

THE NORTHERN TERRITORY OF AUSTRALIA

MOTOR VEHICLE DEALERS ACT 1979

No. 85 of 1979

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THE NORTHERN TERRITORY OF AUSTRALIA

No. 85 of 1979

AN ACT

Relating to the sale of motor vehicles and the
licensing of motor vehicle dealers

[Assented to 13 July 1979]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

- | | |
|--|--------------|
| 1. This Act may be cited as the <u>Motor Vehicle Dealers Act 1979</u> . | Short title |
| 2. This Act shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> . | Commencement |
| 3.(1) In this Act, unless the contrary intention appears - | Definitions |
| "body number", in relation to a motor vehicle, means the figures, letters or other symbols, if any, recorded on the body of a vehicle by the manufacturer of the vehicle as a means of identification of that vehicle; | |
| "cash price" - | |
| (a) in relation to a motor vehicle offered or displayed for sale, means the price at which the vendor is willing to sell the vehicle for cash; and | |
| (b) in relation to the sale of a motor vehicle - | |
| (i) means the price at which the vehicle is sold; | |

Motor Vehicle Dealers

(ii) where any part of the consideration that passes or is to pass from the purchaser is represented by another motor vehicle or another thing, means the amount that is equal to the sum of the price paid or that is to be paid, by the purchaser and the value of that other vehicle or other thing as ascribed to it for the purposes of the sale by the parties or, if no agreed value is so ascribed, the market value of the other vehicle or other thing at the time of the sale; or

(iii) where all of the consideration that passes or is to pass from the purchaser is represented by another motor vehicle or another thing, means the value of the other vehicle or other thing as ascribed to it for the purposes of the sale by the parties or, if no agreed value is so ascribed, the market value of the other vehicle or other thing at the time of the sale;

"commercial vehicle" means a motor vehicle for use wholly or principally for -

- (a) the carriage of goods;
- (b) the carriage of more than 10 adult persons; or
- (c) industrial or agricultural purposes,

where the purchaser has made known to the dealer his intention to use the motor vehicle for commercial purposes or where the purchaser in fact uses the vehicle for a purpose set out in paragraph (a), (b) or (c), but does not include a motor vehicle that is of a kind known as a station wagon, the front part of the body and the mechanical equipment of which are substantially the same as in passenger cars manufactured by the manufacturer of the motor vehicle;

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"Commissioner" means the Commissioner of Motor Vehicle Dealers appointed under this Act and includes a Deputy Commissioner of Motor Vehicle Dealers;

"dealer" means a person who, either alone or in partnership with another person or other persons, buys, sells or exchanges motor vehicles as a business but does not include -

- (a) a person whose business consists exclusively of buying motor vehicles for the purpose of demolishing or dismantling those vehicles;
- (b) a financier; or
- (c) an exempt trader;

"dealings register" means a dealings register kept by a licensed dealer in pursuance of section 14;

"demonstration vehicle" means a motor vehicle that has been used by a dealer for the purpose of exemplifying a motor vehicle, other than a second-hand motor vehicle, of models comparable to that vehicle to a prospective purchaser;

"exempt trader" means a person (other than a financier) who carries on the business of buying, selling or exchanging motor vehicles, but does not, otherwise than by an agent who is a licensed dealer, offer or display motor vehicles for sale to the public or hold himself out as ready to purchase motor vehicles from the public;

"financier" includes a person who carries on the business of buying, selling or exchanging motor vehicles only -

- (a) for the purpose of hiring motor vehicles under hire-purchase agreements;
- (b) for the purpose of selling motor vehicles on instalment terms;
- (c) for the purpose of taking or enforcing securities over motor vehicles;
- (d) for the purpose of letting out on hire motor vehicles without granting a right to purchase them;

Motor Vehicle Dealers

(e) for a purpose that may be prescribed;
or

(f) for the purpose of disposing of motor vehicles acquired by him in connexion with any of the purposes referred to in or prescribed in relation to this definition,

but does not include -

(g) a person who, otherwise than by an agent who is a licensed dealer, offers or displays motor vehicles for sale to the public other than for the purpose referred to in paragraph (f);

(h) a person who holds himself out as ready to purchase motor vehicles from the public; or

(j) a person or a person included in a class of persons declared by the regulations to be excluded from this definition;

"hire-purchase agreement", in relation to a motor vehicle, includes a letting of the motor vehicle with an option to purchase and an agreement the object of which is the sale and purchase of a motor vehicle by instalments whether the agreement describes the instalments as rent, hire or otherwise, but does not include an agreement under which the property in the motor vehicle comprised in the agreement passes at the time of the agreement or at any time before delivery of the motor vehicle;

"inspector" means an inspector appointed under this Act;

