



Australian Capital Territory

Sale of Motor Vehicles Act 1977

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Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Sale of Motor Vehicles Act 1977* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 19 May 2008. It also includes any amendment, repeal or expiry affecting the republished law to 19 May 2008.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

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- 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 does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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 *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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Australian Capital Territory

Sale of Motor Vehicles Act 1977

An Act relating to the sale of motor vehicles and the licensing of motor vehicle dealers

Part 1 Preliminary

1 Name of Act

This Act is the *Sale of Motor Vehicles Act 1977*.

2 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 words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '*dealer*—see section 6A.' means that the word 'dealer' is defined in section 6A.

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 2001*, s 155 and s 156 (1)).

2A Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

3 When is a motor vehicle *sold or manufactured etc*

For this Act—

(a) if—

(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 to that person of a new motor vehicle;

then—

- (iii) the motor vehicle shall be deemed to be sold to the hirer by the owner of the motor vehicle; and
 - (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; and
- (b) if a financier sells, or is deemed to have sold, a motor vehicle to a person other than a trade owner (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 relation to that vehicle, enter into an agreement with the purchaser of a kind referred to in paragraph (a); or
 - (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;

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

- (c) if—
- (i) a corporation enters into an agreement with a person for the letting out on hire to that person of a new motor vehicle; and
 - (ii) that corporation is not a dealer but is, for the Corporations 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 of that corporation; and

- (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 relation to the sale is represented by another vehicle or other thing.

4A Application of Act to motor dealings by Territory

- (1) This Act does not apply in relation to dealings in motor vehicles by the Territory.
- (2) This section has effect despite the *Legislation Act 2001*, section 121 (Binding effect of Acts).

5 Registrar of Motor Vehicle Dealers

The chief executive must appoint a public servant as Registrar of Motor Vehicle Dealers.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

5A Deputy Registrar of Motor Vehicle Dealers

- (1) The chief executive must appoint a public servant as Deputy Registrar of Motor Vehicle Dealers.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) The deputy registrar may exercise any function of the registrar, subject to any direction of the registrar.

5B Inspectors

- (1) The chief executive may appoint a public servant as an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The following are also inspectors:
- (a) the registrar;
 - (b) the deputy registrar;
 - (c) a police officer of or above the rank of sergeant;
 - (d) a police officer below the rank of sergeant nominated in writing by the chief police officer for this Act.

5C Identity cards

- (1) The chief executive shall issue to the registrar an identity card that specifies the registrar's name and office, and on which appears a recent photograph of the registrar.
- (2) The chief executive shall issue to the deputy registrar an identity card that specifies the deputy's name and office, and on which appears a recent photograph of the deputy.
- (3) The chief executive shall issue to an inspector an identity card that specifies the inspector's name and office, and on which appears a recent photograph of the inspector.

- (4) On ceasing to occupy, or to act in—
- (a) the office of the registrar; or
 - (b) the office of the deputy registrar; or
 - (c) an office of inspector;

a person shall not, without reasonable excuse, fail to return his or her identity card to the chief executive.

Maximum penalty: 1 penalty unit.

- (5) In this section:

inspector does not include a police officer.

U 6 Register of dealers

The registrar shall keep a register of motor vehicle dealers in the form that the Minister directs and shall enter the particulars that are prescribed or as the Minister directs.

U 6AA Keeping of register

Part 2 Licences to carry on business as dealer, wholesaler or car market operator

6A Meaning of *dealer*

- (1) A *dealer* is a person who—
 - (a) buys, sells or exchanges motor vehicles as a business, but does not include—
 - (i) a person whose business consists exclusively of buying motor vehicles for the purpose of demolishing or dismantling those vehicles; or
 - (ii) a wholesaler; or
 - (iii) a car market operator; or
 - (iv) a financier; or
 - (b) subject to subsection (2), a person who sells more than 6 vehicles in any period of 12 months.
- (2) Subsection (1) (b) does not apply to a person who is exempted by the registrar by written notice.
- (3) A person shall not, only because of anything contained in section 3 (a), be taken, for this Act, to be a dealer.

7 Licensing of dealers

A person shall not carry on the business of a dealer or hold himself or herself out as a dealer unless—

- (a) the person is the holder of a vehicle sale licence; and
- (b) the business is carried on at premises specified in the licence as the address where the person may carry on that business or

partly at those premises and partly at premises specified in another vehicle sale licence held by the person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

7A Licensing of wholesalers

A person shall not carry on the business of a wholesaler or hold himself or herself out as a wholesaler unless—

- (a) the person is the holder of a vehicle sale licence; and
- (b) an address has not been specified in that licence under section 14 (2).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

7B Licensing of car market operators

A person shall not carry on the business of a car market operator or hold himself or herself out as a car market operator unless—

- (a) the person is the holder of a car market operator licence; and
- (b) the business is carried on at premises specified in the licence as the address where the person may carry on that business or partly at those premises and partly at premises specified in another car market operator licence held by the person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

U 8 Eligibility for the grant of licences to individuals

- (1) An individual is eligible for the grant of a licence if—
 - (a) the individual is at least 18 years old; and
 - (b) the individual is a suitable person; and

- (c) the individual 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 or her creditors; and
 - (d) having regard to the factors specified in subsection (2), the individual is likely to be able to comply with the obligations applicable to the licence; and
 - (e) for an applicant for the grant of a vehicle sale licence—
 - (i) the individual is not the holder of, or an applicant for, a car market operator licence; and
 - (ii) the individual has sufficient material and financial resources to carry on that business in accordance with subsection (3);
 - (f) for an applicant for the grant of a car market operator licence—the individual is not the holder of, or an applicant for, a vehicle sale licence; and
 - (g) if the licence is granted, the individual intends to carry on the business during the period of the licence.
- (2) For subsection (1) (d), the question whether an individual is likely to be able to comply with the obligations applicable to the licence is to be determined having regard to his or her—
- (a) apparent understanding of those obligations; and
 - (b) general business experience (whether or not in the motor trade); and
 - (c) previous employment (whether or not in the motor trade); and
 - (d) knowledge of the operation of businesses of the type proposed to be engaged in by the individual; and
 - (e) level of education; and
 - (f) personal capacity.

- (3) For subsection (1) (e), the question whether an individual has sufficient material and financial resources to carry on the proposed business is to be determined having regard to—
- (a) the scope of the individual's proposed business operations; and
 - (b) the liabilities the individual may incur in the course of carrying on that business.

9 Eligibility for the grant of licences to corporations

A corporation is eligible for the grant of a licence if—

- (a) each of the executive officers of the corporation is a suitable person; and
- (b) for an applicant for the grant of a vehicle sale licence—
 - (i) the corporation is not the holder of, or an applicant for, a car market operator licence; and
 - (ii) the corporation has sufficient material and financial resources to carry on business having regard to the scope of its proposed business operations and the liabilities it may incur in the course of carrying on business; and
- (c) for an applicant for the grant of a car market operator licence— the corporation is not the holder of, or an applicant for, a vehicle sale licence.

U 10 Applications for licences by individuals

- (1) An application for the grant of a licence by a person other than a corporation—
- (a) shall be in writing and signed by the applicant; and
 - (b) shall be lodged with the registrar; and
 - (c) shall state in relation to the applicant—
 - (i) full name; and

- (ii) date and place of birth; and
- (iii) present residential address and any other addresses where the applicant has lived during the 3 years immediately before the date of the application; and
- (d) shall state the period, not longer than 12 months, for which the licence is sought and may specify the date from and including which the applicant proposes that the licence should take effect; and
- (e) except for an application for a car market operator licence—shall be accompanied by a statement audited by a qualified accountant containing details of the applicant's material and financial resources; and
- (f) shall specify the premises where the applicant proposes to carry on business under the licence; and
- (g) must be accompanied by a certificate by the planning and land authority that, in its opinion, the carrying on of the proposed business at the premises specified in the application under paragraph (f) is not prohibited by the provisions of the lease of the land where those premises are situated or by the Territory plan; and
- (h) shall state whether he or she is a bankrupt, or is for the time being taking the benefit of any law for the relief of bankrupt or insolvent debtors, or is a person whose remuneration is, for the time being, assigned for the benefit of his or her creditors; and
- (i) shall be accompanied by certificates by 2 persons certifying in relation to the fame and character of the applicant; and
- (j) shall, if the applicant either in the ACT or elsewhere has previously carried on the business of a dealer, wholesaler or car market operator or has been employed in such a business, contain details of the business so carried on or of that employment; and

- (k) if the applicant proposes to carry on business under a name other than his or her personal name—shall be accompanied by a certificate of registration of the business name under the *Business Names Act 1963*; and
 - (l) shall be accompanied by identification of the applicant being identification in accordance with the requirements of section 11A; and
 - (m) shall contain the other information (if any) prescribed under the regulations.
- (2) An application under subsection (1) shall be notified in accordance with section 11B.

U 11 Applications for licences by corporations

- (1) An application by a corporation for the grant of a licence—
- (a) shall be in writing and signed on behalf of the corporation by an executive officer of the corporation; and
 - (b) shall be lodged with the registrar; and
 - (c) shall be accompanied by evidence of the due incorporation of the corporation; and
 - (d) shall be accompanied by a statement setting out, in relation to each executive officer of the corporation, the executive officers name, date of birth, present residential address and any other addresses where the executive officer has lived during the 3 years immediately before the date of the application; and
 - (e) except for an application for a car market operator licence—shall be accompanied by the relevant financial information referred to in subsection (2); and
 - (f) shall state the period, not longer than 12 months, for which the licence is sought and may specify the date from and including which the applicant proposes that the licence should take effect; and

- (g) shall specify the premises where the corporation proposes to carry on business under the licence; and
 - (h) must be accompanied by a certificate by the planning and land authority that, in its opinion, the carrying on of the proposed business at the premises specified in the application under paragraph (f) is not prohibited by the provisions of the lease of the land where those premises are situated or by the Territory plan; and
 - (i) shall be accompanied by certificates in relation to each of the executive officers of the corporation by 2 persons certifying in relation to the fame and character of each of the directors; and
 - (j) shall, where an executive officer either in the ACT or elsewhere has previously carried on the business of a dealer or has been employed by a dealer, contain details of the business so carried on or of that employment; and
 - (k) if the applicant proposes to carry on business under a name other than the name of the corporation—shall be accompanied by a certificate of registration of the business name under the *Business Names Act 1963*; and
 - (l) shall be accompanied by identification of each of the executive officers of the corporation being identification in accordance with the requirements of section 11A; and
 - (m) shall contain the other information (if any) prescribed under the regulations.
- (2) For subsection (1) (e), the relevant financial information is—
- (a) if the corporation has been in existence for more than 1 financial year of that corporation—
 - (i) a copy of the corporation's accounts in relation to the financial year of the corporation immediately before the application for the grant of the licence; and

- (ii) a copy of the corporation's accounts in relation to the period beginning at the end of that financial year and ending no more than 1 month immediately before the application for the grant of the licence; or
 - (b) if paragraph (a) does not apply—a copy of the corporation's accounts for the period beginning on the day of its incorporation and ending no more than 1 month immediately before the day it applies for the grant of the licence.
- (3) The accounts mentioned in subsection (2) must have been audited by a qualified accountant.
- (4) An application under subsection (1) must be notified in accordance with section 11B (Notification of application).
- (5) In this section:

accounts—see the Corporations Act, section 9 (Dictionary), definition of *financial records*.

accounts in relation to a period (the *first period*) includes accounts for each of 2 periods whose total length corresponds to the length of the first period.

11A Identification of applicant or executive officer

- (1) In this section:

relevant person means—

 - (a) for an application for a licence by an individual—the applicant; or
 - (b) for an application for a licence by a corporation—an executive officer of the corporation.
- (2) Subject to subsection (3), for section 10 (1) (1) or 11 (1) (1), the identification is 2 of the following items being items in the name currently used by the relevant person:
 - (a) a licence issued to the relevant person under a law;

- (b) a credit card or a debit card issued to the relevant person;
 - (c) a notice issued by a public utility relating to liability of the relevant person to rates or a service provided by the utility;
 - (d) a degree, diploma or certificate issued to the relevant person by a recognised tertiary institution or government education agency;
 - (e) a certificate of birth, marriage or civil partnership issued by a government agency that relates to the relevant person;
 - (f) a document equivalent to a document referred to in paragraph (a) to (e) that has been issued in a State, another Territory or a foreign country;
 - (g) a passport issued to the relevant person including a passport issued by the government of a foreign country.
- (3) The 2 items referred to in subsection (2) must consist of 1 item referred to in 1 paragraph of that subsection and 1 item referred to in another item of that subsection.
- (4) If the registrar is satisfied that in all the circumstances (including the availability of items referred to in subsection (2)) it is not reasonably practicable to comply with the requirements of that subsection in relation to a relevant person, the registrar may accept any other identification for section 10 (1) (l) or 11 (1) (l) that the registrar considers to be satisfactory evidence of the identity of that person.

11B Notification of application

- (1) In this section:
- relevant person* means—
- (a) for an application for a licence by an individual—the applicant; or
 - (b) for an application for a licence by a corporation—an executive officer of the corporation.
- (2) An application under section 10 (1) or 11 (1) shall be notified in a daily newspaper circulating in the ACT within 7 days of lodgment.
- (3) A notice referred to in subsection (2) shall also—
- (a) include the name of the applicant; and
 - (b) include the full name and present residential address of each relevant person; and
 - (c) indicate the type of licence applied for; and
 - (d) indicate the place where the applicant would carry on business if the licence is granted; and
 - (e) indicate that any person who objects to the grant of the licence to the applicant should lodge a written objection with the registrar at the address of the registrar specified in the notice within 14 days of publication of the notice.

U 12 Certificates of convictions

- (1) On receipt of an application for the grant or renewal of a licence, the registrar shall give the chief police officer the name, address and any former name or address of the applicant known to the registrar.
- (2) Within 21 days of the receipt of the copy of the application, the chief police officer shall give to the registrar a certificate stating whether, according to the records held by the chief police officer, it

appears that the applicant has been charged with, or convicted of, any offence against a law of the Territory, the Commonwealth, a State, another Territory or another country.

- (3) The applicant is entitled to inspect a certificate under subsection (2).

U 13 **Grant or refusal of licence**

- (1) The registrar shall grant an application for a licence unless—
- (a) the applicant or, for an application by a corporation, an executive officer of the corporation, fails to comply with a requirement of the registrar under subsection (2); or
 - (b) the applicant for the grant of a licence fails to establish that the applicant is eligible for the grant of the licence; or
 - (c) the application does not comply with the requirements of section 10 or 11, as the case requires.
- (2) The registrar may require an applicant or, for an application by a corporation, all or any of the executive officers of the corporation, to attend before the registrar and may require the applicant or such an executive officer to give to him or her, orally or in writing, the further information that he or she requires to be given.
- (3) The registrar may exercise his or her powers under subsection (2) whether or not—
- (a) an objection to the grant of an application for a licence has been lodged; or
 - (b) the certificate of conviction received by the registrar indicates that the applicant has been charged with, or convicted of, an offence against a law of the Territory, the Commonwealth, a State, another Territory or another country.

- (4) If—
- (a) an objection is lodged in response to a notice referred to in section 11B and the registrar is satisfied that the objection is not frivolous or vexatious; or
 - (b) a certificate of conviction has been received indicating that the applicant has been charged with, or convicted of, an offence and the registrar is satisfied that as a consequence of that conviction the applicant is an unsuitable person; or
 - (c) the registrar considers that there may be grounds for refusing an application for the grant of a licence;
- the registrar shall hold an inquiry into the matter.
- (5) If the registrar refuses an application for the grant of a licence to an applicant, the registrar shall record the reasons for his or her decision and serve on the applicant notice of the decision.
- (6) If the registrar, within 3 months after the lodging with the registrar of an application for a licence, fails to give the applicant notice of the decision on the application, the registrar shall be deemed to have refused to grant the application.

14 Issue of licences

- (1) Subject to subsection (2), where the registrar grants an application for a licence, he or she shall issue to the applicant a licence to carry on the business of a dealer.
- (2) Before issuing a licence to a person who proposes to carry on the business of a dealer or a car market operator, the registrar shall specify in the licence the address of the premises where the dealer or operator may carry on that business.
- (3) A licence shall be granted for 12 months or for the shorter period specified in the application or the registrar allows.

U 14A Eligibility for renewal of licences

- (1) An individual is eligible for the renewal of the licence held by him or her if—
 - (a) the individual is a suitable person; and
 - (b) the individual 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 or her creditors; and
 - (c) for the renewal of a vehicle sale licence—the individual has sufficient material and financial resources to carry on that business in accordance with subsection (3); and
 - (d) if the licence is granted, the individual intends to carry on the business during the period of the licence.
- (2) A corporation is eligible for the renewal of the licence held by the corporation if—
 - (a) each of the executive officers of the corporation is a suitable person; and
 - (b) for the renewal of a vehicle sale licence—the corporation has sufficient material and financial resources to carry on that business in accordance with subsection (3); and
 - (c) if the licence is granted, the corporation intends to carry on the business during the period of the licence.
- (3) For subsection (1) (c), the question whether an applicant for renewal has sufficient material and financial resources to carry on the business during the period of the renewal is to be determined having regard to—
 - (a) the scope of the applicant's business operations; and
 - (b) the liabilities the applicant has incurred and may incur in the course of carrying on business.

U 14B Applications for renewal of licences

An application by a licensee for the renewal of the licence held by the licensee—

- (a) shall be in writing and signed—
 - (i) except if subparagraph (ii) applies—by the licensee; or
 - (ii) if the licensee is a corporation—on behalf of the corporation by an executive officer of the corporation; and
- (b) shall state the period, not longer than 12 months, for which renewal of the licence is sought; and
- (c) except for an application for renewal of a car market operator licence—shall be accompanied by a statement audited by a qualified accountant containing details of the licensee's working capital; and
- (d) shall specify the premises where the licensee proposes to carry on business under the licence as renewed; and
- (e) must be accompanied by a certificate by the planning and land authority that, in its opinion, the carrying on of the proposed business at the premises specified in the application under paragraph (d) is not prohibited by the provisions of the lease of the land where those premises are situated or by the Territory plan.

14C Grant or refusal of renewal of licences

- (1) The registrar shall grant an application for the renewal of a licence unless—
 - (a) the applicant or, for an application by a corporation, an executive officer of the corporation, fails to comply with a requirement of the registrar under subsection (2); or

- (b) the applicant for the renewal of a licence fails to establish that the applicant is eligible for the renewal of the licence; or
 - (c) the application does not comply with the requirements of section 14B that are applicable to the applicant.
- (2) The registrar may, whether or not an objection to the grant of an application for a renewal of a licence has been lodged, require an applicant, or for an application by a corporation, all or any of the executive officers of the corporation—
 - (a) to attend before the registrar; and
 - (b) to give to the registrar, orally or in writing, the further information that the registrar requires to be given.
- (3) If an objection is lodged under section 12 or the registrar considers that there may be grounds for refusing an application for the grant of a renewal of a licence, the registrar shall hold an inquiry into the matter.
- (4) If the registrar refuses an application for the grant of a renewal of a licence to an applicant, the registrar shall record the reasons for his or her decision and serve on the applicant notice of the decision.
- (5) If the registrar, within 3 months after the lodging with him or her of an application for the renewal of a licence, fails to give the applicant notice of the decision on the application, the registrar shall be taken to have refused to grant the application.

