repairers Amendment (Takata Airbag Recall) Regulation 2017 [NSW]

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under the

Motor Dealers and Repairers Act 2013

1 Name of Regulation

This Regulation is the *Motor Dealers and Repairers Amendment (Takata Airbag Recall) Regulation 2017*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 **Amendment of Motor Dealers and Repairers Regulation 2014**

[1] Clause 36 Required qualifications for tradesperson's certificate

Omit "Automotive Industry Retail, Service and Repair Training Package" wherever occurring in clause 36 (1).

Insert instead "Automotive Retail, Service and Repair Training Package".

[2] Clause 36A

Insert after clause 36:

36A Temporary scheme authorising certain persons to do work as part of the recall of Takata airbags

- (1) For the purposes of section 16 (1) (c) of the Act, this clause prescribes the circumstances in which an employee of a motor vehicle repairer, a motor dealer or a transport service owner, who is not the holder of a tradesperson's certificate or an apprentice or trainee, may do work that involves removing and replacing airbags or other supplementary restraint systems in motor vehicles for the purposes of the Takata airbag recall.
- (2) Those circumstances are as follows:
 - (a) the person doing the work holds the VET qualification of AURVTA002—Remove and replace vehicle supplementary restraint systems, being part of the Automotive Retail, Service and Repair Training Package,
 - (b) the person doing the work does so under the direct supervision of a qualified supervisor,
 - (c) the only repair work that the person doing the work does involves removing or replacing an airbag or other supplementary restraint system in a motor vehicle for the purposes of the Takata airbag recall,
 - (d) the motor vehicle repairer, motor dealer or transport service owner provides the customer or client for whom the work is done with a certificate or other written confirmation that any airbag or other supplementary restraint system replaced in the specified motor vehicle was replaced in accordance with the relevant specifications,
 - (e) details of the work are entered into the register required to be kept under section 100 of the Act.

Note. Section 16 (1) of the Act provides that a motor vehicle repairer, a motor dealer or a transport service owner must not permit an employee to do any repair work unless the person doing the work holds the appropriate tradesperson's certificate, is doing the work in the course of an apprenticeship or traineeship or is doing the work in other circumstances prescribed by the regulations. This clause prescribes such circumstances as part of a temporary scheme involving the Takata airbag recall.

If work is done in contravention of this clause, by a person who does not hold the relevant tradesperson's certificate, or by a person who is not an apprentice or trainee, the motor vehicle repairer, motor dealer or transport service owner commits an offence for which the maximum penalty is 20 penalty units. That offence may be dealt with by penalty notice, in which case the penalty notice amount is \$330.

- (3) This clause is repealed on the day that is 3 years after the day on which the *Motor Dealers and Repairers Amendment (Takata Airbag Recall) Regulation 2017* commenced.

(4) In this clause:

qualified supervisor means a person who:

- (a) holds a tradesperson's certificate that authorises the person to do the class of repair work that is motor mechanic work, and
- (b) holds the VET qualification of Certificate III in Light Vehicle Mechanical Technology, being part of the Automotive Retail, Service and Repair Training Package.

Takata airbag recall means any motor vehicle recall initiated for the purpose of removing or replacing front passenger and driver airbags manufactured by the Takata Corporation (incorporated in Japan) including:

- (a) any of the series of recalls for which the Commonwealth Department of Infrastructure and Regional Development is the responsible regulator under the *Motor Vehicle Standards Act 1989* of the Commonwealth and the *Motor Vehicle Standards Regulations 1989* of the Commonwealth, and
- (b) any voluntary recall initiated by a motor vehicle manufacturer or supplier or by any other person.

VET qualification has the same meaning as in the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.