"licence" means a licence granted under this Act;

"licensed dealer" means a person who holds a licence under this Act;

"manufacturer" means a person who carries on the business of making or assembling motor vehicles;

"model designation" means, in relation to a motor vehicle of a particular model, the words, figures, letters or other symbols, if any,

Motor Vehicle Dealers

applied by the manufacturer of that motor vehicle to describe or identify a motor vehicle of that model;

"motor vehicle" means any motor car, motor cycle or other vehicle used on land that is propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, whether or not that vehicle is in working condition or is incomplete but does not include any vehicle used on a railway or tramway or a vehicle included in a class of vehicles that the Minister has, by notice in the Gazette, declared not to be a motor vehicle for the purposes of this Act;

"odometer" means an instrument or device that measures and records the distance travelled by a motor vehicle but does not include such an instrument or device that is designed so as to permit, as part of its normal functioning, manual alteration of the distance so recorded;

"owner", in relation to a motor vehicle, includes -

- (a) a person who is the sole owner, joint owner or part owner thereof;
- (b) a person who has possession of a motor vehicle under or subject to a hire-purchase agreement or subject to a bill of sale or similar instrument; and
- (c) a person who has the possession of the motor vehicle under a contract of hire or lease,

but does not include a person in whom the property in the motor vehicle or any absolute or conditional right or licence to take possession of the motor vehicle is vested under or subject to a contract of hire or hire-purchase agreement or subject to a bill of sale or like instrument but who has not for the time being the possession thereof;

"sell", in relation to a motor vehicle, means to sell as principal or agent and "sale" and "sold" have corresponding meanings;

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"trade owner" means -

- (a) a dealer;
 - (b) a financier; or
 - (c) an exempt trader.
- (2) For the purposes of this Act -
- (a) where -
 - (i) a motor vehicle is made the subject of a hire-purchase agreement; or
 - (ii) a person enters into an agreement with another person for the letting out on hire or lease to that person of a motor vehicle other than a second-hand motor vehicle,

then -
 - (iii) the motor vehicle shall be deemed to be sold to the hirer by the owner of the motor vehicle;
 - (iv) the sale shall be taken to be made when the agreement is entered into; and
 - (v) the hirer shall be taken to be the purchaser of the vehicle;
 - (b) where a financier sells, or is deemed to have sold, a motor vehicle to a person other than a trade owner (in this paragraph called "the purchaser"), any other person -
 - (i) who sold that vehicle to the financier in the expectation that the financier would sell the vehicle to the purchaser or would, in respect of that vehicle, enter into an agreement with the purchaser of a kind referred to in subsection (2)(a);
 - (ii) by whom or on whose behalf negotiations leading to the making of the sale were carried out; or
 - (iii) by whom or on whose behalf the transaction leading to the sale was arranged,

Motor Vehicle Dealers

shall be deemed to have sold the vehicle to the purchaser as agent of the financier;

(c) where -

- (i) a corporation enters into an agreement with a person for the letting on hire to that person of a motor vehicle other than a second-hand motor vehicle; and
- (ii) that corporation is not a dealer but is, for the purposes of the Companies Act, deemed to be related to another corporation and that other corporation is a dealer,

the corporation that enters into the agreement shall be liable to the hirer in all respects as if the corporation were a dealer unless, in accordance with paragraph (b), another person who is a dealer is deemed to have sold the vehicle as agent for that corporation;

- (d) a motor vehicle shall be deemed to have been manufactured on or after a particular date if any process in the manufacture of the vehicle is carried out on or after that date; and
- (e) a motor vehicle shall be taken to have been sold notwithstanding that all or part of the consideration that passed from the purchaser in respect of the sale is represented by another vehicle or thing.

(3) A person shall not, by reason only of anything contained in sub-section (2)(a), be taken, for the purposes of this Act, to be a dealer.

4.(1) Where a licensed dealer carries on the business of a dealer in partnership with one or more other licensed dealers, this Act applies to and in relation to each of those licensed dealers as if -

- (a) the business were carried on by him alone; and
- (b) anything done or omitted to be done by one of the licensed dealers in connexion with that business had been done or omitted to be done by each of those licensed dealers.

Partnerships

Motor Vehicle Dealers

(2) Nothing in sub-section (1) renders a licensed dealer guilty of an offence as a result of the doing of an act by a licensed dealer with whom he carries on the business of a dealer in partnership.

PART II - ADMINISTRATION

Commissioner of Motor Vehicle Dealers 5.(1) For the purposes of this Act, there shall be -

- (a) a Commissioner of Motor Vehicle Dealers; and
- (b) such Deputy Commissioners of Motor Vehicle Dealers as the Minister thinks fit,

each of whom shall be an employee of the Public Service of the Northern Territory and who shall be appointed, in writing, by the Minister.