14D Renewal of licences

- (1) If the registrar grants an application for the renewal of a licence, the registrar shall issue to the applicant a renewal of the licence to carry on business subject to any conditions imposed by the registrar.

Note A fee or charge may be determined under s 91 (Determination of fees and charges) for this subsection or s (2).

- (2) A licence shall be renewed for 12 months or for the shorter period specified in the application or the registrar allows, but may be renewed for successive periods of 12 months.
- (3) The registrar may grant an application for the renewal of a licence subject to conditions.
- (4) A person shall not carry on business under a licence that has been renewed subject to a condition unless the person complies with the condition.

Maximum penalty: 50 penalty units.

- (5) Without limiting the scope of the conditions that may be imposed under subsection (3), if the registrar considers that the financial position of the applicant requires it, the registrar may impose a condition relating to the size of the business that the applicant may operate under the licence as renewed.

14E Variation of licences

- (1) The registrar, on written application by a licensee, may vary a licence.
- (2) An application shall specify the reason for the proposed change and be accompanied by the copy of the licence held by the applicant.
- (3) If the registrar varies a licence, the registrar shall endorse the terms of the variation on the copy of the licence lodged with the application and return the copy to the applicant.
- (4) Subject to subsection (5), if a licence is varied, the licence has effect on and after the variation as if the licence had been issued or renewed, as the case may be, in the terms as varied.
- (5) Subsection (4) does not affect any rights or liabilities that had accrued in relation to a licence and were in existence immediately before the variation of the licence.
- (6) If the registrar refuses an application for the grant of a variation of a licence to an applicant, the registrar shall—

- (a) record the reasons for his or her decision; and
 - (b) serve on the applicant notice of the decision; and
 - (c) return to the applicant the copy of the licence lodged with the application.
- (7) If the registrar, within the period of 3 months after the lodging with him or her of an application for the variation of a licence, fails to give the applicant notice of the decision on the application, the registrar shall be taken to have refused to grant the application.

Part 3 Dealings in motor vehicles

15 Licensees to maintain dealings register

- (1) At each place where a licensee carries on business, the licensee shall maintain a dealings register in accordance with this section.

Maximum penalty: 20 penalty units.

- (2) A dealings register shall consist of—
- (a) a bound book each page of which is numbered consecutively and bears the name of the licensee and the address where it is kept; or
 - (b) a computer system approved by the registrar under subsection (4).
- (3) If a licensee maintains a dealings register in the form of a bound book, entries in the book shall be made in ink and shall not be erased or made illegible.
- (4) The registrar shall not approve a computer system for the purpose of maintaining a dealings register unless the registrar is satisfied that the computer system as maintained by the licensee would—
- (a) provide for the immediate retrieval of information required by this Act to be recorded in the dealings register and made available for inspection; and
 - (b) contain a duplicate version of the information referred to in paragraph (a) and provide for the backup or duplication of any alteration in that information.
- (5) The information referred to in subsection (4) (a) shall be in the English language and be readable on sight.

16 Information to be recorded in dealings register

- (1) A licensee, on purchasing or otherwise acquiring a second-hand motor vehicle, whether as principal or agent, or on becoming the possessor of a vehicle that the licensee is authorised to sell in accordance with section 31, shall, in relation to that motor vehicle, enter or cause to be entered in his or her dealings register—
- (a) the make, model designation and type, year of manufacture (if known), registered number (if any), engine number and body number of the vehicle; and
 - (b) if the motor vehicle is fitted with an odometer, the distance travelled by the vehicle as recorded on the odometer when the vehicle came into his or her possession; and
 - (c) the name and address of the person from whom the licensee purchased or otherwise acquired the vehicle; and
 - (d) the name of the most recent owner of the motor vehicle who was not a trade owner; and
 - (e) the date when the licensee purchased or otherwise acquired the vehicle; and
 - (f) the consideration (if any) the licensee gave for the motor vehicle.

Maximum penalty: 20 penalty units.

- (2) A licensed dealer or licensed wholesaler, on selling or otherwise disposing of a motor vehicle in other than a demolished or dismantled condition, shall in relation to that motor vehicle enter or cause to be entered in his or her dealings register—
- (a) the date when he or she sold or otherwise disposed of the vehicle; and
 - (b) the name and address of the person to whom he or she sold or otherwise disposed of the vehicle; and

- (c) if the vehicle was not in working condition at the time that it was sold or otherwise disposed of, particulars of the condition of the vehicle at that time.

Maximum penalty: 20 penalty units.

- (3) If a licensed dealer or licensed wholesaler demolishes or permanently dismantles a motor vehicle, he or she shall, in relation to that vehicle, enter, or cause to be entered, in his or her dealings register a note of the demolition or dismantling of the vehicle and the date of that demolition or dismantling.

Maximum penalty: 20 penalty units.

- (4) Subject to subsection (5), a licensed car market operator shall not permit a second-hand motor vehicle to be displayed for sale at the premises to which the licence of the operator relates (the *market*) unless, in relation to the motor vehicle, the operator enters or causes to be entered in the dealings register—

- (a) the make, model designation and type, year of manufacture (if known), registered number (if any), engine number and body number of the vehicle; and
- (b) if the motor vehicle is fitted with an odometer—the distance travelled by the vehicle as recorded on the odometer immediately before the vehicle was displayed for sale; and
- (c) the name of the most recent owner of the motor vehicle who was not a trade owner.

Maximum penalty: 20 penalty units.

- (5) If—
 - (a) a licensed car market operator enters or causes to be entered in the dealings register the particulars referred to in subsection (1) in relation to a vehicle (the *relevant full particulars entry*); and

- (b) the vehicle is displayed for sale at the market from time to time within a period not exceeding 2 months after the relevant full particulars entry was made;

the operator shall be taken to sufficiently comply with subsection (4) if the operator enters or causes to be entered in the dealings register an entry that—

- (c) identifies the location of the relevant full particulars entry in the dealings register; and
- (d) specifies any particulars required by subsection (4) (b).

- (6) In this section:

dealings register means—

- (a) in relation to a dealing in a motor vehicle by a licensee who carries on business at more than 1 place—
 - (i) the dealings register maintained at the place of business where the dealing takes place; or
 - (ii) if the dealing takes place off the premises of such a place—the dealings register at the place of business that is closest to the place where the dealing takes place; or
- (b) in relation to a dealing in a motor vehicle by any other licensee—the dealings register maintained at the place where the licensee carries on business.

17 Giving incorrect information to licensee

A person shall not give incorrect information to a licensee, or to a person acting on behalf of a licensee, in relation to any of the matters that a licensee is required to enter in a dealings register in accordance with section 16.

Maximum penalty: 5 penalty units.

18 Telling people about Act's requirements

(1) If a person gives information to a licensee in relation to any matter that a licensee must enter in a dealings register, the licensee must tell the person about the requirements of section 17.

(2) In this section:

licensee includes someone acting for the licensee.

19 Dealings with persons under 18 years

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

Maximum penalty: 20 penalty units.

(2) A licensed wholesaler shall not, in relation to a person who is apparently under 18 years old, purchase or otherwise acquire from that person a second-hand motor vehicle without the written consent of that person's parent or guardian.

Maximum penalty: 20 penalty units.

20 Dealer to attach notice to second-hand vehicle

(1) Subject to this section, a dealer shall not offer or display for sale a second-hand motor vehicle or give possession of a second-hand motor vehicle to a purchaser unless there is attached to that vehicle a notice that—

(a) contains the required particulars; and

(b) complies with the requirements of subsection (3).

Maximum penalty: 10 penalty units.

- (2) The required particulars for subsection (1) are—
- (a) the name and business address of the dealer; and
 - (b) except for a sale by auction or by tender—the cash price of the vehicle; and
 - (c) if the vehicle was purchased or otherwise acquired by the dealer from a financier who had repossessed the motor vehicle under a hire-purchase agreement—the name of the financier; and
 - (d) if the vehicle is equipped with an odometer—the distance travelled by the vehicle as recorded by the odometer and entered in the dealings register; and
 - (e) whether the distance recorded by the vehicle's odometer has been altered by the dealer or on his or her behalf and, if so, the distance to which it was altered; and
 - (f) whether the dealer has replaced the odometer on the vehicle or it has been replaced on his or her behalf; and
 - (g) whether, to the knowledge of the dealer, the distance recorded by the vehicle's odometer was altered or the vehicle's odometer replaced at any time before the vehicle came into the dealer's possession; and
 - (h) if the vehicle was manufactured on or after 1 January 1971—the year of manufacture and the model designation of the vehicle; and
 - (i) if the vehicle was manufactured before 1971—the year of manufacture and the model designation of that vehicle or, if this information is unknown to the dealer, a statement that the information is unknown; and
 - (j) the registration number (if any), engine number and body number of the motor vehicle; and

- (k) for a sale by tender—a statement that the vehicle is to be sold by tender and the time when tenders are to close; and
 - (l) the other particulars that are prescribed.
- (3) A notice attached to a motor vehicle under subsection (1)—
- (a) shall consist of legible writing on white material or on material of the colour approved by the registrar; and
 - (b) shall be written in letters and figures at least 2mm in height; and
 - (c) shall be attached to the vehicle in such a place as to be clearly visible and readily legible from outside the vehicle.
- (4) A dealer shall not represent to the purchaser or to a prospective purchaser of a second-hand motor vehicle that he or she offers or displays for sale that the motor vehicle is a demonstrator vehicle unless the notice attached to the vehicle in accordance with subsection (1) contains, in addition to the required particulars, a statement that the vehicle is a demonstrator vehicle.

Maximum penalty: 30 penalty units.

- (5) A dealer shall not include in a notice attached to a motor vehicle under subsection (1) any false or misleading information in relation to the motor vehicle.

Maximum penalty: 50 penalty units.

- (6) A dealer who offers or displays for sale a second-hand motor vehicle shall, if requested by a person who is a prospective purchaser of the vehicle to give him or her information relating to the past or present ownership of the vehicle, inform that person of—
- (a) except if paragraph (b) applies—the name of the most recent owner of the vehicle who was not a trade owner; or

- (b) if the dealer is acting in accordance with a written authority given to him or her under section 31—the name of the person who gave him or her that authority.

Maximum penalty: 10 penalty units.

- (7) This section does not apply if a dealer offers or displays a vehicle for sale only to a trade owner or gives possession of a vehicle to a purchaser who is a trade owner.

21 Action by dealer on sale of second-hand motor vehicle

- (1) If a dealer sells a second-hand motor vehicle to which a notice has been attached in accordance with section 20 (1) to a purchaser who is not a trade owner, the dealer shall—
 - (a) endorse on 2 copies of the notice—
 - (i) the date of the sale; and
 - (ii) the date of delivery of the vehicle to the purchaser; and
 - (iii) the cash price for which the vehicle was sold; and
 - (iv) for a second-hand motor vehicle that is not a demonstrator motorcycle—a statement that the dealer is not obliged by this Act to repair defects in the vehicle; and
 - (v) the name and address of the purchaser; and
 - (b) sign those copies; and
 - (c) keep 1 copy of the notice for 3 years from the date of the sale; and
 - (d) within 14 days of the date of the delivery of the vehicle or of the sale, whichever is the later, give the purchaser the other copy of the notice.

Maximum penalty: 10 penalty units.

- (2) For subsection (1)—
- (a) a dealer may give a copy of a notice to a purchaser by posting it by certified mail to the purchaser at the address given by the purchaser and endorsed on the notice; and
 - (b) if the motor vehicle has been sold to the purchaser by an employee or agent of the dealer—compliance by the employee or agent with a requirement of that subsection shall be deemed to be compliance by the dealer with that requirement.

22 Sale of vehicle if odometer replaced or distance altered

A dealer shall not, without the written consent of the registrar, offer or display for sale a motor vehicle if—

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

Maximum penalty: 50 penalty units.

23 Obligations of dealer to repair defects in motor vehicles

- (1) Except as provided in this section and sections 24 and 25, if a motor vehicle described in schedule 1, column 2 is sold by a dealer and before—
- (a) the vehicle has been driven for the number of kilometres after being manufactured or sold, as the case may be, specified opposite the description of the vehicle in schedule 1, column 3; or
 - (b) the end of the period, specified opposite the description of the vehicle in schedule 1, column 4, after the vehicle is so sold;

whichever first occurs, a defect appears or occurs in the vehicle, the dealer shall, whether or not the defect existed at the time of the sale, at the dealer's own expense, repair or make good, or cause to be

repaired or made good the defect so as to place the vehicle in a reasonable condition having regard to its age.

- (2) The dealer's obligation under subsection (1) shall be taken to be a term of the contract of sale relating to the vehicle.
- (3) For subsection (1), a defect that occurs in a vehicle includes a defect—
 - (a) that existed in the vehicle at any time before the occurrence of an event referred to in subsection (1) (a) or (b); and
 - (b) that first became apparent after the event occurred;but only if the defect is reported to the dealer within a reasonable period after it becomes apparent.
- (4) For the purposes of calculating the period referred to in subsection (1) (b), no regard shall be paid to any period during which the dealer has the motor vehicle in his or her possession for the purpose or purported purpose of ascertaining or carrying out his or her obligations under subsection (1).
- (5) The obligation of a dealer under subsection (1) in relation to a new motor vehicle sold by the dealer is extinguished if, subsequent to that sale, the dealer or another dealer acquires ownership of the vehicle, or the vehicle is repossessed by a financier.
- (6) Subject to subsection (5), the obligation of a dealer under subsection (1) in relation to a new motor vehicle sold by the dealer subsists for the benefit of the owner, from time to time, of the vehicle and, for this purpose, the owner from time to time shall be taken to have entered into a contract of sale with the dealer in relation to the vehicle.
- (7) The obligation of a dealer under subsection (1) in relation to a second-hand motor vehicle sold by the dealer is an obligation only to the person who purchased the vehicle from the dealer.

- (8) The fact that a dealer's licence has been revoked, or that a dealer is not the holder of a dealer's licence or has ceased to be a dealer, does not affect the dealer's obligation under subsection (1).
- (9) If the holder of a dealer's licence sells a motor vehicle on behalf of another dealer, this section does not apply to the other dealer.

24 Excluded defects

- (1) In this section:

attach includes cause to be attached.

defect notice means a notice in accordance with the defect notice form approved under section 93 (Approved forms) that complies with the requirements of subsection (6).

- (2) If a dealer offers or displays for sale a second-hand motor vehicle, the dealer may attach to the vehicle a defect notice.
- (3) If—
 - (a) a defect notice has been attached to a second-hand motor vehicle at all material times when the vehicle is offered or displayed for sale by the dealer; and
 - (b) at or before the time of sale of the vehicle, the notice, or a copy of the notice, has been signed by the dealer and the purchaser and has been delivered to the purchaser for retention by the purchaser;

section 23 (1) does not apply in relation to the defects set out in the notice.

- (4) If, at or before the time of sale of a demonstrator motor vehicle, a defect notice has been signed by the dealer and the purchaser and has been delivered to the purchaser for retention by the purchaser, section 23 (1) does not apply in relation to any defect specified in the notice.

- (5) If the reasonable cost of repairing a defect specified in a defect notice is greater than the amount specified in that notice, the purchaser may recover the difference between those amounts from the licensed dealer.
- (6) A defect notice—
- (a) shall consist of legible writing on white material or on material of a colour approved by the registrar; and
 - (b) shall be written in letters and figures at least 2mm in height; and
 - (c) shall be attached to the vehicle in such a place as to be clearly visible and readily legible from outside the vehicle.

25 Exceptions

- (1) In this section:
- relevant sale* means a sale referred to in section 23 (1).
- (2) Section 23 (1) does not apply in relation to a defect—
- (a) occurring in—
 - (i) a tyre or battery; or
 - (ii) an accessory fitted to a motor vehicle; or
 - (b) arising from or incidental to any accidental damage to a motor vehicle that occurred after the relevant sale when the vehicle was not in the possession of the dealer; or
 - (c) arising from misuse or negligence on the part of a driver of a motor vehicle, or arising from the use of a motor vehicle for motor racing or motor rallying, that occurred after the relevant sale of the vehicle; or
 - (d) appearing or occurring in an accessory that was not fitted to or supplied with a motor vehicle at the time of the relevant sale of the vehicle.

- (3) For a second-hand motor vehicle, section 23 (1) does not apply in relation to any superficial damage to the paintwork or upholstery of the vehicle that would have been apparent on a reasonable inspection of the vehicle carried out at the time of the relevant sale of the vehicle.
- (4) Section 23 (1) does not apply in relation to the sale of—
 - (a) a second-hand motor vehicle if the purchaser has been in possession of the vehicle for not less than 3 months immediately before the day of the relevant sale; or
 - (b) a commercial vehicle; or
 - (c) a substantially demolished or substantially dismantled motor vehicle.
- (5) If the proposed purchaser (the *buyer*) of a new motor vehicle is in possession of the vehicle for a period immediately before the day when the buyer purchases the vehicle from a dealer then, for section 23 (1), the buyer shall be taken to have purchased the vehicle on the day when the buyer first acquired that possession.
- (6) Section 23 (1) does not apply in relation to a motor vehicle if—
 - (a) the motor vehicle or a class of motor vehicles that include the motor vehicle has been declared by the Minister, in writing, to be a motor vehicle or a class of motor vehicles in relation to which section 23 (1) does not apply; and
 - (b) a copy of the notice is attached to the vehicle at all material times when the vehicle is offered or displayed for sale by the dealer.
- (7) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

- (8) If, because of a declaration by the Minister under subsection (6), a dealer would not be liable under section 23 (1) in relation to a defect in a motor vehicle if the dealer were to sell that vehicle, a licensed dealer shall not offer or display that vehicle for sale unless a notice in accordance with the exemption notice form approved under section 93 (Approved forms) that complies with the requirements of subsection (9) is attached to the motor vehicle.

Maximum penalty: 10 penalty units.

- (9) The notice shall contain letters at least 5mm in height and shall in all other respects comply with the requirements of section 24 (6) as if it were a notice attached to a motor vehicle in accordance with section 24 (2).
- (10) If a licensed dealer sells a motor vehicle referred to in subsection (8), the dealer shall—
- (a) sign 2 copies of the notice referred to in that subsection; and
 - (b) keep 1 copy of the notice for 3 years from the date of the sale; and
 - (c) give the purchaser the other copy of the notice.