(2) The Minister may, by instrument in writing, appoint such persons each of whom shall be an employee of the Public Service of the Northern Territory as he considers necessary to be inspectors for the purposes of this Act.

(3) A member of the Police Force of or above the rank of sergeant shall be deemed to be an inspector appointed under this section.

(4) The Commissioner shall issue to an inspector other than a police officer, who is deemed to be an inspector, a certificate signed by him certifying that the inspector is an inspector under this Act.

(5) The Commissioner shall have all the powers and may perform all the functions of an inspector under this Act and the provisions of this Act relating to an inspector apply to the Commissioner and to a Deputy Commissioner accordingly.

Register of Motor Vehicle Dealers 6. The Commissioner shall keep a Register of Motor Vehicle Dealers in such form as the Minister directs and shall enter in that register the particulars as are prescribed or as the Minister directs.

PART III - LICENCES

Unlicensed dealers 7. A person shall not, in the Territory, carry on the business of a dealer or hold himself out as a dealer unless he is the holder of a licence.

Penalty: \$2,000.

Motor Vehicle Dealers

8. A person, other than a corporation, is eligible for a grant of a licence if -

Eligibility
for grant of
licence to
natural
persons

- (a) he has attained the age of 18 years;
- (b) he is a fit and proper person to be granted a licence;
- (c) having regard to the scope of his proposed business operations and the liabilities he may incur in the course of carrying on the business of a dealer, he has sufficient material and financial resources to carry on business as a dealer;
- (d) he is not a person who is, for the time being, taking the benefit of any law for the relief of bankrupt or insolvent debtors or a person whose remuneration is, for the time being, assigned for the benefit of his creditors; and
- (e) he has paid the prescribed fee.

9. A corporation is eligible for a grant of a licence if -

Eligibility
for grant of
licence to
corporations

- (a) each of the directors of the corporation complies with section 8(a), (b) and (d);
- (b) having regard to the scope of its proposed business operations and the liabilities it may incur in the course of carrying on the business of a dealer, it has sufficient material and financial resources to carry on the business of a dealer; and
- (c) it has paid the prescribed fee.

10. A person may apply for the grant of a licence in writing addressed to the Commissioner in the prescribed form giving such details as may be required to satisfy the grounds of eligibility and such further details as may be prescribed.

Application
for licence

11. The Commissioner shall forward a copy of the application and any accompanying documents, other than statements relating to the applicant's material and financial resources, to the Commissioner of Police who may, within 21 days of the receipt of the copy of the application, by notice in writing lodged with the Commissioner, object to the application for registration on the ground that the applicant or, in the case of a corporation, a director of the corporation, is not a fit or proper person.

Commissioner
of Police
may object

Motor Vehicle Dealers

Grant of
licence

12.(1) The Commissioner shall grant an application for a licence unless -

- (a) the applicant, or in the case of an application by a corporation, a director of the corporation, refuses or fails to comply with a requirement of the Commissioner under sub-section (2);
- (b) the applicant for the grant of a licence fails to establish that he or it is eligible for the grant of a licence; or
- (c) the application does not comply with the requirements of the prescribed form.

(2) The Commissioner may, whether or not an objection to a grant of an application for a licence has been lodged, require the applicant, or in the case of an application by a corporation, all or any of the directors of the corporation, to attend before the Commissioner and may require the applicant or a director to furnish to him orally or in writing, such further information as he requires to be furnished.

(3) An applicant for a licence who proposes to carry on the business of a dealer in partnership with another person or other persons shall not be ineligible for the grant of a licence on the ground that he has insufficient material or financial resources to carry on the business of a dealer if he and that other person or other persons together have sufficient material and financial resources.

(4) Where an objection is lodged by the Commissioner of Police or the Commissioner considers that there may be grounds for refusing an application for the grant of a licence the Commissioner shall hold an inquiry into the matter.

(5) Where the Commissioner refuses an application for the grant of a licence to an applicant, the Commissioner shall -

- (a) record the reasons for his decision; and
- (b) serve on the applicant notice of his decision and of the right of the applicant to apply to a magistrate appointed under the Magistrates Act for a rehearing of the application.

(6) Where the Commissioner fails to convey to an applicant a decision with respect to an application within a period of 3 months after the lodging with him

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of an application for a licence, the Commissioner shall be deemed to have refused to grant the application.

13.(1) Where the Commissioner grants an application for a licence, he shall, on payment by the applicant of the prescribed fee, issue to the applicant a licence to carry on the business of a dealer.

Term of
licence

(2) A licence shall be granted for a period of 12 months or for such shorter period as is specified in the application or as the Commissioner allows but may, upon payment of the prescribed fee, be renewed for successive periods of 12 months.

PART IV - DEALINGS IN MOTOR VEHICLES

14.(1) Subject to this section, a licensed dealer shall keep and maintain at each place at which he carries on the business of a dealer in the Territory a dealings register that complies with the requirements of this section.

Dealers to
maintain
dealings
register

Penalty: \$500.

(2) Where a licensed dealer carries on the business of a dealer in partnership with one or more other licensed dealers, it shall be sufficient compliance with this section if one dealings register is kept by those persons in respect of the partnership business at each place at which a member of the partnership carries on business in the Territory.

(3) A dealings register shall consist of a bound book, each page of which is numbered consecutively prior to the dealer commencing to use the book, and which shall bear the name of the dealer and the address of the place of business at which it is kept.

(4) The Commissioner may issue a permit to a dealer allowing him to maintain a dealings register at a place of business other than the place where motor vehicles are on sale.

(5) Where the Commissioner issues a permit under sub-section (4) the dealer shall have a sign at the place where the motor vehicles are on sale indicating the address where the dealings register is maintained.

Penalty: \$200.

15.(1) A licensed dealer, upon purchasing or otherwise acquiring a second-hand motor vehicle, whether as principal or agent, or upon becoming

Details to be
entered in
dealings
register

Motor Vehicle Dealers

possessor of a vehicle that he is authorized to sell in accordance with section 21 shall, in respect of that motor vehicle, enter or cause to be entered in his dealings register -

- (a) the make, model designation and type, year of manufacture and registered number, if any, and, where known, the engine number and body number of the motor vehicle;
- (b) where the motor vehicle is fitted with an odometer, the distance travelled by the motor vehicle as recorded on the odometer when the motor vehicle came into his possession;
- (c) the name and address of the person from whom he purchased or otherwise acquired the motor vehicle; and
- (d) the date on which he purchased or otherwise acquired the motor vehicle.

Penalty: \$500.

(2) A licensed dealer, upon selling or otherwise disposing of a motor vehicle in other than in a demolished or dismantled condition shall, in respect of that motor vehicle, enter or cause to be entered in his dealings register -

- (a) the date on which he sold or otherwise disposed of the motor vehicle;
- (b) the name and address of the person to whom he sold or otherwise disposed of the motor vehicle;
- (c) where the motor vehicle was not in working condition at the time that it was sold or otherwise disposed of, particulars of the condition of the motor vehicle at that time; and
- (d) the cash or other consideration given or agreed to be given and a description of any such other consideration.

Penalty: \$500.

(3) Where a licensed dealer demolishes or permanently dismantles a motor vehicle, he shall, in respect of that vehicle, enter or cause to be entered

Motor Vehicle Dealers

in his dealings register a note of demolition or dismantling of the vehicle and the date of commencement of that demolition or dismantling.

Penalty: \$500.

(4) In this section, "dealings register" means, in the case of a licensed dealer who carries on the business of a dealer at more than one place in the Territory, the dealings register maintained at the place of business at which the dealing in the motor vehicle takes place or, where the dealing takes place elsewhere than at such a place, the register maintained by the dealer at his principal place of business or such other place specified in a permit issued under section 14(4).

16. A person shall not furnish incorrect information to a licensed dealer, or to a person acting on behalf of a licensed dealer, in respect of any of the matters that a licensed dealer is required to enter in a dealings register in accordance with section 15.

Persons to furnish correct information

Penalty: \$500.

17. Where a person furnishes information to a licensed dealer, or to a person acting on behalf of a licensed dealer, in respect of any matters that a licensed dealer is required to enter in a dealings register, the licensed dealer or the person acting on behalf of the licensed dealer shall bring to the notice of the person furnishing the information the liability imposed by section 16.

Persons to be notified of duty under section 16

18. A licensed dealer shall not, in respect of a person who is apparently under the age of 18 years, purchase, or otherwise acquire from that person, or sell, or otherwise dispose of to that person, a second-hand motor vehicle without the consent in writing of that person's parent or guardian.

Dealings with persons under 18 years of age

Penalty: \$500.

19. A dealer shall not, without the consent in writing of the Commissioner, offer or display for sale a motor vehicle where -

Dealers not to sell in certain circumstances

- (a) he has replaced, or caused to be replaced, the vehicle's odometer; or
- (b) he has altered, or caused to be altered, the distance recorded by the vehicle's odometer.

Penalty: \$500.