Maximum penalty: 5 penalty units.

- (11) For subsection (10), if the motor vehicle has been sold to the purchaser by the employee or agent of the dealer, compliance by the employee or agent with a requirement of that subsection shall be taken to be compliance by the dealer with that requirement.

25A Obligations of dealer to repair defects in motorcycles

- (1) Subject to this section, if—
- (a) a dealer sells to a person a new motorcycle or a demonstrator motorcycle; and
 - (b) before—

(i) the motorcycle has been ridden for 10 000km after the sale; or

(ii) the end of 6 months next following the date of the sale;

whichever is the earlier;

a defect in the motorcycle occurs or becomes apparent to the purchaser the dealer shall, at the dealer's own expense, repair or make good, or cause to be repaired or made good, the defect so as to place the motorcycle in a reasonable condition having regard to its age.

(2) Subsection (1) applies to a defect whether or not that defect existed at the time of the sale.

(3) The dealer's obligation under subsection (1) shall be taken to be a term of the contract of sale relating to the motorcycle.

(4) A dealer is not liable under this section in relation to a defect in a motorcycle if the defect—

(a) arises from, or is incidental to, accidental damage suffered by the motorcycle after the purchaser took delivery of the motorcycle from the dealer; or

(b) arises from misuse of the motorcycle or negligence by a rider of the motorcycle, or from the use of the motorcycle for motorcycle racing or motorcycle rallying, after the purchaser took delivery of the motorcycle from the dealer; or

(c) consists of damage to, or wear of, tyres or any accessory of the motorcycle; or

(d) consists of superficial damage to the paintwork or upholstery of the vehicle that would have been apparent on a reasonable inspection of the motorcycle carried out at the time of delivery of the motorcycle from the dealer or of the sale, whichever is the earlier.

- (5) A dealer is not liable under this section in relation to a defect in a motorcycle sold by the dealer where the motorcycle is—
- (a) a motorcycle that has been in the possession, or under the control, of the purchaser continuously for not less than 3 months immediately before the date of the sale; or
 - (b) a motorcycle that is sold by auction; or
 - (c) a motorcycle or a motorcycle included in a class of motorcycles that has been declared by the Minister, in writing, to be a motorcycle or a class of motorcycle in relation to which this section does not apply; or
 - (d) a motorcycle that is sold to a person who is a trade owner.
- (6) A declaration under subsection (5) (c) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (7) This section does not apply to a sale to the Territory.

25B Cooling-off period

- (1) A purchaser (other than a dealer or a corporation) under an agreement for the sale of a motor vehicle may, at any time before the end of 3 clear business days after the purchaser signs the agreement, terminate the agreement by giving to or serving on the dealer or an agent of the dealer written notice to the effect that the purchaser terminates the agreement.
- (2) Subsection (1) ceases to apply if the purchaser immediately before accepting delivery signs an instrument in accordance with the loss of right to terminate form approved under section 93 (Approved forms) acknowledging that the right to terminate the agreement no longer applies.

- (3) A dealer shall not sell, give in exchange or otherwise dispose of a motor vehicle given or agreed to be given by a purchaser under an agreement for the sale of another motor vehicle in satisfaction of part of the purchase price during the period during which the purchaser may terminate the agreement under this section.
- (4) If an agreement for the sale of a motor vehicle has been terminated in accordance with this section—
- (a) the vendor under the agreement—
 - (i) shall pay to the purchaser all money received by the vendor under the agreement less the sum of \$100 or 1% of the purchase price under the agreement (whichever is the greater); and
 - (ii) shall return to the purchaser any motor vehicle given in satisfaction of any part of the purchase price; and
 - (b) any collateral credit agreement is discharged to the extent that it was entered into for the purposes of the payment for the motor vehicle supplied or to be supplied under the agreement; and
 - (c) any security interest in the motor vehicle arising under the collateral credit agreement is extinguished to the extent that it secures the payment of a debt or other pecuniary obligation or performance of any other obligation under the collateral credit agreement; and
 - (d) a purchaser who has accepted delivery of the motor vehicle before the agreement was terminated—
 - (i) is liable to the dealer for any damage (other than fair wear and tear) occurring to the motor vehicle while it was in the purchaser's possession; and
 - (ii) subject to subsection (5), shall return the motor vehicle to the dealer.

- (5) A purchaser is not liable under subsection (4) (d) to return the motor vehicle to the dealer if, before the agreement was terminated, a defect appeared in the motor vehicle for reasons beyond the control of the purchaser making the motor vehicle—
- (a) incapable of being driven; or
 - (b) unroadworthy;
- but shall permit the dealer to collect, or arrange for the collection of, the motor vehicle.
- (6) The Consumer Credit (Australian Capital Territory) Code, section 125 does not apply to the termination of agreements under this section.
- (7) This section does not apply to an agreement for the sale of a commercial vehicle or a motor vehicle purchased at a public auction.

26 Sales between dealers and wholesalers

- (1) In this section:
- trade vendor* means a licensed dealer or a licensed wholesaler.
- (2) If a trade vendor (the *seller*) sells a second-hand motor vehicle to another trade vendor (the *buyer*), the seller shall, at the time of the sale or of giving possession of the vehicle to the buyer, whichever is the earlier, give the buyer or cause to be given to the buyer a notice containing the required particulars.
- Maximum penalty: 5 penalty units.
- (3) A trade vendor who gives a notice under subsection (2) shall make or cause to be made a copy of the notice which the trade vendor shall keep for not less than 3 years after the sale.
- Maximum penalty: 5 penalty units.

- (4) The required particulars for subsection (2) are—
- (a) the name and business address of the vendor; and
 - (b) the name and business address of the purchaser; and
 - (c) the registration number (if any), engine number and body number of the motor vehicle; and
 - (d) if the vehicle was manufactured on or after 1 January 1971—the year of manufacture and the model designation of the vehicle; and
 - (e) if the vehicle was manufactured before 1971—the year of manufacture and the model designation of that vehicle or, if this information is unknown to the vendor, a statement that the information is unknown; and
 - (f) the name and address of the most recent owner of the vehicle who was not a trade owner; and
 - (g) if the motor vehicle is equipped with an odometer—the distance travelled by the vehicle as recorded by the odometer; and
 - (h) whether the distance recorded by the vehicle's odometer has been altered by the vendor or on his or her behalf and, if so, the distance to which it was altered; and
 - (i) whether the vendor has replaced the odometer on the vehicle or it has been replaced on his or her behalf; and
 - (j) whether, to the knowledge of the vendor, the distance recorded by the vehicle's odometer was altered or the vehicle's odometer replaced at any time before the vehicle came into the vendor's possession.

27 Registrar may give opinion on disputes

- (1) Subject to this section, if in relation to the sale of a motor vehicle by a licensed dealer—
 - (a) a dispute arises between the purchaser and the licensed dealer; and
 - (b) the purchaser or the licensed dealer requests the registrar to give his or her opinion in relation to the dispute;the registrar shall—
 - (c) consider the request and any books, documents or writings submitted to the registrar, and any oral or written submissions made to the registrar, by the purchaser or the licensed dealer; and
 - (d) give his or her opinion in relation to the dispute.
- (2) A request under subsection (1) shall be in writing signed by the person making the request and shall contain full details of the subject matter of the dispute in relation to which the opinion of the registrar is sought.
- (3) For the purpose of giving an opinion under subsection (1), the registrar may consult with any person who, in the opinion of the registrar, has knowledge or skills that would be of assistance to the registrar.
- (4) An opinion of the registrar under subsection (1) shall be in writing signed by the registrar and shall contain a statement of the registrar's findings in relation to the dispute and the action that the registrar recommends should be taken to determine the dispute.
- (5) If the registrar gives an opinion under subsection (1), the registrar shall send a copy of the opinion by post to each of the purchaser and the licensed dealer at his or her place of residence or business last known to the registrar.

- (6) The registrar shall not give an opinion under subsection (1) in relation to a dispute if—
- (a) proceedings in relation to that dispute are pending in a court; or
 - (b) the subject matter of the dispute has previously been determined by a court.
- (7) An action or proceeding, civil or criminal, does not lie against the registrar or the deputy registrar for or in relation to any act or thing done honestly by the registrar or the deputy registrar in, or in connection with, the giving of an opinion under this section.

31 Authority to dealer to sell as agent

- (1) A dealer shall not—
- (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 for sale a second-hand motor vehicle for or on behalf of such a person;

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

Maximum penalty: 10 penalty units.

- (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; and
 - (b) bear the date when it is signed by the owner; and
 - (c) contain a full statement of the terms of the authority to sell the motor vehicle or interest; and
 - (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.
- (3) A dealer who is given a written authority under this section—
- (a) shall return 1 copy to the owner; and
 - (b) shall keep 1 copy until the end of 3 years after any sale is effected by him or her in reliance on the written authority.

Maximum penalty: 5 penalty units.

- (4) A written authority under this section shall cease to have effect on the end of 90 days from the day when it is signed by the owner.
- (5) A dealer shall not be entitled to any commission or other remuneration in relation to a sale of a second-hand motor vehicle or an interest in a second-hand motor vehicle effected by the dealer for or on behalf of another person unless—
- (a) the sale is effected in accordance with a written authority complying with this section; and
 - (b) the dealer, in relation to that sale has complied with subsection (3) (a).

Part 4 Sale of second-hand motor vehicles generally

32 Offences by vendors

- (1) A person (the *vendor*) shall not, in relation to a second-hand motor vehicle that the vendor offers or displays for sale—
 - (a) make any statement to a purchaser or prospective purchaser of the vehicle that the vendor knows, or ought reasonably to know, is false; or
 - (b) if the vendor is not a dealer and an 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.

Maximum penalty: 50 penalty units.

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

Part 4A Registration of interests in motor vehicles

32A Definitions for pt 4A

creditor, in relation to a registrable interest in a motor vehicle, means the person in whom the registrable interest is vested.

debtor, in relation to a registrable interest in a motor vehicle, means—

- (a) if the registrable interest is a security interest in the vehicle—the person whose performance of an obligation is secured by the security interest; or
- (b) if the registrable interest is the interest in the vehicle of a lessor—the lessee of the vehicle; or
- (c) if the registrable interest is the interest in the vehicle of the owner under a hire-purchase agreement to which the vehicle is subject—the hirer of the goods; or
- (d) if the registrable interest is any other interest in the vehicle prescribed under the regulations under the NSW Act—the person prescribed under those regulations as the debtor.

director-general means the director-general under the NSW Act.

hirer, in relation to a hire-purchase agreement for a motor vehicle, means the person to whom the vehicle is let, hired or agreed to be sold under the hire-purchase agreement.

lease, of a motor vehicle, means a contract for hiring the vehicle that is not a hire-purchase agreement.

non-dealer means a person who is not a dealer.

notice—a person has **notice** of a registrable interest in a motor vehicle if the person has—

- (a) knowledge of a registrable interest in the vehicle; or
- (b) knowledge that an inquiry might reasonably be expected to reveal a registrable interest in the vehicle, even though the person has deliberately not made the inquiry.

NSW Act means the *Registration of Interests in Goods Act 1986* (NSW).

owner, in relation to a hire-purchase agreement for a motor vehicle, means the person by whom the vehicle is let, hired or agreed to be sold under the hire-purchase agreement.

participating State—see the NSW Act, section 3 (1).

payment, of a purchase price, means—

- (a) if the purchase is not by an exchange—giving valuable consideration for the purchase price; or
- (b) if all of the purchase price is not paid at the same time—the first payment of part of the purchase price; or
- (c) if the purchase is by an exchange—making the exchange.

purchase, of a motor vehicle, means acquiring the vehicle from a person selling or exchanging the vehicle who has, or appears to have, authority to dispose of the vehicle in that way.

register of interests means the Register of Interests in Goods under the NSW Act, section 4.

registered means recorded in the register of interests otherwise than under the NSW Act, section 5 (3).

Note Section 5 (3) deals with the recording of information on the director-general's own initiative, including information received from the police about stolen motor vehicles.

registrable interest, in a motor vehicle, means any of the following interests in the vehicle, whether arising under the law of the ACT, New South Wales or another participating State:

- (a) the interest of a person who is owed an obligation the performance of which is secured by a security interest to which the vehicle is subject;
- (b) the interest of a lessor of the vehicle;
- (c) the interest of the owner under a hire-purchase agreement for the vehicle;
- (d) any other interest prescribed under regulations under the NSW Act.

security interest, in relation to a motor vehicle, means an interest or power—

- (a) reserved in or over an interest in the vehicle; or
- (b) created or otherwise arising in or over an interest in the vehicle under a bill of sale, mortgage, charge, trust or power;

by way of security for the payment of a debt or other financial obligation or the performance of any other obligation, but does not include an interest or power reserved or created, or otherwise arising, under a lease, hire-purchase agreement or agreement excluded from the NSW Act, section 3 (1), definition of **security interest** by regulations under the NSW Act.

32B Expressions in pt 4A have same meanings as in NSW Act

An expression used in this part and in the NSW Act has the same meaning in this part as it has in the NSW Act.

32C Registration of interests

A person may apply for registration under the NSW Act of a registrable interest that arises under a Territory law.

32D Search certificates and notice

- (1) For this Act and any other Territory law, a person who obtains a certificate under the NSW Act, section 8 for a motor vehicle—
 - (a) is taken to have made, on the date of the certificate, a proper search of the register of interests, for registrable interests in the vehicle, if the result of the search is correctly reflected in the certificate; and
 - (b) is not affected by notice of information (other than the information in the certificate) about a registrable interest in the vehicle only because the person fails to do a further search in the register of interests before the end of the day after the day the certificate is issued.
- (2) For this Act or any other Territory law, a person is not taken to be affected by notice of a registrable interest in a motor vehicle only because the person or anyone else fails—
 - (a) to search a register or record kept under any law in force in the ACT (other than a search under the NSW Act); or
 - (b) to make any other search, inquiry or inspection.
- (3) For subsection (2), it does not matter that the person ought reasonably to have made the search, inquiry or inspection.
- (4) In a proceeding—
 - (a) a certificate that appears to be issued under the NSW Act, section 8 (1) or (5) is evidence of the matters stated in the certificate; and
 - (b) a document that appears to be a certificate issued under the NSW Act, section 8 (1) or (5) is taken to be a certificate, unless the contrary is proved.

- (5) An action does not lie against the Territory, New South Wales, the director-general or a person engaged in the administration of this Act or the NSW Act, for the reliability of any information given by the director-general or an administrator in relation to a matter that may be recorded under the NSW Act, section 5 (3).

32E Purchasing motor vehicle with registrable interest

- (1) This section applies to the purchase of a motor vehicle that is subject to a registrable interest.
- (2) The purchaser acquires the vehicle free of the registrable interest if—
- (a) the motor vehicle is purchased from a dealer by a non-dealer honestly and for value, whether or not the purchaser made—
 - (i) a search of the register of interests for registrable interests in the vehicle; or
 - (ii) any other search or any inquiry or inspection; or
 - (b) the motor vehicle is purchased from the debtor under the registrable interest—
 - (i) honestly and for value; and
 - (ii) without notice of the interest at the time of the payment of the purchase price; and
 - (iii) if the interest is registered—the purchaser made a proper search of the register of interests for registrable interests in the vehicle.
- (3) However, the purchaser does not acquire the vehicle free of the registrable interest if—
- (a) the purchaser lets, hires or supplies the goods to a person under a lease, hire-purchase agreement or other contract for the supply of the motor vehicle or purchased the vehicle with the

intention of entering into a lease, hire-purchase agreement or other contract; and

- (b) the lessee, hirer or purchaser of the vehicle under the lease, hire-purchase agreement or other contract has failed to act honestly and had notice at the time of payment of the purchase price of the registrable interest to which the vehicle is subject.
- (4) In a proceeding it is presumed, unless the contrary is proved, that subsection (2) does not apply to the purchase if—
- (a) the purchaser and the seller are corporations that are related to each other under the Corporations Act; or
 - (b) either the purchaser or the seller is a corporation and the other is an individual who is a director or officer of the corporation within the meaning of the Corporations Act; or
 - (c) the purchaser is a member of the same household as the seller.
- (5) In this section, a reference to the motor vehicle being purchased from the debtor under the registrable interest includes a reference to the motor vehicle being purchased from someone else who is in possession of the vehicle in circumstances where the debtor's right to possession of the vehicle has been lost or the debtor is estopped from asserting that right against the purchaser.

32F Liability of dealer to creditor if registrable interest defeated

- (1) This section applies if—
- (a) a motor vehicle is purchased from a dealer by a non-dealer; and
 - (b) at any time before payment of the purchase price, the dealer had notice that the vehicle was subject to a registrable interest; and
 - (c) immediately before payment of the purchase price, the registrable interest had not been discharged or cancelled.

- (2) The dealer is liable to the creditor who had the registrable interest for any loss of the creditor because of the operation of section 32E (Purchasing motor vehicle with registrable interest) in relation to the registrable interest.
- (3) However, the dealer is not liable to the creditor if the dealer purchased the motor vehicle free from the registrable interest of the creditor because of section 32E.

32G Effect of part payment at time of acquisition

If, under section 32E (Purchasing motor vehicle with registrable interest) the purchaser of a motor vehicle acquires the vehicle free from a registrable interest but, at the time of the acquisition, only part of the purchase price is paid to the seller—

- (a) the creditor who had the registrable interest is, to the extent of the amount that is owed by the debtor to the creditor under the interest, subrogated to the rights that, apart from the subrogation, the seller would have in relation to payment by the purchaser of the balance of the purchase price; and
- (b) the purchaser obtains a good discharge—
 - (i) as against the debtor—for any payment of part of the purchase price made under paragraph (a) to the creditor; and
 - (ii) as against the debtor and the creditor—for any payment of part of the purchase price made before the purchaser has written notice of the rights of the creditor under that paragraph.

32H Revival of registrable interest on rescission of contract

A registrable interest in a motor vehicle revives, and has effect as if a purchase of the vehicle had not happened, if—

- (a) under section 32E (Purchasing motor vehicle with registrable interest), the purchase of the vehicle results in the vehicle being freed from a registrable interest; and
- (b) the contract of purchase is later rescinded.

32I Contracting out of operation of pt 4A etc

- (1) A provision of an agreement or contract that purports to exclude, limit or modify the operation of this part or the NSW Act has no effect.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (2) A person must not enter into an agreement with a purchaser that includes a provision of a kind mentioned in subsection (1).

Maximum penalty: 50 penalty units.

Part 5 Trust accounts

33 Payment of money into trust account

- (1) If a licensed dealer sells a motor vehicle or an interest in a motor vehicle for or on behalf of a person, all money received by the dealer in relation to that sale shall, for all purposes, be deemed to be held in trust for that person and shall be dealt with by the dealer in accordance with this section.
- (2) A licensed dealer shall, before the close of business on the next day when banks are open for business after the day when any such money is received, pay the money into a trust account maintained in accordance with subsection (3) at a bank, credit union or building society in the ACT.