Motor Vehicle Dealers

Warranties 20.(1) Subject to this section, where, after the commencement of this Act -

(a) a dealer sells to a person a motor vehicle other than a second-hand motor vehicle or sells to a person a second-hand motor vehicle that he represents or has represented to the purchaser as being a demonstration vehicle and before -

(i) that motor vehicle has been driven 5,000 kilometres after the sale; or

(ii) the expiration of the period of 3 months next following the date of sale,

whichever is the earlier; or

(iii) notwithstanding sub-paragraph (i) or (ii), where the vehicle is sold subject to an unexpired manufacturer's warranty that warranty expires,

a defect in the vehicle occurs or becomes apparent to the purchaser;

(b) a dealer sells a second-hand motor vehicle to a person for a cash price equal to or in excess of the prescribed cash price and before -

(i) that motor vehicle has been driven for 5,000 kilometres after the sale; or

(ii) the expiration of the period of 3 months next following the date on which the purchaser takes possession of the vehicle,

whichever is the earlier, a defect in the vehicle occurs or becomes apparent to the purchaser; or

(c) a dealer sells a second-hand motor vehicle to a person for the prescribed cash price and before -

(i) that motor vehicle has been driven for 3,000 kilometres after the sale; or

(ii) the expiration of the period of 2 months next following the date on which the purchaser takes possession of the vehicle,

Motor Vehicle Dealers

whichever is the earlier, a defect in the vehicle occurs or becomes apparent to the purchaser,

the dealer, whether or not that defect existed at the time of the sale, shall, at his own expense, repair and make good, or cause to be repaired or made good the defects so as to place the motor vehicle in a reasonable condition having regard to its age and his obligation to do so shall be deemed to be a term of the contract of sale relating to the vehicle.

(2) The prescribed cash price -

(a) for the purpose of sub-section (1)(b) is \$1,500 in the case of a motor cycle and \$5,000 in the case of any other motor vehicle; and

(b) for the purpose of sub-section (1)(c) is a cash price that is less than \$1,500 but more than \$700 in the case of a motor cycle and less than \$5,000 but more than \$2,000 in the case of any other motor vehicle.

(3) Where the purchaser of a motor vehicle returns the vehicle to the dealer from whom he purchased the vehicle for a defect in the vehicle to be repaired or made good in pursuance of sub-section (1), the period during which the vehicle is in the possession of the dealer shall be disregarded in calculating the periods specified in sub-section (1)(a)(ii), (1)(a)(iii), (1)(b)(ii) or (1)(c)(ii).

(4) For the purposes of sub-sections (1)(b) and (1)(c), where a second-hand motor vehicle is made the subject of a hire-purchase agreement, the cash price for which the vehicle is sold is the price specified in the hire-purchase agreement in accordance with section 7(2)(e)(i) of the Hire Purchase Act.

(5) For the purposes of sub-section (1)(a), where a person other than the person to whom the dealer sold the motor vehicle becomes the owner of the vehicle, that person, except where the vehicle has after the date of the sale by the dealer, been acquired by a dealer as owner or repossessed by a financier, shall be deemed to have been the purchaser of the vehicle from the dealer and to have entered into a contract of sale with the dealer in relation to that vehicle on the date on which the first-mentioned person entered into that contract of sale with the dealer.

Motor Vehicle Dealers

(6) A dealer is not liable under this section in respect of a defect within a motor vehicle where the defect -

- (a) arises from, or is incidental to, accidental or malicious damage suffered by the motor vehicle after the purchaser took delivery of the vehicle from the dealer;
- (b) arises from misuse of the motor vehicle or negligence by a driver of the motor vehicle, or from the use of the motor vehicle for motor racing or motor rallying after the purchaser took delivery of the vehicle from the dealer; or
- (c) consists of superficial damage to paint work or upholstery of the vehicle that would have been apparent on a reasonable inspection of the vehicle carried out at the time of the delivery of the vehicle from the dealer or of the sale, whichever is the earlier.

(7) A dealer is not liable under this section in respect of a defect in a motor vehicle sold by him where the vehicle is -

- (a) a commercial vehicle other than a commercial vehicle that at the time of the sale is a motor vehicle or a motor vehicle included in a class of motor vehicles declared by the Minister, by notice published in the Gazette, to be a motor vehicle or class of motor vehicles to which this section applies;
- (b) a used motor vehicle that has been in the possession, or under the control, of the purchaser continuously for a period of not less than 3 months immediately preceding the date of the sale;
- (c) a motor vehicle that is sold at an auction conducted by a licensed auctioneer in accordance with the Auctioneers Act;
- (d) a motor vehicle or a motor vehicle included in a class of motor vehicles that has been declared by the Minister, by notice published in the Gazette, to be a motor vehicle or a class of motor vehicles to which this section does not apply; or
- (e) a motor vehicle that is sold to a person who is a trade owner.