Maximum penalty: 10 penalty units.

- (3) The trust account referred to in subsection (2) shall be maintained by the licensed dealer.
- (4) The trust account referred to in subsection (2) shall bear a title that includes—
 - (a) the name of the dealer or, if the dealer carries on business under a registered business name, that name; and
 - (b) the words ‘Trust Account’.

34 Procedure if part of consideration is not money

If a licensed dealer acquires a motor vehicle or other goods as part of the consideration for the sale of a motor vehicle or an interest in a motor vehicle for or on behalf of a person, the dealer shall pay an amount equal to the amount allowed in relation to the motor vehicle or other goods into the trust account referred to in section 33 as if that amount had been received by the dealer in relation to that sale.

Maximum penalty: 10 penalty units.

35 Application of money in trust account

- (1) A licensed dealer shall not apply money paid into a trust account in accordance with this part except in payment to the person for whom or on whose behalf the money was received or as directed by that person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A licensed dealer shall not pay money out of a trust account except by means of a cheque made payable to a specified person, being a cheque that is crossed 'not negotiable'.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

36 Protection of trust money

- (1) Subject to this section, money standing to the credit of a trust account maintained in accordance with this part is not available for the payment of debts of the dealer, and subject to subsection (2), is not liable to be attached or taken in execution for the purposes of satisfying a judgment against the dealer.

- (2) Nothing in subsection (1) prevents trust money to the extent that the licensed dealer holds the trust money in trust for the person for whom or on whose behalf the money was received from being available for the discharge of the liability of the licensed dealer to that person.

37 Provisions applying to banks etc

- (1) A bank, credit union or building society where a trust account is maintained is not under any obligation to control or supervise transactions in relation to the trust account or to see to the application of money paid out of the account.

- (2) A bank, credit union or building society where a dealer maintains a trust account in accordance with this part does not have, in relation to any liability of the dealer to the bank, credit union or building society, any recourse or right, whether by way of set-off, counterclaim, charge or otherwise, against money standing to the credit of the account.
- (3) Nothing in this section relieves a bank, credit union or building society from any liability to which it is subject apart from this Act.

38 Accounting records

- (1) A licensed dealer shall keep the accounting and other records that disclose particulars of all trust money received or paid by the dealer.

Maximum penalty: 20 penalty.

- (2) A licensed dealer shall—
 - (a) keep those records—
 - (i) at the place where the dealer carries on business in the ACT; or
 - (ii) if the dealer carries on business at more than 1 place of business in the ACT—at the dealer's principal place of business in the ACT; or
 - (iii) with the approval of the registrar, at another place in the ACT; and
 - (b) cause those records to be kept in a way that they can be conveniently and properly audited; and
 - (c) preserve those records for a period of 7 years.

Maximum penalty: 20 penalty.

- (3) It is sufficient compliance with subsection (1) if a licensed dealer, within 7 days after the day when any trust money is received or paid, enters in the records referred to in that subsection the particulars of the money.

39 Receipts for trust money

- (1) If a licensed dealer receives trust money from a person, the dealer must give the person a receipt that—
 - (a) complies with subsections (3) and (4); and
 - (b) states briefly the subject matter or purpose for which the money was received.

Maximum penalty: 10 penalty units.

- (2) If a licensed dealer gives a person a receipt under subsection (1), the dealer must keep a legible carbon duplicate of the receipt that complies with subsections (3) and (4).

Maximum penalty: 10 penalty units.

- (3) A receipt relating to trust money shall be taken from a bound book bearing a number or mark identifying the book and containing not less than 50 receipt forms arranged so that a carbon duplicate of each receipt remains in the book.
- (4) A receipt and the carbon duplicate shall—
 - (a) have the words ‘Trust Account’ printed or stamped on it; and
 - (b) bear such a number or mark as will enable the receipt to be identified by reference to that number or mark and so that the receipt and carbon duplicate bear the same number or mark.

40 Audit of trust accounts

Within 3 months after the end of each financial year or at any other time that the registrar may require, a licensed dealer shall cause to be audited his or her accounting and other records relating to trust money received and paid by the dealer during that financial year.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

41 Auditor's report

- (1) As soon as is reasonably practicable after the completion of an audit, the auditor shall prepare a report of the result of the audit and shall give the report to the licensed dealer and a copy of the report to the registrar.
- (2) An auditor's report shall include a statement indicating whether in the auditor's opinion—
 - (a) the licensed dealer has kept, in accordance with this Act, accounting and other records relating to trust money; and
 - (b) there has been any loss or deficiency of trust money or any failure to pay or account for trust money.

42 Qualification of auditors

A licensed dealer shall not engage a person as auditor or permit his or her accounting and other records relating to trust money to be audited by a person—

- (a) who is not a registered company auditor within the meaning of the Corporations Act; or
- (b) who is an employee of, or is the domestic partner of, the licensed dealer; or

Note For the meaning of *domestic partner*, see Legislation Act, s 169.

- (c) who is an employee of any other licensed dealer; or
- (d) who is engaged in keeping and entering those records or has those records in his or her custody or control; or
- (e) who is also a licensed dealer; or
- (f) who is an officer or employee of a corporation that is a licensed dealer.

43 Withdrawals—deficiency suspected

- (1) If it appears to the registrar that there may be a deficiency in the trust account of a licensed dealer or dealers, the registrar may, by written notice to the manager or other principal officer of the bank, credit union or building society where the trust account is maintained, direct the manager or other principal officer not to pay any money out of the trust account without the registrar's authority.
- (2) The manager or other principal officer shall comply with a direction given under subsection (1).

Maximum penalty: 50 penalty units.

Part 6 Change of executive officers of corporate licensees

U 45 Intended change of executive officers—notification and objection

- (1) If a person (the *prospective executive officer*) intends becoming an executive officer of a corporate licensee, the person must notify that intention by notice published in a daily newspaper circulating in the ACT.
- (2) The notice must—
 - (a) include the full name and current residential address of the prospective executive officer; and
 - (b) include the name of the corporate licensee; and
 - (c) state that, if a person wishes to object to the continuation of the licensee's licence if the prospective executive officer becomes a an executive officer, the person must object by notice given to the registrar within 14 days at the registrar's address stated in the notice.
- (3) The prospective executive officer must give a copy of the notice submitted to the newspaper to the chief police officer as soon as practicable after submitting it for publication.
- (4) The registrar must hold an inquiry to decide whether the prospective executive officer is a suitable person if—
 - (a) the registrar receives an objection within the time mentioned in subsection (2) (c); and
 - (b) the registrar is satisfied that the objection is not frivolous or vexatious.

U 46 Change of executive officers—objection by chief police officer

- (1) If a person (the *new executive officer*) becomes an executive officer of a corporate licensee, the licensee must, within 21 days after the new executive officer becomes an executive officer, give the registrar written notice that the new executive officer has become an executive officer.
- (2) The notice must—
 - (a) state the full name and date of birth of the new executive officer; and
 - (b) state the current residential address of the new executive officer and any other residential addresses during the last 3 years; and
 - (c) if the person has, in the ACT or elsewhere, previously carried on the business of a dealer or been employed by a dealer—provide details of the business or employment.
- (3) The registrar must give a copy of the notice to the chief police officer.
- (4) The chief police officer may, by written notice given to the registrar, object to the continuation of the corporate licensee's licence on the ground that the new executive officer is an unsuitable person.
- (5) The chief police officer must give the objection to the registrar within 21 days after the notice under subsection (1) is given to the registrar.

47 Cancellation of licences by registrar

- (1) The registrar may cancel the licence of a corporate licensee if, after holding an inquiry, the registrar is satisfied that a person (the *relevant person*) who has become, or intends becoming, an executive officer of the licensee is an unsuitable person.
- (2) However, the registrar may cancel the licence of the corporate licensee without holding an inquiry if—
 - (a) the registrar decided at an inquiry under section 45 (4) that the relevant person was an unsuitable person; and
 - (b) the registrar believes on reasonable grounds that the relevant person has become an executive officer of the licensee.
- (3) The registrar must tell the licensee in writing of the cancellation of the licence.

Part 6A Disciplinary proceedings

U 48 When registrar may take action in relation to licences

- (1) The registrar may take action under section 48A in relation to a licensee if—
- (a) the licence held by the person was granted, or renewed or varied, because of a false or misleading statement made, or false or misleading information provided, by the person in or in relation to the application for the licence or for renewal or variation of it; and
 - (b) the person is no longer eligible to apply for, or for renewal of, a licence or the licence held by the person.

Examples of when individual licensees no longer eligible to apply

- 1 The licensee is an unsuitable person because the licensee has committed an offence against the Act.
- 2 The licensee has become bankrupt.
- 3 The licensee is unlikely to be able to continue to comply with the obligations applying to the licence.
- 4 If the licensee holds a vehicle sale licence, the licensee does not have sufficient material and financial resources to carry on the business in accordance with this Act.

Examples of when corporate licensees no longer eligible to apply

- 1 An executive officer of the licensee is an unsuitable person because the executive officer has committed an offence involving dishonesty.
- 2 If the licensee holds a vehicle sale licence, the licensee does not have sufficient material and financial resources to carry on the business in accordance with this Act.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

48A Procedures for registrar taking action in relation to licences

- (1) The registrar may take 1 or more of the following actions under this section in relation to a licence:
 - (a) reprimand the licensee;
 - (b) require the licensee to comply with a stated requirement within a stated period;
 - (c) impose a condition on the licence;
 - (d) suspend the licence for not longer than 1 year;
 - (e) disqualify the licensee from holding a licence permanently or for a stated period;
 - (f) cancel the licence.
- (2) Without limiting subsection (1) (b), a requirement under the paragraph may require the licensee—
 - (a) to make an additional contribution to the compensation fund within a stated period; or
 - (b) to indemnify, within a stated time, the compensation fund to a stated extent if something happens because of anything done or omitted to be done by the licensee.
- (3) If the registrar proposes to take any action under this section in relation to a licence, the registrar must give the licensee a notice that—
 - (a) states the proposed action, including any proposed suspension period and any proposed period of disqualification; and
 - (b) states the grounds for the proposed action; and
 - (c) invites the licensee to make written representations, within a stated period of at least 14 days after the licensee is given the notice, why the proposed action should not be taken.

- (4) If, after considering any written representations made by the licensee within the stated period, the registrar is satisfied on reasonable grounds that a ground mentioned in section 48 (When registrar may take action in relation to licences) exists to take action under this section in relation to the licensee, the registrar may take the following action:
- (a) if the proposed action included reprimanding the licensee—reprimand the licensee;
 - (b) if the proposed action included requiring the licensee to comply with a stated requirement within a stated period—make the requirement, reprimand the licensee or both;
 - (c) if the proposed action included imposing a condition on the licence—impose the condition, reprimand the licensee or both;
 - (d) if the proposed action included disqualifying the licensee from applying for a licence for a stated period—cancel the licence, or suspend the licence for not longer than that period, and disqualify the person from applying for a licence for not longer than that period;
 - (e) if the proposed action included disqualifying the licensee from applying for a licence permanently—cancel the licence, or suspend the licence for not longer than 1 year, and disqualify the person from applying for a licence permanently or for not longer than 5 years;
 - (f) if the proposed action included suspending the licence for a stated period—suspend the licence not longer than that period or reprimand the licensee;
 - (g) if the proposed action included cancelling the licence—cancel the licence, suspend the licence for not longer than 1 year or reprimand the licensee.
- (5) The registrar must tell the licensee in writing of the decision.

- (6) If the registrar decides to suspend or cancel the licence, or disqualify the licensee from applying for a licence, the registrar must also tell the licensee in writing when the suspension, cancellation or disqualification takes effect.
- (7) A suspension or cancellation must not take effect earlier than 7 days after the licensee is told about the decision.
- (8) If the registrar suspends a licensee's licence, the licensee is, during the period of the suspension—
 - (a) taken not to be licensed; and
 - (b) disqualified from applying for a licence.
- (9) If a person is disqualified from applying for a licence under this section, the person is not eligible to apply for a licence while the person is disqualified.

Part 7 Inquiries by registrar

49 Inquiries

- (1) If the registrar is required to hold an inquiry under this Act, the registrar shall fix a time and place for the beginning of the inquiry.
- (2) The registrar shall give notice of the matter to be inquired into and of the time and place fixed for the inquiry—
 - (a) for an inquiry in relation to the grant of a licence—to the applicant; and
 - (b) for an inquiry into a dispute between a purchaser and a licensee—to the purchaser and the licensee; and
 - (c) in any other case—to the licensee concerned in the matter of the inquiry.
- (3) The registrar may adjourn an inquiry from time to time.
- (4) An inquiry shall not be open to the public.
- (5) At an inquiry, the registrar may take evidence on oath or affirmation, and for that purpose may administer an oath or affirmation.
- (6) The procedure at an inquiry is within the discretion of the registrar.
- (7) At an inquiry, a person to whom notice has been given in accordance with subsection (2) may be represented by a lawyer who may examine witnesses and address the registrar on behalf of the person for whom he or she appears.

- (8) The Minister may appoint a lawyer to assist the registrar at an inquiry, other than an inquiry held under section 27, and a lawyer so appointed may examine witnesses and address the registrar.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (9) In conducting the inquiry, the registrar is not bound by rules of evidence but may inform himself or herself in the way the registrar considers appropriate.

50 Power to summon witnesses

- (1) The registrar may, by writing signed by the registrar, summon a person to attend an inquiry at a time and place specified in the summons and then and there to give evidence and produce the books, documents or writings in the custody or control of the person that he or she is required by the summons to produce.
- (2) A summons under this section may be served—
- (a) personally; or
 - (b) by sending it by post to the person at his or her place of abode or business last known to the registrar; or
 - (c) by leaving it at that place of abode or business with some person apparently living or employed at that place and apparently not less than 16 years old.

51 Failure to attend or to produce documents

- (1) A person served with a summons to attend an inquiry before the registrar shall not fail, without reasonable excuse, to attend at the inquiry before the registrar or to produce the books, documents or writings in the custody or control of the person that he or she is required by the summons to produce.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) It is a defence to a prosecution for failing, without reasonable excuse, to produce a book, document or writing if the defendant proves that the book, document or writing was not relevant to the matter the subject of the inquiry before the registrar.

52 Refusal to be sworn or give evidence

- (1) A person appearing as a witness at an inquiry before the registrar shall not refuse to be sworn or to make an affirmation or to answer a question relevant to the proceedings put to the person by the registrar.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A statement or disclosure made before the registrar by a witness is not, except in proceedings for giving false testimony at an inquiry before the registrar, admissible in evidence against the witness in civil or criminal proceedings in a court.

53 Protection of representatives, witnesses etc

- (1) A lawyer appearing before the registrar has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court.

- (2) A witness summoned to attend or appearing before the registrar has the same protection as a witness in proceedings in the Supreme Court.

54 Protection of registrar and deputy registrar

The registrar and deputy registrar are not civilly or criminally liable for an act done honestly by them in, or in relation to, an inquiry.

55 Fees and expenses to witnesses

- (1) A person who attends for the purpose of giving evidence before the registrar is entitled to receive the fees and travelling expenses, in accordance with the AAT determination, that the registrar determines.
- (2) Subject to this section, fees and travelling expenses payable to a person in accordance with subsection (1) are payable—
 - (a) if the person attended before the registrar, whether on summons or not, because of a request by a person other than the registrar—by that person; or
 - (b) in any other case—by the Territory.
- (3) If, in a case to which subsection (2) (a) applies, it was, in the opinion of the registrar, reasonable for the request because of which the person attended before the registrar to have been made, the registrar may order that the fees and expenses of the person shall be paid, in whole or in part, by the Territory.
- (4) If the registrar makes an order under subsection (3) for the payment of fees and expenses, the fees and expenses are payable by the Territory.
- (5) In subsection (1):

AAT determination means the determination, of fees and expenses payable to witnesses appearing before the administrative appeals tribunal, in force from time to time for the *Administrative Appeals Tribunal Act 1989*, section 59 (1).

56 Registrar may inspect books etc

The registrar may inspect books, documents, or writings produced at an inquiry held by the registrar and may keep them for the reasonable period that the registrar considers appropriate and may make copies of the parts of them that are relevant to a matter before the registrar.

Part 8**Review by the administrative
appeals tribunal****U 57 Review by administrative appeals tribunal**

- (1) Application may be made to the administrative appeals tribunal for a review of a decision of the registrar—
 - (a) under section 6A (2) to refuse an application for an exemption; or
 - (b) under section 13 (1) to refuse an application for the grant of a licence; or
 - (c) under section 14 (2) specifying the address of premises; or
 - (d) under section 14C (1) to refuse an application for the renewal of a licence; or
 - (e) under section 14D (1) to impose a condition on the grant of a renewal of a licence; or
 - (f) under section 14D (2) to renew a licence for a shorter period than specified in that subsection or than specified in the application in accordance with that subsection; or
 - (g) under section 14E to refuse an application for the variation of a licence; or
 - (h) under section 15 (4) to refuse to approve a computer system; or
 - (i) under section 47 to cancel a licence of a corporate licensee; or
 - (j) under section 48A (4) to take action in relation to a licensee or licence under the subsection; or
 - (k) under section 89A (3) to refuse an application for the grant of an authorisation; or

- (1) under section 89A (5) to grant an authorisation for a shorter period than specified in that subsection or than specified in the application in accordance with that subsection.
- (2) Application may be made to the administrative appeals tribunal for a review of a decision of the planning and land authority under section 10 (1) (g), 11 (1) (h) or 14B (e) to refuse to issue a certificate.
- (3) A notice under section 13 (5), 14C (4), 14E (6), 47 (3), 48A (5) or 89A (6) shall be in accordance with the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 9

Motor vehicle dealers compensation fund

60 Certain persons may apply for compensation

- (1) A person, other than a trade owner, who suffers financial loss in connection with a motor vehicle because of the failure of a licensed dealer to comply with an obligation imposed on him or her by this Act or because of the failure of a licensed dealer to pass an unencumbered title to the vehicle may apply to the registrar for compensation under this part in relation to that loss.
- (2) An application for compensation under this part shall be made by giving the registrar particulars of the claim supported by a statutory declaration.
- (3) An application for compensation under this part shall not be accepted by the registrar unless it is made within a period of 6 months after the applicant becomes aware of the loss or within the further time (if any) that the registrar, either before or after the end of that period, allows.

61 Registrar to determine applications

- (1) Subject to subsection (2), the registrar shall consider each application made in accordance with this part and shall determine—
 - (a) the amount of the loss in relation to which compensation may be paid to the applicant under this part; or
 - (b) that there is no pecuniary loss in relation to which compensation may be so paid.
- (2) The registrar shall not determine an application under subsection (1) unless the registrar is satisfied that the applicant has taken all reasonable steps to enforce any remedies that the applicant may have against the dealer referred to in section 60 (1) in relation to the loss that the applicant has incurred.