Motor Vehicle Dealers

(8) A dealer is not liable under this section in respect of a defect in a motor vehicle sold by him where -

- (a) the purchaser elects to purchase the motor vehicle without statutory warranties by entering into a prescribed contract that excludes statutory warranties; and
- (b) the person who elects to purchase a motor vehicle without statutory warranties signs a prescribed form declaring that he understands that the contract which he has signed excludes statutory warranties.

(9) The prescribed form referred to in sub-section (8)(b) may specify that the declaration be made on oath and be subject to the Oaths Act.

21.(1) A dealer shall not -

Authority to
sell by owner

- (a) sell a second-hand motor vehicle or an interest in a second-hand motor vehicle for or on behalf of a person who is not a trade owner; or
- (b) offer or display a second-hand motor vehicle for or on behalf of a person who is not a trade owner,

unless he is authorized in writing in that behalf in accordance with this section by the owner of the vehicle or interest.

Penalty: \$500.

(2) A written authority under this section shall be prepared in duplicate and shall -

- (a) be signed by the owner and by or on behalf of the dealer;
- (b) bear the date on which it is signed by the owner;
- (c) contain a full statement of the terms of the authority to sell the motor vehicle or interest;
- (d) sufficiently describe the vehicle; and
- (e) contain a full statement of the commission or other remuneration to which the dealer is or is to be entitled.

Motor Vehicle Dealers

(3) A dealer who is given a written authority under this section -

- (a) shall return one copy to the owner; and
- (b) shall retain one copy until the expiration of a period of 3 years after the sale is effected by him in reliance upon the written authority.

Penalty: \$500.

(4) A written authority under this section ceases to have effect on the expiration of 90 days from the day on which it is signed by the owner.

(5) A dealer shall not be entitled to any commission or other remuneration in respect of the sale of a second-hand motor vehicle or an interest in such a motor vehicle effected by him or on behalf of an owner unless -

- (a) the sale is effected in accordance with a written authority complying with this section; and
- (b) the dealer in respect of that sale has complied with sub-section (3)(a).

False statements, &c., as to state of vehicle

22.(1) A person shall not, in respect of a second-hand motor vehicle that he offers or displays for sale -

- (a) make any statement to a purchaser or prospective purchaser of the vehicle that he knows, or has reason to know, is false;
- (b) in the case of a person who is not a dealer - where the odometer is fitted to the vehicle alter the distance recorded on the odometer or replace the odometer without disclosing the alteration or replacement to a purchaser or prospective purchaser of the vehicle; or
- (c) remove any identification plate that has been fixed to the body of the motor vehicle by the manufacturer.

Penalty: \$400.

(2) For the purpose of sub-section (1)(a), a statement made by an agent or an employee of the dealer in his business as a dealer shall be deemed to be the statement of the dealer.

Motor Vehicle Dealers

PART V - REVOCATION OF LICENCES

23. Subject to this Part, the Commissioner may revoke a licence granted to a dealer where -

Grounds for
revocation

- (a) the licence was obtained by means of misrepresentation;
- (b) the dealer is convicted in Australia of an offence punishable by imprisonment for one year or longer;
- (c) the dealer is convicted of an offence against this Act;
- (d) the dealer is of unsound mind;
- (e) the dealer fails to continue to have all the prerequisites for the grant of a licence set out in section 8 or 9, as the case may be;
- (f) the dealer has failed to comply with section 24(1); or
- (g) in a case in which a corporation is a dealer a person who becomes a director of the corporation is not a fit and proper person to hold a licence.

24.(1) Where a person becomes a director of a corporation, being a corporation that holds a licence under this Act, either in addition to or in place of the persons who, immediately before he became a director, were directors of the corporation, the corporation shall, within 21 days after the date on which the person becomes the director of the corporation, give to the Commissioner a notice that complies with the requirements of sub-section (2).

New
directors

(2) A notice complies with the requirements of this sub-section if -

- (a) it specifies the full name, date of birth and present residential address of the person appointed as a director and other addresses at which that person has resided during the 3 years immediately preceding the date of the notice;
- (b) it is accompanied by a certificate signed by 2 persons certifying with respect to the fitness and propriety of that person to hold a licence; and

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(c) where that person, either in the Territory or elsewhere, has previously carried on the business of a dealer or has been employed by a dealer, contains particulars of the business so carried on or of that employment, as the case may be.

(3) Where the Commissioner receives a notice that complies with the requirements of sub-section (2), he shall forward a copy of the notice to the Commissioner of Police.

(4) The Commissioner of Police may, within 21 days after a notice is given to the Commissioner of Motor Vehicle Dealers under this section, object by notice in writing lodged with the Commissioner of Motor Vehicle Dealers to the continuation in force with the licence issued to the corporation on the ground that the person who has become a director of the corporation is not a fit and proper person to hold a licence.

Commissioner
to hold
inquiry

25.(1) The Commissioner shall not revoke a licence unless he first holds an inquiry.

(2) The Commissioner, where he holds an inquiry under sub-section (1), shall not revoke a licence if he is satisfied that, although a ground specified in section 23 has been established, it would be unreasonable in all the circumstances to revoke the licence.

(3) The Commissioner may, in revoking a licence, specify a period that shall lapse before the dealer to whom the licence was granted may apply again for the grant of a licence and, in that event, the dealer is not eligible to apply again for the grant of a licence until the expiration of that period.

Appeals

26.(1) Where the Commissioner revokes a licence in pursuance of this Part he shall, within 7 days of the revocation, notify the dealer in writing of the revocation and of the right of the dealer to apply to a magistrate appointed under the Magistrates Act for a rehearing of the inquiry which led to the revocation of the licence.

(2) A magistrate appointed under the Magistrates Act may hear an appeal by a dealer under this section by way of rehearing and shall on the appeal have the powers of the Commissioner with respect to the matter.

PART VI - MISCELLANEOUS

Lost
licences

27. Where the Commissioner is satisfied that a

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licence which has been issued and is in force in pursuance of this Act has been lost, defaced or destroyed he may, upon payment of the prescribed fee, issue to the person to whom that licence was issued a copy of that licence and that copy shall, for the purposes of this Act, have the same effect as the original licence.

28. A licensed dealer shall cause the licence issued to him under this Act at all times to be exhibited in a conspicuous position at the place where he carries on business as a dealer, or if there is more than one place, at the principal place where he carries on business.

Licence to
be displayed

Penalty: \$100.

29.(1) A licensed dealer shall exhibit and keep exhibited so as to be easily visible by a person entering the place or each place at which he carries on business as a dealer a notice in the prescribed form.

Notice to
be displayed

Penalty: \$200.

(2) For the purposes of sub-section (1), the prescribed form of notice shall -

- (a) consist of letters not less than 7 centimetres high;
- (b) state his name and the words "LICENSED MOTOR VEHICLE DEALER NUMBER.....";
- (c) state his licence number; and
- (d) where he carries on business under a name other than his own name, state the name or style under which he carries on business as a dealer.

30. Where a dealer ceases to carry on business as a dealer at any place or commences to carry on business as a dealer at any place, he shall, within 14 days of the cessation or commencement, give written notification thereof to the Commissioner.

Cessation or
commencement
of business

Penalty: \$200.

31.(1) An inspector may, at any reasonable time, enter the premises of a dealer and inspect all books, papers, accounts and other documents related to the business of that dealer and may, for that purpose, require the dealer or any other person who has the custody or control of the books, papers, accounts or

Inspector
may enter,
&c.

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other documents to produce and to hand over to him those books, papers, accounts or other documents.

(2) An inspector may, at any reasonable time, enter the premises of a dealer and inspect any motor vehicles or parts of any motor vehicles that are offered or displayed for sale by a dealer and may, for that purpose, require the dealer or any other person in whose custody or control the motor vehicles or parts of motor vehicles are to produce them to him for inspection.

(3) A dealer shall not refuse or fail to comply with a requirement made under sub-section (1) or (2).

Penalty: \$400.

(4) A person other than a licensed dealer to whom a requirement under sub-section (1) or (2) is made shall not refuse or fail to comply with that requirement.

Penalty: \$400.

(5) An inspector may make notes or take extracts from, or make copies of, any books, papers, accounts or other documents produced to him under this section.

(6) An inspector may retain, for such period as he or the Commissioner considers necessary, any books, papers, accounts or other documents referred to in sub-section (1) and may make copies of any such books, papers, accounts or documents.

Evidence of authority

32. An inspector, other than a police officer, shall not exercise his powers under section 31 unless he produces to a dealer or other person the certificate issued to him by the Commissioner under section 5.

Register of Motor Vehicles Dealers open to inspection

33. A person may, upon payment of the prescribed fee, inspect and take extracts from the Register of Motor Vehicle Dealers kept by the Commissioner.

Advertisements

34. A dealer shall not cause or permit to be published an advertisement relating to, or in connexion with, his business as a dealer unless he specifies in the advertisement that he is a licensed dealer, his registration number and the place or one of the places at which he carries on business.

Penalty: \$400.

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35. The Commissioner shall, as soon as practicable after 30 June in each year, cause to be published in the Gazette and in a newspaper circulating in the Territory a list in alphabetical order of persons who are licensed dealers under this Act as at that date and the place or places of business, as the case may be, of each of those licensed dealers.

Publication
of list of
dealers

36. A licensed dealer shall not, in respect of the sale of a motor vehicle, submit a document to another person for his signature unless at the time of submitting the document all material particulars in the document have been completed and any other matter contained in the document that is not relevant in respect of that sale has been deleted.