62 Registrar to notify applicant of determination

- (1) The registrar shall give to an applicant for compensation under this part written notice stating—
 - (a) the amount that the registrar has determined to be the loss in relation to which compensation may be paid to the applicant under this part; or
 - (b) that the registrar has determined that there is no loss in relation to which compensation may be so paid.
- (2) In a notice given under this section, the registrar shall state the grounds on which he or she has made the determination referred to in the notice.

63 Review of determination

- (1) An applicant for compensation under this part to whom the registrar gives notice under section 62 (1) may, within 21 days after the date when notice is so given, make application to the Magistrates Court for an order under this section.
- (2) The court, on application under this section, may, if it considers appropriate, by order, vary a determination of the registrar under section 61 (1).

64 Payment of compensation

- (1) Subject to subsection (2), if an amount has been determined under this part as the amount of loss in relation to which compensation may be paid to an applicant under this part, the Territory shall pay to the applicant an amount equal to the amount so determined.

- (2) If, at any time, the amount standing to the credit of the compensation fund is insufficient for the payment of all amounts that the Territory would, apart from this subsection, be required by this section to pay, the amount standing to the credit of the compensation fund shall be divided among the persons to whom it would be required to pay those amounts in proportion to those amounts.

65 Subrogation

If the Territory has paid compensation to a person under this part, the Territory is, to the extent of the payment, subrogated to the rights of that person against the licensed dealer in relation to whom the application for compensation was made.

U Part 10 Enforcement

68 Offence by employee—liability of employer

- (1) If an employee contravenes any provision of this Act, the employer shall be deemed to have contravened the same provision (whether or not the employee contravened the provision without the employer's authority or contrary to the employer's orders or instructions).
- (2) It is a defence in proceedings against an employer for such a contravention if it is established that the employer—
 - (a) had no knowledge of the contravention; and
 - (b) could not, by the exercise of due diligence, have prevented the contravention.
- (3) An employer may be proceeded against and convicted under a provision under subsection (1) whether or not the employee has been proceeded against or convicted under that provision.

69 Institution of proceedings

A prosecution for an offence against this Act may be begun within 3 years after the commission of the offence.

U Part 10A Enforcement

Part 11 Miscellaneous

71 Working out whether person *suitable* or *unsuitable*

- (1) This section applies in working out whether a person is a suitable person or an unsuitable person to be, or continue to be, an individual licensee or an executive officer of a corporate licensee.
- (2) A person is a *suitable person* unless the person is an unsuitable person.
- (3) A person is an *unsuitable person* if the person or, if the person is a corporation, the person or a executive officer of the person has committed or engaged in a disqualifying act.
- (4) However, even if the person has committed or engaged in a disqualifying act, the person is a *suitable person* if the registrar is satisfied that, in all the circumstances, it would be reasonable to regard the person as a suitable person.
- (5) In making a decision under subsection (4) in relation to the person, the registrar must have regard to—
 - (a) the circumstances of the disqualifying act; and
 - (b) whether the person cooperated in the investigation of the disqualifying act; and
 - (c) the extent to which the person provided restitution for any loss suffered because of the disqualifying act; and
 - (d) the time since the disqualifying act was committed or engaged in; and
 - (e) whether the disqualifying act was an isolated event.
- (6) Subsection (5) does not limit the matters to which the registrar may have regard in making the decision.

- (7) A *disqualifying act* is—
- (a) a contravention of this Act (including a requirement made by the registrar under this Act) or a corresponding law of a State, whether or not the contravention is an offence; or
 - (b) an offence against the *Trade Practices Act 1974* (Cwlth); or
 - (c) an offence against the *Fair Trading Act 1992* or a corresponding law of a State; or
 - (d) an offence involving fraud or dishonesty; or
 - (e) an offence against a law of the Territory, the Commonwealth, a State, another Territory or a foreign country punishable by imprisonment for a period of longer than 1 year; or
 - (f) the sale of a motor vehicle without passing unencumbered title to the vehicle.
- (8) An executive officer of a corporation is taken to have committed a disqualifying act if the executive officer was an executive officer of a corporation when the corporation committed the disqualifying act.

72 Issue of copy of licence

If the registrar is satisfied that a licence issued and in force under this Act has been lost or destroyed, the registrar may issue to the person to whom that licence was issued a copy of that licence.

Note A fee may be determined under s 91 (Determination of fees and charges) for this section.

73 Display of licence and notice

- (1) In this section:

licensee means a licensed dealer or a licensed car market operator.

- (2) Subject to subsection (3), a licensee shall cause the licence issued to the licensee at all times to be exhibited in a conspicuous position at the premises specified in the licence as the place where business is to be carried on under the licence.

Maximum penalty: 5 penalty units.

- (3) If a licensee lodges an application under section 14E, the licensee shall be taken to sufficiently comply with subsection (2) during the period while the application is being dealt with if the licensee causes a copy of the licence lodged with the application to be exhibited in accordance with that subsection.

- (4) A licensee shall exhibit and keep exhibited in a conspicuous position at the premises specified in the licence as the place where business is to be carried on under the licence a notice consisting of letters not less than 7cm in height containing—

(a) the name of the licensee and the words—

(i) if the licensee holds a vehicle sale licence to carry on business as a dealer—‘LICENSED MOTOR VEHICLE DEALER’; or

(ii) if the licensee holds a car market operator licence—‘LICENSED CAR MARKET OPERATOR’; and

(b) if the licensee carries on business under a name other than the licensee’s personal name or corporation name—the name or style under which the licensee carries on business.

Maximum penalty: 5 penalty units.

- (5) In addition to the notice required by subsection (4), a licensed car market operator shall exhibit and keep exhibited in a conspicuous position at the premises specified in the licence as the place where business is to be carried on under the licence a notice consisting of letters not less than 7cm in height in or to the following effect:

WARNING

1. THE TITLE OF A VEHICLE SOLD AT THESE PREMISES IS NOT GUARANTEED. PERSONS CONSIDERING THE PURCHASE OF A VEHICLE SHOULD CONTACT REVS ON [*Here insert the telephone number prescribed for the purposes of this subsection*].
2. A VEHICLE SOLD AT THESE PREMISES IS NOT SUBJECT TO THE STATUTORY WARRANTIES PROVIDED FOR UNDER THE *SALE OF MOTOR VEHICLES ACT 1977*. A PURCHASER MAY HAVE A REMEDY, HOWEVER, UNDER THE GENERAL LAW.

- (6) If—

- (a) the telephone number prescribed for subsection (5) ceases to be so prescribed and another telephone number is so prescribed; and
- (b) a licensed car market operator exhibits a notice in accordance with subsection (5) that specifies a telephone number other than the number currently prescribed for that subsection;

the licensed car market operator shall cause the notice to be altered so as to display the telephone number currently prescribed.

- (7) A licensed car market operator shall not fail to cause a notice to be altered in accordance with subsection (6) within 3 days of receiving a written notice from the registrar advising that the telephone number prescribed for subsection (5) has changed.

Maximum penalty: 5 penalty units.

- (8) For subsections (2), (4) and (5), a notice referred to in that subsection shall be taken to be in a conspicuous position in premises if it is easily visible to a person entering those premises.

73A Return of licence

- (1) If a person's licence is suspended or cancelled, the person must not fail, without reasonable excuse, to return his or her licence to the registrar as soon as practicable (but within 7 days) after the suspension or cancellation takes effect.

Maximum penalty: 20 penalty units.

- (2) If the person's licence is suspended and the licence has not expired when the suspension ends, the registrar must return the licence to the person if the person asks for its return.

74 Notification of beginning or ceasing of business at a place

- (1) If a licensee begins to carry on business at any place, the licensee shall notify the registrar in writing accordingly.

Maximum penalty: 10 penalty units.

- (2) If a licensee ceases to carry on business at any place, the licensee shall notify the registrar in writing accordingly within 7 days of ceasing.

Maximum penalty: 10 penalty units.

U 76 Inspection

- (1) In this section:

document means a book, paper, account or other document.

- (2) An inspector may, at any reasonable time, enter the premises of a licensee and inspect—

- (a) all documents relating to the business of the licensee; and
- (b) all motor vehicles or parts of any motor vehicles that are offered or displayed for sale by the licensee.

- (3) An inspector may, for the purpose of inspection—
- (a) require the licensee or any other person who has the custody or control of documents to produce those documents and give them to the inspector; and
 - (b) require the licensee or any other person in whose custody or control the motor vehicles or parts of motor vehicles are to produce them.
- (4) A person to whom a requirement under subsection (3) is made shall not refuse or fail to comply with the requirement.
- Maximum penalty: 50 penalty units.
- (5) An inspector may make notes or take extracts from, or make copies of, any documents produced to the inspector under this section.
- (6) An inspector may keep, for the reasonable period the inspector or the registrar considers necessary, any document referred to in subsection (2) and may make copies of the document.

U 77 **Production of identity cards**

- (1) An inspector (other than a police officer) is not entitled to exercise any function under section 76 unless, on the request of the relevant person, the inspector produces his or her identity card to that person.
- (2) In this section:

relevant person, in relation to the exercise of a function by an inspector under section 76 at the premises of a licensee, means the licensee or another person referred to in section 76 (3) or (4).

U 78 **Inspection of register**

A person may inspect and take extracts from the register.

Note A fee may be determined under s 91 (Determination of fees and charges) for this section.

79 Advertisements by licensed dealers

- (1) A licensed dealer shall not cause or permit to be published an advertisement relating to, or in connection with, the business carried on under that licence unless the dealer specifies in the advertisement—
- (a) that the dealer is a licensed dealer; and
 - (b) the address of the place or 1 of the places where the dealer carries on business.

Maximum penalty: 10 penalty units.

- (2) A licensed dealer shall not, in an advertisement that the dealer causes or permits to be published in relation to, or in connection with, the business of the dealer, make any statement that is false or misleading.

Maximum penalty: 30 penalty units.

- (3) A licensed dealer shall not in an advertisement that the dealer causes or permits to be published in relation to, or in connection with, the sale of second-hand vehicles—
- (a) convey any information in relation to a motor vehicle that the dealer offers for sale that is inconsistent with information relating to that vehicle contained in the dealer's dealings register or in the notice attached to the vehicle under section 20; or
 - (b) refer to or describe a motor vehicle unless the vehicle is identified by its registered number or, if the vehicle has no registered number, by its engine number; or
 - (c) specify the deposit payable on, or periodical payments payable in relation to, a motor vehicle unless the cash price in relation to the vehicle is also specified.

Maximum penalty: 30 penalty units.

- (4) A licensed dealer shall include in each advertisement that the dealer causes or permits to be published in relation to, or in connection with, the business of the dealer the number of the licence or licences held by the dealer.

Maximum penalty: 10 penalty units.

79A Advertisements by licensed car market operators

A licensed car market operator shall not cause or permit to be published an advertisement relating to, or in connection with, the business carried on under that licence unless the operator specifies in the advertisement—

- (a) that the licensee is a licensed car market operator; and
- (b) the address of the place or 1 of the places where the operator carries on business.

Maximum penalty: 10 penalty units.

U 80 List of licensed dealers

- (1) As soon as practicable after 30 June in each year, the registrar must prepare a list showing, in alphabetical order, the names of the licensees on that date and their place or places of business.
- (2) A list under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

81 Submission of documents for signature

A licensed dealer shall not, in relation to the sale of a motor vehicle, submit a document to another person for the person's 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 relation to that sale has been deleted.

Maximum penalty: 10 penalty units.

82 Licensed dealer not to be indemnified by antecedent owner

- (1) Subject to subsection (2), if a licensed dealer incurs any costs or expenses because of the operation of this Act in relation to the sale of a motor vehicle, the dealer is not entitled to be indemnified in relation to 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.
- (2) Subsection (1) does not apply to a contract or agreement providing for a licensed dealer to be so indemnified if the antecedent owner is a trade owner.

83 Contracting out

A term of an agreement, other than if the parties to the agreement are a licensee 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.

84 Other rights and remedies preserved

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.

88 Evidence of licensing

- (1) A certificate signed by the registrar 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 authorised to receive evidence, evidence of the matters so stated.

- (2) For subsection (1), a document that purports to have been signed by the registrar shall be taken to have been so signed unless the contrary is proved.

89 Requirement by registrar or inspector

If the registrar or an inspector is empowered by this Act to require a person to do anything, the registrar or the inspector may make the requirement orally or in writing served on that person.

89A Temporary revival of licence following death of licensee

- (1) A person who is, who is named as, or who is otherwise entitled to become, a legal personal representative of a deceased licensee (the *applicant*) is eligible for the grant of an authorisation to carry on the business of the deceased temporarily.
- (2) An application for the grant of an authorisation—
- (a) shall be in writing and signed by the applicant; and
 - (b) shall be lodged with the registrar within 28 days after the death or any longer period the registrar allows; and
 - (c) for an application by an individual who is not the legal personal representative of the deceased—shall state in relation to the applicant—
 - (i) full name; and
 - (ii) date and place of birth; and
 - (iii) present residential address and any other addresses where the applicant has lived during the 3 years immediately before the date of the application; and
 - (d) shall be accompanied by—
 - (i) for an applicant who is the legal personal representative of the deceased—evidence of the applicant's appointment as legal personal representative; or

- (ii) for an applicant who is named as the legal personal representative of the deceased—evidence of that fact and proof of identity of the applicant; or
 - (iii) for any other applicant—evidence of the applicant's entitlement to appointment as legal personal representative and proof of identity of the applicant; and
- (e) shall state the period, not longer than 6 months after the date of death of the deceased, for which the authorisation is sought.
- (3) The registrar shall grant an authorisation unless—
 - (a) the applicant or, for an application by a corporation, an executive officer of the corporation, fails to comply with a requirement of the registrar under subsection (4); or
 - (b) the applicant fails to establish that the applicant is eligible for the grant of the licence; or
 - (c) the application does not comply with the requirements of subsection (2).
- (4) The registrar may require an applicant, or for an application by a corporation, all or any of the executive officers of the corporation, to attend before the registrar and may require the applicant or executive officer to give to him or her, orally or in writing, the further information that the registrar requires to be given.
- (5) An authorisation shall be granted for a period to end no more than 6 months after the date of death of the deceased or for the shorter period specified in the application or the registrar allows.
- (6) If the registrar refuses an application for the grant of an authorisation, the registrar shall record the reasons for his or her decision and give the applicant notice of the decision.
- (7) If the registrar, within the period of 3 months after the lodging with the registrar of an application for an authorisation, fails to give the applicant notice of the decision on the application, the registrar shall be taken to have refused to grant the application.

- (8) If the registrar grants an authorisation in relation to the business of a deceased licensee, the licence held by the deceased licensee immediately before his or her death is taken to revive in favour of the applicant as if the licence had been issued to the applicant under section 14 (Issue of licences) for the period decided under subsection (5).

Note A fee may be determined under s 91 (Determination of fees and charges) for this section.

- (9) A licence taken to have revived under subsection (8) may not be renewed.

91 Determination of fees and charges

- (1) The Minister may, in writing, determine fees and charges for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees and charges (see pt 6.3).

- (2) Without limiting subsection (1), the Minister may determine the charge payable as contribution to the compensation fund in relation to the issue of a licence to a dealer or the renewal of a licence held by a dealer.

- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

92 Exemption of vehicles from Act

- (1) The Minister may, in writing, declare that a vehicle is not a motor vehicle for this Act.

- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

93 Approved forms

- (1) The registrar may, in writing, approve forms for this Act.

- (2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

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

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

94 Delegation by registrar

The registrar may delegate the registrar's functions under this Act or another territory law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see the *Legislation Act*, pt 19.4.

95 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 2001*.

Schedule 1 Obligation of dealer to repair defects

(see s 23 (1))

column 1 item	column 2 description of motor vehicle	column 3 kilometres	column 4 period
1	new motor vehicle (other than a motorcycle) that has been driven for less than 15 000km at the time it is sold by dealer	20 000 (after manufacture)	12 months less 1 month for each 2 000 km that the vehicle has been driven before sold by dealer
2	new motor vehicle (other than a motorcycle) that has been driven for 15 000km or more at the time it is sold by dealer	5 000 (after sale)	3 months
3	second-hand motor vehicle (other than a motorcycle) that has been driven for not more than 160 000 km and was manufactured not more than 10 years before the time it is sold by dealer	5 000 (after sale)	3 months

U Dictionary

(see s 2)

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:

- ACT
- administrative appeals tribunal
- chief executive (see s 163)
- civil partnership
- corporation
- disallowable instrument (see s 9)
- Executive
- individual
- lawyer
- Minister (see s 162)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- police officer
- State
- the Territory.

accessory, in relation to a motor vehicle, means—

- (a) a car radio, sound reproducing equipment or an airconditioning unit fitted to the vehicle; or
- (b) a spare wheel or any other thing carried in or attached to the vehicle.