Documents to
be complete
before sign-
ing

Penalty: \$500.

37.(1) Subject to sub-section (2), where a licensed dealer incurs any costs or expenses by virtue of the operation of this Act in respect of the sale of a motor vehicle, the dealer is not entitled to be indemnified in respect of those costs or expenses by any antecedent owner and any contract or agreement providing directly or indirectly for the licensed dealer to be so indemnified is, to the extent that it does so, void.

Dealer to
bear costs

(2) Sub-section (1) does not apply to a contract or agreement providing for a licensed dealer to be so indemnified where the antecedent owner is a trade owner, a manufacturer, or a manufacturer's distributor.

38. A term of an agreement, other than where the parties to the agreement are a licensed dealer and a corporation, that purports to exclude or limit the operation of this Act, or to preclude any right of action or any defence based on or arising out of any failure to comply with this Act, is void.

Void terms
in agree-
ments

39. Except as is expressly provided by this Act, nothing in this Act shall limit, restrict or otherwise affect any right or remedy a person would have had if this Act had not been made.

Rights and
remedies
preserved

40. A person shall not obstruct, threaten or intimidate the Commissioner, or an inspector in the exercise of a power or a function or the discharge of a duty conferred or imposed upon the Commissioner or an inspector under this Act.

Obstruction
of inspectors

Penalty: \$200.

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Dissolution
of partner-
ship

41. Where 2 or more licensed dealers have carried on business as dealers in partnership with each other and the partnership is dissolved, each of those licensed dealers shall, within 14 days of the date of dissolution, notify the Commissioner in writing that the partnership has been so dissolved.

Penalty: \$400.

Service

42.(1) A document required by this Act to be given to, or served upon, a licensed dealer may be given or served by leaving it at a place specified in his licence as the place or principal place at which he carries on business as a licensed dealer or by sending it by post to him at that place.

(2) A document required by this Act to be given or served upon an applicant for a licence may be given or served by sending it by post to the applicant at his last known place of residence, or in the case of a corporation, at the last known place of residence of a director who signed the application.

Certificate
as
evidence

43.(1) A certificate under the hand of the Commissioner stating that a person was or was not on a date or dates or during a period mentioned in the document the holder of a licence is, in all courts and before all persons and bodies authorized to receive evidence, evidence of the matter so stated.

(2) For the purposes of sub-section (1), a document that purports to have been signed by the Commissioner shall be taken to have been so signed unless the contrary is proved.

Require-
ment in
writing

44. Where the Commissioner or an inspector is empowered by this Act to require a person to do anything, the Commissioner or the inspector may make the requirement in writing served upon that person.

Report to
the
Minister

45. The Commissioner shall, as soon as practicable after 30 December in each year, prepare and furnish to the Minister a report on the operation of this Act during the period of 12 months ending on that day and the Minister shall table that report in the Legislative Assembly within 3 sitting days of receiving it.

Secrecy

46. Subject to this Act, the Commissioner, an inspector or an employee in the office of the Commissioner shall not disclose any information that comes to his knowledge by reason of his duties under this Act to any person without the consent of the Minister.

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47. The regulations may prescribe fees not exceeding \$200 for the issue of licences under this Act.

Regulations
may set
fees

48. A dealer shall not sell or offer for sale a motor vehicle that is currently registered in a place other than the Territory.

Vehicles to
be registered
in the
Territory

Penalty: \$500.

49.(1) Subject to this section, it shall be a condition of the sale of a motor vehicle by a dealer that the motor vehicle is of a standard fit to meet the requirements as to registration set out in the Motor Vehicles Act.

Vehicles to
be
registrable

(2) This section does not apply to -

- (a) a commercial vehicle;
- (b) a motor vehicle sold for wrecking; or
- (c) a motor vehicle sold pursuant to a contract in the prescribed form excluding the operation of this section.

50.(1) Until the expiration of one month after the date of commencement of section 7, that section does not apply to or in relation to a person who immediately before that date was a dealer.

Transitional

(2) If, within a period of one month after the date of commencement of section 7, a person referred to in sub-section (1) applies for a licence, section 7 does not apply to or in relation to that person until his application has been dealt with by the Commissioner in accordance with section 13 or, where he has applied to a magistrate for a review of the decision of the Commissioner to refuse the grant of a licence, until the application for a licence has been disposed of.

(3) Where, by virtue of sub-section (1) or (2), section 7 does not apply to or in relation to a person, a provision of this Act, other than section 7, that is expressed to apply to licensed dealers, applies, from and including the date of commencement of that provision, to and in relation to that person in the same manner as it would apply if he were the holder of a licence.

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Regulations

51. The Administrator may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the carrying out of or giving effect to this Act.