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.

business, in relation to—

- (a) a person who is the holder of a licence—means the business carried on under the licence; or
- (b) a person who is an applicant for a licence—means the business that the person would be entitled to carry on if the person were granted that licence.

car market operator means a person who carries on the business of providing a site for a market for the sale by other persons of second-hand motor vehicles, whether or not that site is used for any other purpose.

cash price—

- (a) in relation to a motor vehicle (including all accessories fitted, carried in or attached to the vehicle at the time of the offer or display) 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; or
 - (ii) if any part of the consideration that passes or is to pass from the purchaser is represented by another motor vehicle or other 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 the other vehicle or 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 thing at the time of the sale; or
 - (iii) if all of the consideration that passes or is to pass from the purchaser is represented by another motor vehicle or other thing—means the value of the other vehicle or 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 thing at the time of the sale.

charge means a charge that has not been dealt with by a court, but does not include a charge that has been withdrawn or otherwise not proceeded with.

commercial vehicle means a motor vehicle for use wholly or principally for—

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

and includes a motor vehicle, or a motor vehicle included in a class of motor vehicles, prescribed for this definition but does not include—

- (d) a motor vehicle—
 - (i) of a kind known as a utility, station wagon or panel van that is the same make as a factory-produced motor car; and
 - (ii) in which the front part of the body, and the mechanical equipment of which, are the same, or substantially the same, as in that motor vehicle;
- (e) a motor vehicle that is adapted for camping use; or
- (f) a four-wheel drive motor vehicle with at least 1 forward-facing rear passenger seat (other than a motor vehicle of a kind known as a dual cab or a crew-cab); or
- (g) a motor vehicle, or a class of motor vehicles, prescribed not to be a motor vehicle, or a class of motor vehicles, as the case may be, for this definition.

compensation fund means the motor vehicle dealers compensation fund.

corporate licensee means a corporation that holds a licence.

creditor, for part 4A (Registration of interests in motor vehicles)—see section 32A.

dealer—see section 6A.

dealings register, of a licensed dealer, means a dealings register maintained by the dealer under section 15 (Licensees to maintain dealings register).

debtor, for part 4A (Registration of interests in motor vehicles)—see section 32A.

demonstrator, in relation to a motor vehicle, means a vehicle—

- (a) that has been sold only to a dealer or wholesaler; and
- (b) that has been registered only in the name of any 1 of the following persons:
 - (i) a dealer or wholesaler or any person on behalf of a dealer or wholesaler;
 - (ii) a person in anticipation of the sale of the vehicle to that person; and
- (c) that has not been used for any purpose other than—
 - (i) a purpose in connection with its manufacture or sale; or
 - (ii) the purpose of demonstrating the motor vehicle, or another vehicle of the same type, to a potential buyer of that vehicle.

deputy registrar means the Deputy Registrar of Motor Vehicle Dealers under section 5A.

director-general, for part 4A (Registration of interests in motor vehicles)—see section 32A.

executive officer, of a corporation, means a person, by whatever named called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

Examples

- 1 A director of the corporation

- 2 An employee of, or a person associated with, the corporation who is involved in activities that involve policy and decision making, related to the business affairs of the corporation, to the extent that the consequences of the formation of the policies, or the making of the decisions, may have some significant bearing on the financial standing of the corporation or the conduct of its affairs.

financier means 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; or
- (b) for the purpose of selling motor vehicles on instalment terms; or
- (c) for the purpose of taking or enforcing securities over motor vehicles; or
- (d) for the purpose of letting out on hire motor vehicles without granting a right to purchase them; or
- (e) for any purpose that may be prescribed; or
- (f) for the purpose of disposing of motor vehicles acquired by him or her in connection with any of the purposes referred to in, or prescribed in relation to, this definition;

or for 2 or more of those purposes, 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); or
- (h) a person who holds himself or herself out as ready to purchase motor vehicles from the public; or
- (i) 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, means—

- (a) a letting of the vehicle with an option to purchase the vehicle; or

(b) an agreement for the purchase of the vehicle by instalments (whether described as rent or hire or otherwise), other than an agreement under which the property in the vehicle passes at the time of the agreement or on, or at any time before, delivery of the vehicle.

hirer, for part 4A (Registration of interests in motor vehicles)—see section 32A.

individual licensee means an individual who holds a licence.

inspector means an inspector under section 5B.

lease, for part 4A (Registration of interests in motor vehicles)—see section 32A.

licence means a vehicle sale licence or a car market operator licence and, if the licence is varied under section 14E, includes the licence as so varied.

licensed car market operator means a person who holds a car market operator licence.

licensed dealer means a dealer who holds a vehicle sale licence.

licensed wholesaler means a person who holds a vehicle sale licence to carry on business as a wholesaler.

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

motorcycle means a motor vehicle that has less than 4 wheels and is steered by means of handlebars.

motor vehicle means any motor car, motorcycle, 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, under section 92, declared not to be a motor vehicle for this Act.

new motor vehicle means a motor vehicle other than a second-hand motor vehicle.

non-dealer, for part 4A (Registration of interests in motor vehicles)—see section 32A.

notice, for part 4A (Registration of interests in motor vehicles)—see section 32A.

NSW Act, for part 4A (Registration of interests in motor vehicles)—see section 32A.

odometer means an instrument or device that measures and records the distance travelled by a motor vehicle, but does not include 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—

- (a) for part 4A (Registration of interests in motor vehicles)—see section 32A; and
- (b) in any other case—
 - (i) includes a person—
 - (A) who is the sole owner, joint owner or part owner of the motor vehicle; or
 - (B) who has possession of the motor vehicle under a hire-purchase agreement, or bill of sale or similar instrument; or
 - (C) who has possession of the motor vehicle under a contract of hire; and
 - (ii) does not include a person—

- (A) mentioned in paragraph (b) (i) (A) who does not have possession of the motor vehicle; or
- (B) who is entitled under a contract of hire, hire-purchase agreement, or bill of sale or similar instrument, to possession of the motor vehicle but who does not have possession of it.

participating State, for part 4A (Registration of interests in motor vehicles)—see section 32A.

payment, of a purchase price, for part 4A (Registration of interests in motor vehicles)—see section 32A.

premises includes a parcel of vacant land.

purchase, for part 4A (Registration of interests in motor vehicles)—see section 32A.

qualified accountant means—

- (a) a member of the Institute of Chartered Accountants in Australia, the National Institute of Accountants or CPA Australia; or
- (b) a person registered as a registered company auditor under the Corporations Act.

register means the register of motor vehicle dealers kept by the registrar under section 6.

registered, for part 4A (Registration of interests in motor vehicles)—see section 32A.

register of interests, for part 4A (Registration of interests in motor vehicles)—see section 32A.

registrar means the Registrar of Motor Vehicle Dealers under section 5.

registrable interest, for part 4A (Registration of interests in motor vehicles)—see section 32A.

security interest, for part 4A (Registration of interests in motor vehicles)—see section 32A.

sell, in relation to a motor vehicle, means to sell as principal or agent.

suitable person—see section 71.

trade owner means—

- (a) a dealer; or
- (b) a financier.

unsuitable person—see section 71.

vehicle sale licence means a licence issued under section 7 or 7A.

wholesaler means a person who carries on the business of buying motor vehicles from any person and selling those vehicles to, or exchanging those vehicles with, persons who are financiers or holders of licences (other than car market operators' licences) and only those persons.

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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Sale of Motor Vehicles Ordinance 1977* No 29) (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before becoming Territory enactment

Sale of Motor Vehicles Act 1977 No 29

notified 4 July 1977

s 1, s 2 commenced 4 July 1977 (s 2 (1))

ss 3, 5, 6, 32, 76-78, 84, 85, 89, 90 and 92 commenced 18 July 1977 (Cwlth Gaz 1977 No S140)

ss 4, 7-14, 33-65, 72, 73, 75, 79 (2), 80, 86-88 and 91 commenced 2 September 1977 (Cwlth Gaz 1977 No S181)

ss 15-26, 31 and 81-83 commenced 4 October 1977 (Cwlth Gaz 1977 No S210)

ss 27 and 66-71 sub before commencement

ss 28-30 om before commencement

ss 74, 79 (1) commenced 24 April 1978 (Cwlth Gaz 1978 No S70)

as amended by

Ordinances Revision Ordinance 1978 No 46 sch 2

notified 28 December 1978

commenced 28 December 1978

Sale of Motor Vehicles (Amendment) Ordinance 1980 No 39

notified 17 October 1980

commenced 17 October 1980

Endnotes

3 Legislation history

**Ordinances Revision (Companies Amendments) Ordinance 1982
No 38 sch 4**

notified 30 June 1982
commenced 1 July 1982 (s 2)

Sale of Motor Vehicles (Amendment) Ordinance 1983 No 16

notified 19 August 1983
commenced 19 August 1983

Sale of Motor Vehicles (Amendment) Ordinance (No 2) 1983 No 38

notified 29 September 1983
commenced 1 October 1983 (s 2)

Magistrates Court Ordinance 1985 No 67 sch pt 1

notified 19 December 1985
commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

Sale of Motor Vehicles (Amendment) Ordinance 1985 No 70

notified 19 December 1985
commenced 19 December 1985

**Self-Government (Consequential Amendments) Ordinance 1989
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989
No S164)

Legislation after becoming Territory enactment

Acts Revision (Position of Crown) Act 1993 No 44 sch 1

notified 27 August 1993 (Gaz 1993 No S165)
commenced 27 August 1993 (s 2 and see Gaz 1993 No S165)

**Administrative Appeals (Consequential Amendments) Act 1994 No 60
sch 1**

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
sch 1 commenced 14 November 1994 (s 2 (2) and Gaz 1994 No S250)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994
No S293)

**Annual Reports (Government Agencies) (Consequential Provisions)
Act 1995 No 25 sch**

notified 5 September 1995 (Gaz 1995 No S212)
commenced 5 September 1995 (s 2)

Statute Law Revision Act 1995 No 46 sch

notified 18 December 1995 (Gaz 1995 No S306)
commenced 18 December 1995 (s 2)

Sale of Motor Vehicles (Amendment) Act 1995 No 48

notified 18 December 1995 (Gaz 1995 No S306)
ss 1-23, 24 (1), 25-68 commenced 18 December 1995 (s 2 (1))
s 24 (2) commenced 1 November 1996 (s 2 (2))

Financial Institutions (Removal of Discrimination) Act 1997 No 88 sch

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch commenced 31 December 1997 (s 2 (2) and Gaz 1997 No S442)

**Legal Practitioners (Consequential Amendments) Act 1997 No 96
sch 1**

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 1 commenced 1 June 1998 (s 2 (2))

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No. 49)

Road Transport Legislation Amendment Act 1999 No 79 sch 3

notified 23 December 1999 (Gaz 1999 No S65)
s 1, s 2 commenced 23 December 1999 (IA s 10B)
sch 3 commenced 1 March 2000 (s 2 and see Gaz 2000 No S5)

Endnotes

3 Legislation history

Sale of Motor Vehicles Amendment Act 2001 No 13

notified 5 April 2001 (Gaz 2001 No 14)
s 1, s 2 commenced 5 April 2001 (IA s 10B)
s 3, s 4 and s 6 commenced 5 April 2001 (s 2 (2))
s 5 commenced 5 October 2001 (s 2 (1) and LA s 79)

Legislation (Consequential Amendments) Act 2001 No 44 pt 355

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
amdt 1.3842, amdt 1.3845, amdt 1.3850, amdt 1.3863-1.3866
commenced 14 March 2002 (amdt 1.3842, amdt 1.3845, amdt 1.3850,
amdt 1.3863-1.3866)
pt 355 remainder commenced 12 September 2001 (s 2 and see Gaz
2001 No S65)

Justice and Community Safety Legislation Amendment Act 2001 No 70 sch 1

notified LR 14 September 2001
sch 1 commenced 14 March 2002 (s 2 (1) and LA s 79)

Legislation Amendment Act 2002 No 11 pt 2.44

notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
pt 2.44 commenced 28 May 2002 (s 2 (2))

Statute Law Amendment Act 2002 No 30 pt 3.76

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.76 commenced 17 September 2002 (s 2 (1))

Planning and Land (Consequential Amendments) Act 2002 No 56 sch 3 pt 3.15

notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
sch 3 pt 3.15 commenced 1 July 2003 (s 2 and see Planning and Land
Act 2002 A2002-55, s 2)

Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch 1 pt 1.32

notified LR 27 March 2003
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))
sch 1 pt 1.32 commenced 28 March 2003 (s 2)

Agents Act 2003 A2003-20 sch 3 pt 3.3

notified LR 19 May 2003
s 1, s 2 commenced 19 May 2003 (LA s 75 (1))
sch 3 pt 3.3 commenced 1 November 2003 (s 2 and CN2003-12)

Justice and Community Safety Legislation Amendment Act 2003 (No 2) A2003-47 pt 9

notified LR 31 October 2003
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))
pt 9 commenced 1 November 2003 (s 2)

Statute Law Amendment Act 2003 (No 2) A2003-56 sch 3 pt 3.22

notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
sch 3 pt 3.22 commenced 19 December 2003 (s 2)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.83

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.83 commenced 9 April 2004 (s 2 (1))

Statute Law Amendment Act 2004 A2004-42 sch 3 pt 3.17

notified LR 11 August 2004
s 1, s 2 commenced 11 August 2004 (LA s 75 (1))
sch 3 pt 3.17 commenced 25 August 2004 (s 2 (1))

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.61

notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
amds 3.399-3.401 commenced 12 November 2005 (s 2 (2) and LA s 79)
sch 3 pt 3.61 remainder commenced 2 June 2005 (s 2 (1))

Civil Unions Act 2006 A2006-22 sch 1 pt 1.27

notified LR 19 May 2006
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))
sch 1 pt 1.27 never commenced

Note Act repealed by disallowance 14 June 2006 (see Cwlth Gaz 2006 No S93)

Endnotes

4 Amendment history

Justice and Community Safety Legislation Amendment Act 2006 A2006-40 sch 1 pt 1.13

notified LR 28 September 2006
s 1, s 2 commenced 28 September 2006 (LA s 75 (1))
sch 1 pt 1.13 commenced 29 September 2006 (s 2 (1))

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.90

notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 3 pt 3.90 commenced 12 April 2007 (s 2 (1))

Regulatory Services Legislation Amendment Act 2008 A2008-5 pt 7

notified LR 15 April 2008
s 1, s 2 commenced 15 April 2008 (LA s 75 (1))
pt 7 commences 1 July 2008 (s 2 and CN2008-7)

Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.23

notified LR 15 May 2008
s 1, s 2 commenced 15 May 2008 (LA s 75 (1))
sch 1 pt 1.23 commenced 19 May 2008 (s 2 and CN2008-8)

4 Amendment history

Name of Act

s 1 sub 2001 No 70 amdt 1.74

Dictionary

s 2 sub 2001 No 70 amdt 1.74

Notes

s 2A (prev s 4) ins 2001 No 70 amdt 1.80
reloc and renum as s 2A A2007-3 amdt 3.461

When is a motor vehicle sold or manufactured etc

s 3 hdg sub 2001 No 70 amdt 1.75, amdt 1.79
s 3 orig s 3 am 1982 No 38 sch 4
def **car market operator licence** ins 1995 No 48 s 4
om 2001 No 70 amdt 1.76
def **chief police officer** ins 1995 No 48 s 4
om 2001 No 70 amdt 1.76
def **committee** om 2001 No 70 amdt 1.76
def **convicted** ins 1995 No 48 s 4
om 2001 No 70 amdt 1.76
def **dealer** sub 1995 No 48 s 4
om 2001 No 70 amdt 1.76

def **dealings register** om 2001 No 70 amdt 1.76
 def **demonstrator vehicle** om 1995 No 48 s 4
 def **director** om 2001 No 70 amdt 1.76
 def **exempt trader** om 1995 No 48 s 4
 def **good fame and character** ins 1995 No 48 s 4
 om 2001 No 70 amdt 1.76
 def **inspector** sub 1994 No 97 sch
 om 2001 No 70 amdt 1.76
 def **prescribed fee** ins 1983 No 38 s 4
 om 1995 No 48 s 4
 defs reloc to dict 2001 No 70 amdt 1.77
 am 2001 No 70 amdt 1.78
 s 3 (2) renum as s 3 2001 No 70 amdt 1.79

Position of Crown

s 3A ins 1993 No 44 sch 1
 renum as s 4A 2001 No 70 amdt 1.81

Notes

s 4 **orig s 4**
 om 1995 No 48 s 5
prev s 4
 reloc and renum as s 2A

Application of Act to motor dealings by Territory

s 4A hdg sub 2001 No 70 amdt 1.82
 s 4A (prev s 3A) ins 1993 No 44 sch 1
 renum 2001 No 70 amdt 1.81
 sub 2002 No 11 amdt 2.89

Registrar of Motor Vehicle Dealers

s 5 am 1989 No 38 sch 1
 sub 1994 No 97 sch
 am 2001 No 70 amdt 1.83
 sub A2003-56 amdt 3.202
 (2)-(4) exp 19 December 2004 (s 5 (4))
 sub A2005-20 amdt 3.397

Deputy Registrar of Motor Vehicle Dealers

s 5A ins 1994 No 97 sch
 am 2001 No 70 amdt 1.83
 sub A2003-56 amdt 3.202
 (3)-(5) exp 19 December 2004 (s 5A (5))
 sub A2005-20 amdt 3.397

Inspectors

s 5B ins 1994 No 97 sch
 am 1995 No 48 s 6; 2001 No 70 amdt 1.83
 sub A2003-56 amdt 3.203
 (3)-(5) exp 19 December 2004 (s 5B (5))

Endnotes

4 Amendment history

Identity cards

s 5C ins 1994 No 97 sch
am 1998 No 54 sch

Register of licences

s 6 sub A2008-5 s 35

Keeping of register

s 6AA ins A2008-5 s 35

Licences to carry on business as dealer, wholesaler or car market operator

pt 2 hdg am 1995 No 48 s 7

Meaning of *dealer*

s 6A ins 1995 No 48 s 8
am 2001 No 70 amdt 1.84

Meaning of relevant chief executive in pt 2

s 6B hdg sub 2001 No 70 amdt 1.85
s 6B ins 1995 No 48 s 8
am 2001 No 70 amdt 1.86
om 2002 No 56 amdt 3.51

Licensing of dealers

s 7 sub 1995 No 48 s 9
am 2001 No 70 amdt 1.87

Licensing of wholesalers

s 7A ins 1995 No 48 s 9
am 2001 No 70 amdt 1.87

Licensing of car market operators

s 7B ins 1995 No 48 s 9
am 2001 No 70 amdt 1.87

Eligibility for grant of licences to individuals

s 8 hdg sub A2008-5 s 36
s 8 sub 1995 No 48 s 9
am 2001 No 70 amdt 1.88; A2008-5 s 37

Eligibility for the grant of licences to corporations

s 9 sub 1995 No 48 s 9
am 2001 No 70 amdt 1.89, amdt 1.90

Applications for licences by individuals

s 10 am 1995 No 48 s 10
am 2001 No 70 amdts 1.91-1.93; pars renum R4 LA; 2002
No 56 amdt 3.52; A2003-56 amdt 3.204; A2008-5 s 38, s 39

Applications for licences by corporations

s 11 am 1995 No 48 s 11 and sch 3
am 2001 No 70 amdts 1.94-1.99; pars renum R4 LA; 2002
No 56 amdt 3.53; A2003-56 amdts 3.204-3.206; A2008-5
s 40, s 41

Identification of applicant or executive officer

s 11A hdg am 2001 No 70 amdt 1.100
s 11A ins 1995 No 48 s 12
am 2001 No 70 amdt 1.101; A2003-56 amdt 3.207; A2006-22
amdt 1.115 (A2006-22 rep before commenced by
disallowance (see Cwlth Gaz 2006 No S93)); A2008-14
amdt 1.81

Notification of application

s 11B ins 1995 No 48 s 12

Certificates of convictions

s 12 am 1978 No 46 sch 2
sub 1995 No 48 s 12
om A2008-5 s 42

Grant or refusal of licence

s 13 am 1994 No 60 sch 1; 1995 No 48 s 13 and sch 3; 2001 No 70
amdts 1.102-1.105; A2008-5 s 43

Issue of licences

s 14 am 1995 No 48 s 14; 2001 No 44 amdt 1.3839; ss renum R4
LA

Eligibility for renewal of licences

s 14A ins 1995 No 48 s 15
am 2001 No 70 amdt 1.106, amdt 1.107; A2008-5 s 44

Applications for renewal of licences

s 14B ins 1995 No 48 s 15
am 2001 No 70 amdt 1.108; 2002 No 56 amdt 3.54; A2008-5 s
45

Grant or refusal of renewal of licences

s 14C ins 1995 No 48 s 15
am 2001 No 70 amdt 1.109, amdt 1.110

Renewal of licences

s 14D ins 1995 No 48 s 15
am 2001 No 44 amdts 1.3839-1.3841; 2001 No 70 amdt 1.111

Variation of licences

s 14E ins 1995 No 48 s 15

Licensees to maintain dealings register

s 15 sub 1995 No 48 s 16
am 2001 No 70 amdt 1.112

Endnotes

4 Amendment history

Information to be recorded in dealings register

s 16 am 1995 No 48 s 17 and sch 3; 2001 No 70 amdt 1.112

Giving incorrect information to licensee

s 17 am 1995 No 48 s 18; 2001 No 70 amdt 1.113

Telling people about Act's requirements

s 18 am 1995 No 48 s 19
sub A2003-56 amdt 3.208

Dealings with persons under 18 years

s 19 am 1995 No 48 s 20; 2001 No 70 amdt 1.114, amdt 1.115

Dealer to attach notice to second-hand vehicle

s 20 am 1995 No 48 s 21 and sch 3; 2001 No 70 amdts 1.116-1.119

Action by dealer on sale of second-hand motor vehicle

s 21 am 1985 No 70 s 4; 1995 No 48 s 22; 2001 No 70 amdt 1.119;
pars renum R4 LA

Sale of vehicle if odometer replaced or distance altered

s 22 am 1995 No 48 s 23; 2001 No 70 amdt 1.120

Obligations of dealer to repair defects in motor vehicles

s 23 am 1980 No 39 s 2; 1985 No 70 s 5; 1989 No 38 sch 1
sub 1995 No 48 s 24

Excluded defects

s 24 sub 1995 No 48 s 24
am 2001 No 44 amdt 1.3842; 2001 No 70 amdt 1.121;
A2003-56 amdt 3.209

Exceptions

s 25 sub 1995 No 48 s 24
am 2001 No 44 amdts 1.3843-1.3845; ss renum R4 LA (see
2001 No 44 amdt 1.3846); 2001 No 70 amdts 1.122-1.124

Obligations of dealer to repair defects in motorcycles

s 25A ins 1995 No 48 s 24
am 2001 No 44 amdts 1.3847-1.3849; A2003-20 amdt 3.16

Cooling-off period

s 25B ins 1995 No 48 s 24
am 1995 No 48 s 24; 2001 No 70 amdt 1.125; 2001 No 44
amdt 1.3850

Sales between dealers and wholesalers

s 26 am 1995 No 48 s 25 and sch 3; 2001 No 70 amdt 1.126;
ss renum R4 LA

Registrar may give opinion on disputes

s 27 sub 1983 No 16 s 3
 am 1995 No 48 sch 3; 1999 No 79 sch 3; 2001 No 70
 amdt 1.127; A2003-56 amdt 3.210

Registrar may refer dispute to court of petty sessions

s 28 om 1983 No 16 s 3

Appeal to the court of petty sessions

s 29 om 1983 No 16 s 3

Appeal to the Supreme Court

s 30 om 1983 No 16 s 3

Authority to dealer to sell as agent

s 31 am 1995 No 48 s 26 and sch 3; 2001 No 70 amdt 1.128,
 amdt 1.129

Offences by vendors

s 32 am 1995 No 48 s 27 and sch 3; 2001 No 70 amdt 1.130

Definitions for pt 4A

s 32A ins 2001 No 13 s 4
 def **creditor** ins 2001 No 13 s 4
 def **debtor** ins 2001 No 13 s 4
 def **director-general** ins 2001 No 13 s 4
 def **hire-purchase agreement** ins 2001 No 13 s 4
 reloc to dict 2002 No 30 amdt 3.784
 def **hirer** ins 2001 No 13 s 4
 def **lease** ins 2001 No 13 s 4
 def **non-dealer** ins 2001 No 13 s 4
 def **notice** ins 2001 No 13 s 4
 def **NSW Act** ins A2003-56 amdt 3.211
 def **owner** ins 2001 No 13 s 4
 def **participating State** ins 2001 No 13 s 4
 def **payment** ins 2001 No 13 s 4
 def **purchase** ins 2001 No 13 s 4
 def **register of interests** ins 2001 No 13 s 4
 def **registered** ins 2001 No 13 s 4
 def **registrable interest** ins 2001 No 13 s 4
 def **security interest** ins 2001 No 13 s 4
 def **the NSW Act** ins 2001 No 13 s 4
 om A2003-56 amdt 3.212

Expressions in pt 4A have same meanings as in NSW Act

s 32B ins 2001 No 13 s 4

Registration of interests

s 32C ins 2001 No 13 s 4

Search certificates and notice

s 32D ins 2001 No 13 s 4

Endnotes

4 Amendment history

Purchasing motor vehicle with registrable interest

s 32E ins 2001 No 13 s 4

Liability of dealer to creditor if registrable interest defeated

s 32F ins 2001 No 13 s 4

Effect of part payment at time of acquisition

s 32G ins 2001 No 13 s 4

Revival of registrable interest on rescission of contract

s 32H ins 2001 No 13 s 4

Contracting out of operation of pt 4A etc

s 32I ins 2001 No 13 s 4
am 2001 No 44 amdt 1.3851

Payment of money into trust account

s 33 am 1995 No 48 s 28 and sch 3; 1997 No 88 sch; 2001 No 70
amdt 1.131

Procedure if part of consideration is not money

s 34 am 1995 No 48 s 29 and sch 3; 2001 No 70 amdt 1.132

Application of money in trust account

s 35 am 1995 No 48 s 30; 2001 No 70 amdts 1.133-1.135

Provisions applying to banks etc

s 37 hdg sub 2001 No 70 amdt 1.136
s 37 am 1997 No 88 sch

Accounting records

s 38 am 1995 No 48 s 31 and sch 3; 2001 No 70 amdt 1.137

Receipts for trust money

s 39 am 1995 No 48 s 32 and sch 3; 2001 No 70 amdts 1.138-
1.140

Audit of trust accounts

s 40 am 1995 No 48 s 33 and sch 3; 2001 No 70 amdt 1.141

Auditor's report

s 41 am 1995 No 48 s 34 and sch 3; ss renum R4 LA

Qualification of auditors

s 42 am 1982 No 38 sch 4; 1995 No 46 sch; 1995 No 48 s 35 and
sch 3; A2003-14 amdt 1.102

Withdrawals—deficiency suspected

s 43 am 1995 No 48 s 36; 1997 No 88 sch; 2001 No 70 amdt 1.142

Offences against this part

s 44 om 1998 No 54 sch

Change of executive officers of corporate licensees

pt 6 hdg sub 2001 No 70 amdt 1.143

Intended change of executive officers—notification and objection

s 45 am 1995 No 48 s 37
 sub 2001 No 70 amdt 1.143
 am A2008-5 s 46, s 47

Intended change of directors—notification and objection

s 45A ins 1995 No 48 s 38
 om 2001 No 70 amdt 1.143

Change of executive officers

s 46 hdg sub A2008-5 s 48
 s 46 am 1995 No 48 s 39
 sub 2001 No 70 amdt 1.143
 am A2008-5 s 49, s 50

Cancellation of licences by registrar

s 47 am 1995 No 48 s 40 and sch 3
 sub 2001 No 70 amdt 1.143
 ss renum R4 LA

Disciplinary proceedings

pt 6A hdg ins 2001 No 70 amdt 1.143

When registrar may take action in relation to licences

s 48 hdg am 1995 No 48 notes
 s 48 am 1994 No 60 sch 1; 1995 No 48 sch 3
 sub 2001 No 70 amdt 1.143
 am A2008-5 s 51

Procedures for registrar taking action in relation to licences

s 48A ins 2001 No 70 amdt 1.143

Inquiries

s 49 am 1989 No 38 sch 1; 1995 No 48 s 41 and sch 3; 1997 No 96
 sch 1; 2001 No 70 amdt 1.144; A2007-3 amdt 3.462

Power to summon witnesses

s 50 am 1995 No 48 sch 3

Failure to attend or to produce documents

s 51 am 1995 No 48 s 42 and sch 3; 2001 No 70 amdt 1.145;
 A2003-56 amdt 3.213, amdt 3.214

Refusal to be sworn or give evidence

s 52 am 1995 No 48 s 43 and sch 3; 2001 No 70 amdt 1.145;
 A2005-20 amdt 3.398

Protection of representatives, witnesses etc

s 53 am 1997 No 96 sch 1; 2001 No 70 amdt 1.146

Protection of registrar and deputy registrar

s 54 am 2001 No 70 amdt 1.147
 sub A2003-56 amdt 3.215

Endnotes

4 Amendment history

Fees and expenses to witnesses

s 55 am 1983 No 16 s 4; 1989 No 38 sch 1; 1995 No 48 s 44

Registrar may inspect books etc

s 56 am 1995 No 48 sch 3

Review by administrative appeals tribunal

s 57 am 1989 No 38 sch 1; 1994 No 60 sch 1
sub 1995 No 48 s 45
am 2001 No 70 amdts 1.148-1.150; pars renum R4 LA; 2002
No 56 amdt 3.55; [A2008-5 s 52](#)

The compensation fund

s 58 am 1995 No 48 s 46
om 2001 No 70 amdt 1.151

Contributions to the compensation fund by dealers

s 59 am 1983 No 38 s 5; 1995 No 48 s 47
om 2001 No 44 amdt 1.3852

Certain persons may apply for compensation

s 60 am A2003-56 amdt 3.216

Registrar to determine applications

s 61 am 1995 No 48 sch 3

Registrar to notify applicant of determination

s 62 am 1995 No 48 sch 3

Review of determination

s 63 am 1985 No 67 sch pt 1

Payment of compensation

s 64 am 1995 No 48 s 48

Subrogation

s 65 am 1995 No 48 s 49

Offences

pt 10 hdg sub 1995 No 48 s 50; [A2008-5 s 53](#)

Definitions for pt 10

s 66 sub 1995 No 48 s 50
am 2001 No 44 amdt 1.3853; 2001 No 70 amdt 1.152,
amdt 1.153
om A2005-20 amdt 3.399

Hindering of registrar etc

s 67 sub 1995 No 48 s 50; 2001 No 70 amdt 1.154
om A2004-15 amdt 2.173

Offence by employee—liability of employer

s 68 sub 1995 No 48 s 50

Institution of proceedings

s 69 sub 1995 No 48 s 50

Enforcement

pt 10A hdg ins A2008-5 s 54

General

div 10A.1 hdg ins A2008-5 s 54

Definitions—pt 10A

s 70 sub 1995 No 48 s 50
am 2001 No 44 amdt 1.3854, amdt 1.3855
om A2005-20 amdt 3.399
ins A2008-5 s 54
def **connected** ins A2008-5 s 54
def **occupier** ins A2008-5 s 54
def **offence** ins A2008-5 s 54

Powers of inspectors

div 10A.2 hdg ins A2008-5 s 54

Power to enter premises

s 70A ins 1995 No 48 s 50
am 2001 No 44 amdts 1.3856-1.3858; pars renum R4 LA
om A2005-20 amdt 3.399
ins A2008-5 s 54

Production of identity card

s 70B ins 1995 No 48 s 50
om A2005-20 amdt 3.399
ins A2008-5 s 54

Consent to entry

s 70C ins 1995 No 48 s 50
om A2005-20 amdt 3.399
ins A2008-5 s 54

General powers on entry to premises

s 70D ins 1995 No 48 s 50
om A2005-20 amdt 3.399
ins A2008-5 s 54

Power to seize things

s 70E ins 1995 No 48 s 50
om A2005-20 amdt 3.399
ins A2008-5 s 54

Power to require name and address

s 70F ins 1995 No 48 s 50
om A2005-20 amdt 3.399
ins A2008-5 s 54

Endnotes

4 Amendment history

Search Warrants

div 10A.3 hdg ins A2008-5 s 54

Warrants generally

s 70G ins 1995 No 48 s 50
om A2005-20 amdt 3.399
ins A2008-5 s 54

Warrants—application made other than in person

s 70H ins 1995 No 48 s 50
om A2005-20 amdt 3.399
ins A2008-5 s 54

Search warrants—announcement before entry

s 70I ins A2008-5 s 54

Details of search warrant to be given to occupier etc

s 70J ins A2008-5 s 54

Occupier entitled to be present during search etc

s 70K ins A2008-5 s 54

Use of electronic equipment at premises

s 70L ins A2008-5 s 54

Person with knowledge of computer or computer system to assist access etc

s 70M ins A2008-5 s 54

Securing electronic equipment

s 70N ins A2008-5 s 54

Copies of seized things to be provided

s 70O ins A2008-5 s 54

Return and forfeiture of things seized

div 10A.4 hdg ins A2008-5 s 54

Receipt for things seized

s 70P ins A2008-5 s 54

Moving things to another place for examination or processing under search warrant

s 70Q ins A2008-5 s 54

Access to things seized

s 70R ins A2008-5 s 54

Return of things seized

s 70S ins A2008-5 s 54

Forfeiture of seized things

s 70T ins A2008-5 s 54

Application for order disallowing seizure

s 70U ins A2008-5 s 54

Order for return of seized thing

s 70V ins A2008-5 s 54

Miscellaneous

div 10A.5 hdg ins A2008-5 s 54

Damage etc to be minimised

s 70W ins A2008-5 s 54

Compensation for exercise of enforcement powers

s 70X ins A2008-5 s 54

Working out whether person suitable or unsuitable

s 71 sub 1995 No 48 s 51; 2001 No 70 amdt 1.155
pars renum R4 LA
am A2003-56 amdts 3.217-3.222

Issue of copy of licence

s 72 am 1995 No 48 s 52 and sch 3; 2001 No 44 amdt 1.3859,
amdt 1.3860

Display of licence and notice

s 73 sub 1995 No 48 s 53
am 2001 No 70 amdt 1.156

Return of licence

s 73A ins 2001 No 70 amdt 1.157

Notification of beginning or ceasing business at a place

s 74 sub 1995 No 48 s 53
am 2001 No 70 amdt 1.158, amdt 1.159

Licensed dealer to notify registrar of cessation or commencement of business at a place

s 75 om 1995 No 48 s 53

Inspection

s 76 sub 1995 No 48 s 54
am 2001 No 70 amdt 1.160
om A2008-5 s 55

Production of identity cards

s 77 sub 1994 No 97 sch
am 1995 No 48 s 55
om A2008-5 s 55

Inspection of register

s 78 am 1995 No 48 s 56; 2001 No 44 amdt 1.3859, amdt 1.3860
om A2008-5 s 55

Endnotes

4 Amendment history

Advertisements by licensed dealers

s 79 sub 1995 No 48 s 57
am 2001 No 70 amdts 1.161-1.163

Advertisements by licensed car market operators

s 79A ins 1995 No 48 s 57
am 2001 No 70 amdt 1.164

List of licensed dealers

s 80 sub 1995 No 48 s 57; 2001 No 44 amdt 1.3861
om A2008-5 s 55

Submission of documents for signature

s 81 am 1995 No 48 s 58 and sch 3; 2001 No 70 amdt 1.165

Contracting out

s 83 am 1995 No 48 s 59

Obstruction etc of registrar or inspector

s 85 om 1995 No 48 s 60

Notice of dissolution of partnership

s 86 om 1995 No 48 s 60

Service on licensees and applicants for licences

s 87 am 1995 No 48 s 61 and sch 3; 2001 No 70 amdt 1.166
om A2003-56 amdt 3.223

Temporary revival of licence following death of licensee

s 89A ins 1995 No 48 s 62
am 2001 No 44 amdt 1.3862 ; 2001 No 70 amdts 1.167-1.170;
A2003-56 amdt 3.224, amdt 3.225

Annual report

s 90 om 1995 No 25 sch

Power of Minister to determine fees

s 90A ins 1983 No 38 s 6
sub 2001 No 70 amdt 1.171
om 2001 No 44 amdt 1.3863

Determination of fees and charges

s 91 am 1994 No 60 sch 1
om 1995 No 48 s 63
ins 2001 No 70 amdt 1.171
sub 2001 No 44 amdt 1.3863

Exemption of vehicles from Act

s 92 **orig s 92**
renum as s 94 and then s 95
pres s 92
ins 2001 No 44 amdt 1.3863

Approved forms

s 93 ins 2001 No 44 amdt 1.3863

Delegation by registrar

s 94 **orig s 94**
(prev s 92) renum as s 94 and then s 95
pres s 94
ins A2006-40 amdt 1.36

Regulation-making power

s 95 (prev s 92) am 1989 No 38 sch 1
sub 2001 No 70 amdt 1.172
renum and sub as s 94 2001 No 44 amdt 1.3864
renum as s 95 A2006-40 amdt 1.37

Obligation of dealer to repair defects

sch 1 ins 1995 No 48 s 64

Forms

sch 2 hdg (prev sch hdg) am 1995 No 48 s 65
sch 2 (prev sch) am 1989 No 38 sch 1; 1995 No 48 s 65
om 2001 No 70 amdt 1.173

On-the-spot fines

sch 3 ins 1995 No 48 s 66
sub A2003-47 s 31
om A2005-20 amdt 3.400

Dictionary

dict ins 2001 No 70 amdt 1.174
am A2003-56 amdt 3.226; A2006-22 amdt 1.116 (A2006-22
rep before commenced by disallowance (see Cwlth Gaz 2006
No S93)); A2008-14 amdt 1.82
def **accessory** sub 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
def **ACTPLA certificate** ins A2008-5 s 56
def **body number** reloc from s 3 2001 No 70 amdt 1.77
def **business** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
def **car market operator** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
def **cash price** am 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
def **charge** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
def **commercial vehicle** sub 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77

Endnotes

4 Amendment history

- def **compensation fund** ins 2001 No 70 amdt 1.174
def **connected** ins A2008-5 s 56
def **corporate licensee** ins 2001 No 70 amdt 1.174
def **creditor** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
def **dealer** ins 2001 No 70 amdt 1.174
def **dealings register** ins 2001 No 70 amdt 1.174
def **debtor** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
def **demonstrator** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
def **deputy registrar** ins 1994 No 97 sch
reloc from s 3 2001 No 70 amdt 1.77
def **determined fee** ins 1995 No 48 s 4
om 2001 No 70 amdt 1.76
ins 2001 No 70 amdt 1.74
om 2001 No 44 amdt 1.3865
def **director-general** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
def **executive officer** ins 2001 No 70 amdt 1.174
am A2003-56 amdt 3.227
def **final infringement notice** ins 2001 No 70 amdt 1.174
om A2005-20 amdt 3.401
def **financier** reloc from s 3 2001 No 70 amdt 1.77
def **function** ins 2001 No 70 amdt 1.174
om R15 LA
def **hire-purchase agreement** reloc from s 3 2001 No 70
amdt 1.77
also ins 2001 No 13 s 5
both om 2002 No 30 amdt 3.785
reloc from s 32A 2002 No 30 amdt 3.784
def **hirer** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
def **individual licensee** ins 2001 No 70 amdt 1.174
def **infringement notice** ins 2001 No 70 amdt 1.174
om A2005-20 amdt 3.401
def **inspector** ins 2001 No 70 amdt 1.174
am A2007-3 amdt 3.463
def **lease** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
def **licence** sub 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77

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- def **licensed car market operator** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
- def **licensed dealer** am 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
- def **licensed wholesaler** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
- def **manufacturer** reloc from s 3 2001 No 70 amdt 1.77
- def **model designation** reloc from s 3 2001 No 70 amdt 1.77
- def **motorcycle** reloc from s 3 2001 No 70 amdt 1.77
- def **motor vehicle** ins 1985 No 70 s 3
reloc from s 3 2001 No 70 amdt 1.77
am 2001 No 44 amdt 1.3866
- def **new motor vehicle** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
- def **non-dealer** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **notice** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **notified person** ins 2001 No 70 amdt 1.174
om A2005-20 amdt 3.401
- def **NSW Act** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
am R15 LA
- def **occupier** ins A2008-5 s 56
- def **odometer** reloc from s 3 2001 No 70 amdt 1.77
- def **offence** ins A2008-5 s 56
- def **on-the-spot fine** ins 2001 No 70 amdt 1.174
om A2005-20 amdt 3.401
- def **owner** reloc from s 3 2001 No 70 amdt 1.77
also ins 2001 No 13 s 5
both om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **participating State** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **payment** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **police certificate** ins A2008-5 s 56
- def **premises** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
- def **purchase** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786

Endnotes

5 Earlier republications

- def **qualified accountant** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
am A2004-42 amdt 3.85
- def **register** reloc from s 3 2001 No 70 amdt 1.77
- def **registered** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **register of interests** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **registrar** sub 1994 No 97 sch
reloc from s 3 2001 No 70 amdt 1.77
- def **registrable interest** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **relevant amount** ins 2001 No 70 amdt 1.174
om A2005-20 amdt 3.401
- def **relevant chief executive** ins 2001 No 70 amdt 1.174
om 2002 No 56 amdt 3.56
- def **relevant period for payment** ins 2001 No 70 amdt 1.174
om A2005-20 amdt 3.401
- def **security interest** ins 2001 No 13 s 5
om 2002 No 30 amdt 3.785
ins 2002 No 30 amdt 3.786
- def **sell** reloc from s 3 2001 No 70 amdt 1.77
- def **schedule 3 offence** ins 2001 No 70 amdt 1.174
om A2005-20 amdt 3.401
- def **suitable person** ins 2001 No 70 amdt 1.174
- def **the NSW Act** see **NSW Act**
- def **trade owner** am 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
- def **tribunal** sub 1989 No 38 sch 1
om 1994 No 60 sch 1
- def **unsuitable person** ins 2001 No 70 amdt 1.174
- def **vehicle sale licence** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77
- def **wholesaler** ins 1995 No 48 s 4
reloc from s 3 2001 No 70 amdt 1.77

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	Amendments to	Republication date
1	Ord 1989 No 38	30 June 1991
2	Act 1995 No 48	31 January 1996
3	Act 1998 No 54	31 March 1999
4	<u>Act 2001 No 70</u>	13 March 2002
5	Act 2001 No 70	14 March 2002
6	Act 2002 No 11	29 May 2002
7	Act 2002 No 30	16 October 2002
8	A2003-14	28 March 2003
9	A2003-14	1 July 2003
10	A2003-47	1 November 2003
11	A2003-56	19 December 2003
12	A2004-15	9 April 2004
13	A2004-42	25 August 2004
14*	A2004-42	20 December 2004
15	<u>A2005-20</u>	2 June 2005
16	A2005-20	12 November 2005
17	A2006-40	29 September 2006
18	A2007-3	12 April 2007

Endnotes

6 Uncommenced amendments

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

Regulatory Services Legislation Amendment Act 2008 A2008-5 pt 7
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Part 7 Sale of Motor Vehicles Act 1977

34 Legislation amended—pt 7

This part amends the *Sale of Motor Vehicles Act 1977*.

35 Section 6

substitute

6 Register of licences

- (1) The registrar must keep a register of licences under this Act.
- (2) The register must be available for public inspection at reasonable times.

6AA Keeping of register

- (1) The register may include licence information given to the registrar under this Act.
- (2) The register may be kept in the form of, or as part of, 1 or more computer databases or in any form the registrar considers appropriate.
- (3) The registrar may correct any mistake, error or omission in the register subject to any requirements prescribed by regulation.
- (4) The registrar may change a detail included in the register to keep the register up-to-date.

36 Section 8 heading

substitute

8 Eligibility for grant of licences to individuals**37 Section 8 (1) (c)**

substitute

- (c) the individual is not bankrupt and has not executed a personal insolvency agreement; and

**38 Application for licences by individuals
Section 10 (1) (g) and (h)**

substitute

- (g) must be accompanied by an ACTPLA certificate for the premises where the applicant proposes to carry on business under the licence, dated not earlier than 3 months before the day the application is made; and
- (h) must state whether the person is bankrupt or has executed a personal insolvency agreement that is in force; and

39 New section 10 (1) (la)

insert

- (la) must be accompanied by a police certificate for the applicant, dated not earlier than 2 months before the day the application is made; and

**40 Applications for licences by corporations
Section 11 (1) (h) and (i)**

substitute

- (h) must be accompanied by an ACTPLA certificate for the premises where the corporation proposes to carry on business

Endnotes

6 Uncommenced amendments

under the licence, dated not earlier than 3 months before the day the application is made; and

- (i) must be accompanied by 2 certificates for each executive officer of the corporation indicating the executive officer's fame and character; and

41 Section 11 (1) (m)

substitute

- (m) must be accompanied by a police certificate for each executive officer of the corporation, dated not earlier than 2 months before the day the application is made; and
- (n) must include any other information prescribed by regulation.

42 Section 12

omit

43 Grant or refusal of licence Section 13 (3) (b) and (4) (b)

omit

certificate of conviction

substitute

police certificate

44 Eligibility for renewal of licences Section 14A (1) (b)

substitute

- (b) the individual is not bankrupt and has not executed a personal insolvency agreement; and

**45 Applications for renewal of licences
Section 14B (e)**

substitute

- (e) if the premises stated in the application for renewal (the *new premises*) are different from the premises for which the licensee is licensed—must be accompanied by an ACTPLA certificate for the new premises, dated not earlier than 3 months before the day the application is made.

**46 Intended change of executive officers—notification and objection
Section 45 (2) (c)**

substitute

- (c) state that, if a person wishes to object to the continuation of the licensee's licence if the prospective executive officer becomes an executive officer, the person must object by notice given to the registrar within 14 days at the registrar's address stated in the notice.

47 Section 45 (3)

substitute

- (3) The prospective executive officer must give the registrar a police certificate for the officer, dated not earlier than 2 months before the day the notice is published under subsection (1).

48 Section 46 heading

substitute

46 Change of executive officers

Endnotes

6 Uncommenced amendments

49 New section 46 (2) (d)

insert

(d) be accompanied by a police certificate for the new executive officer, dated not earlier than 2 months before the day the notice mentioned in section 45 (1) is published.

50 Section 46 (3), (4) and (5)

omit

51 When registrar may take action in relation to licences Section 48 (1) (b), Examples of when individual licensees no longer eligible to apply, example 2

substitute

2 The member becomes bankrupt or executes a personal insolvency agreement.

52 Review by administrative appeals tribunal Section 57 (2)

omit

a certificate

substitute

an ACTPLA certificate

53 Part 10 heading

substitute

Part 10 Offences

54 New part 10A

insert

Part 10A Enforcement**Division 10A.1 General****70 Definitions—pt 10A**

In this part:

connected—a thing is *connected* with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

- (a) a person believed on reasonable grounds to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

Division 10A.2 Powers of inspectors**70A Power to enter premises**

- (1) For this Act, an inspector may—
 - (a) at any reasonable time, enter premises to which a licence relates to carry out an inspection authorised under the licence; or

Endnotes

6 Uncommenced amendments

- (b) at any reasonable time, enter premises where the inspector suspects on reasonable grounds that a person is carrying on any of the following businesses without a licence:
 - (i) the business of a dealer;
 - (ii) the business of a wholesaler;
 - (iii) the business of a car market operator; or
 - (c) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or
 - (d) at any time, enter premises with the occupier's consent; or
 - (e) enter premises in accordance with a search warrant.
- (2) However, subsection (1) (a), (b) or (c) does not authorise entry into a part of premises that is being used for residential purposes.
 - (3) An inspector may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.
 - (4) To remove any doubt, an inspector may enter premises under subsection (1) without payment of an entry fee or other charge.
 - (5) In this section:

at any reasonable time includes at any time when the public is entitled to use the premises, or when the premises are open to or used by the public (whether or not on payment of money).

70B Production of identity card

- (1) An inspector must not remain at premises entered under this part if the inspector does not produce the inspector's identity card when asked by the occupier.
- (2) This section does not apply in relation to an inspector who is a police officer in uniform.

70C Consent to entry

- (1) When seeking the consent of an occupier of premises to enter premises under section 70A (1) (d), an inspector must—
 - (a) produce the inspector's identity card; and
 - (b) tell the occupier—
 - (i) the purpose of the entry; and
 - (ii) that anything found and seized under this part may be used in evidence in court; and
 - (iii) that consent may be refused.
- (2) If the occupier consents, the inspector must ask the occupier to sign a written acknowledgment (an *acknowledgement of consent*)—
 - (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that anything found and seized under this part may be used in evidence in court; and
 - (iii) that consent may be refused; and
 - (b) that the occupier consented to the entry; and
 - (c) stating the time and date when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.
- (4) A court may find that the occupier did not consent to entry to the premises by the inspector under this part if—
 - (a) the question arises in a proceeding in the court whether the occupier consented to the entry; and
 - (b) an acknowledgment of consent is not produced in evidence; and
 - (c) it is not proved that the occupier consented to the entry.

70D General powers on entry to premises

- (1) An inspector who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:
- (a) inspect or examine;
 - (b) take measurements or conduct tests;
 - (c) take samples;
 - (d) take photographs, films, or audio, video or other recordings;
 - (e) take copies of, or an extract from, any document relating to the business being carried out at the premises or the sale of a motor vehicle;
 - (f) require the occupier, or anyone apparently working at the premises, to give the inspector reasonable help to exercise a power under this part.

Examples—par (a)

- 1 inspect or examine motor vehicles or motor vehicle parts
- 2 inspect or examine a register required to be kept under this Act

Example—par (f)

producing a register required to be kept under this Act

Note 1 The Legislation Act, s 170 and s 171 deal with the application of the privilege against self incrimination and client legal privilege.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (f).

Maximum penalty: 50 penalty units.

70E Power to seize things

- (1) An inspector who enters premises under this part with the occupier's consent may seize anything at the premises if—
- (a) the inspector is satisfied on reasonable grounds that the thing is connected with an offence against this Act; and
 - (b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.
- (2) An inspector who enters premises under a warrant under this part may seize anything at the premises that the inspector is authorised to seize under the warrant.
- (3) An inspector who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that—
- (a) the thing is connected with an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing from being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.
- (4) Subsections (1) and (3) do not apply to the seizure of a computer, or data storage device, for use in carrying on a licensed dealer's business if—
- (a) the only reason for the seizure is to access data held in or accessible from the computer or device; and
 - (b) the data is accessible—
 - (i) with the occupier's consent; or

Endnotes

- (ii) under section 70D (General powers on entry to premises).
- (5) The powers of an inspector under subsection (3) are additional to any powers of an inspector under subsection (1) or subsection (2) or any other territory law.
- (6) Having seized a thing, an inspector may—
 - (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
 - (b) leave the thing at the place of seizure but restrict access to it.
- (7) A person commits an offence if—
 - (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (6); and
 - (b) the person does not have an inspector's approval to interfere with the thing.

Maximum penalty: 50 penalty units.
- (8) An offence against this section is a strict liability offence.

70F Power to require name and address

- (1) An inspector may require a person to state the person's name and home address if the inspector believes on reasonable grounds that the person is committing or has just committed an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).
- (2) The inspector must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) The person may ask the inspector to produce the inspector's identity card for inspection by the person.

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- (4) Subsection (3) does not apply in relation to an inspector who is a police officer in uniform.
- (5) A person must comply with a requirement made of the person under subsection (1) if the inspector—
- (a) tells the person the reason for the requirement; and
 - (b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.

- (6) An offence against this section is a strict liability offence.
- (7) In this section:

home address, of a person, means the address of the place where the person usually lives.

Division 10A.3 Search Warrants

70G Warrants generally

- (1) An inspector may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
- (a) there is a particular thing or activity connected with an offence against this Act; and
 - (b) the thing or activity—
 - (i) is, or is being engaged in, at the premises; or

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- (ii) may be, or may be engaged in, at the premises within the next 7 days.
- (5) The warrant must state—
 - (a) that an inspector may, with any necessary assistance and force, enter the premises and exercise the inspector's powers under this part; and
 - (b) the offence for which the warrant is issued; and
 - (c) the things that may be seized under the warrant; and
 - (d) the hours when the premises may be entered; and
 - (e) the date, within 7 days after the day of the warrant's issue, the warrant ends.

70H Warrants—application made other than in person

- (1) An inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances.
- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the warrant before the application is sworn.
- (4) If the magistrate issues the warrant, the magistrate must immediately fax a copy to the inspector if it is practicable to do so.
- (5) If it is not practicable to fax a copy to the inspector—
 - (a) the magistrate must tell the inspector—
 - (i) the terms of the warrant; and
 - (ii) the date and time the warrant was issued; and

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- (b) the inspector must complete a form of warrant (the *warrant form*) and write on it—
- (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the warrant's terms.
- (6) The faxed copy of the warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the inspector's powers under the warrant.
- (7) The inspector must, at the first reasonable opportunity, send to the magistrate—
- (a) the sworn application; and
 - (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) A court must find that a power exercised by the inspector was not authorised by a warrant under this section if—
- (a) the question arises in a proceeding in the court whether the exercise of power was authorised by a warrant; and
 - (b) the warrant is not produced in evidence; and
 - (c) it is not proved that the exercise of power was authorised by a warrant under this section.

70I Search warrants—announcement before entry

- (1) An inspector must, before anyone enters premises under a search warrant—
- (a) announce that the inspector is authorised to enter the premises; and

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- (b) give anyone at the premises an opportunity to allow entry to the premises; and
 - (c) if an occupier is present at the premises—identify himself or herself to the person.
- (2) The inspector is not required to comply with subsection (1) if the inspector believes on reasonable grounds that immediate entry to the premises is required to ensure—
- (a) the safety of anyone (including the inspector or any person assisting); or
 - (b) that the effective execution of the warrant is not frustrated.

70J Details of search warrant to be given to occupier etc

If the occupier of premises is present at the premises while a search warrant is being executed, the inspector or a person assisting must make available to the person—

- (a) a copy of the warrant; and
- (b) a document setting out the rights and obligations of the person.

70K Occupier entitled to be present during search etc

- (1) If the occupier of premises is present at the premises while a search warrant is being executed, the person is entitled to observe the search being conducted.
- (2) However, the person is not entitled to observe the search if—
 - (a) to do so would impede the search; or
 - (b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.
- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

70L Use of electronic equipment at premises

- (1) An inspector or a person assisting may operate electronic equipment at premises entered under a search warrant to access data (including data not held at the premises) if the inspector or person believes on reasonable grounds that—
 - (a) the data might be something to which the warrant relates; and
 - (b) the equipment can be operated without damaging the data.
- (2) If the inspector or person assisting believes on reasonable grounds that any data accessed by operating the electronic equipment might be something to which the warrant relates, the inspector or person may—
 - (a) copy the data to a data storage device brought to the premises; or
 - (b) if a person in charge of the premises agrees in writing—copy the data to a data storage device at the premises.
- (3) The inspector or person assisting may take the device from the premises.
- (4) The inspector or person assisting may do the following things if the inspector or person finds that anything to which the warrant relates (the *material*) is accessible using the equipment:
 - (a) seize the equipment and any data storage device;
 - (b) if the material can, by using facilities at the premises, be put in documentary form—operate the facilities to put the material in that form and seize the documents produced.
- (5) An inspector may seize equipment under subsection (4) (a) only if—
 - (a) it is not practicable to copy the data as mentioned in subsection (2) or to put the material in documentary form as mentioned in subsection (4) (b); or

- (b) possession of the equipment by a person in charge of the premises or someone else could be an offence.

70M Person with knowledge of computer or computer system to assist access etc

- (1) An inspector may apply to a magistrate for an order requiring a stated person to give any information or assistance that is reasonably necessary to allow the inspector or a person assisting to do 1 or more of the following:
 - (a) access data held in or accessible from a computer that is at the premises;
 - (b) copy the data to a data storage device;
 - (c) convert the data into documentary form.
- (2) The magistrate may make an order if satisfied that—
 - (a) there are reasonable grounds for suspecting that something to which the warrant relates is accessible from the computer; and
 - (b) the stated person is—
 - (i) reasonably suspected of possessing, or having under the person's control, something to which the warrant relates; or
 - (ii) the owner or lessee of the computer; or
 - (iii) an employee or agent of the owner or lessee of the computer; and
 - (c) the stated person has knowledge of—
 - (i) the computer or a computer network of which the computer forms a part; or
 - (ii) measures applied to protect data held in or accessible from the computer.

- (3) A person commits an offence if the person contravenes an order under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (4) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the making of an order under this section.

70N Securing electronic equipment

- (1) This section applies if an inspector or a person assisting believes on reasonable grounds that—
- (a) something to which a warrant relates (the *material*) may be accessible by operating electronic equipment at the premises; and
 - (b) expert assistance is required to operate the equipment; and
 - (c) the material may be destroyed, altered or otherwise interfered with if the inspector or person does not take action.
- (2) The inspector or person may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.
- (3) The inspector or a person assisting must give written notice to a person in charge of the premises of—
- (a) the inspector's or person's intention to secure the equipment; and
 - (b) the fact that the equipment may be secured for up to 24 hours.
- (4) The equipment may be secured until the earlier of the following events happens:
- (a) the end of the 24-hour period;
 - (b) the equipment is operated by the expert.

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- (5) If the inspector or a person assisting believes on reasonable grounds that the expert assistance will not be available within the 24-hour period, the inspector or person may apply to a magistrate to extend the period.
- (6) The inspector or a person assisting must tell a person in charge of the premises of the intention to apply for an extension, and the person is entitled to be heard on the application.
- (7) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

700 Copies of seized things to be provided

- (1) This section applies if—
 - (a) the occupier of premises is present at the premises while a search warrant is executed; and
 - (b) the inspector seizes—
 - (i) a document, film, computer file or something else that can be readily copied; or
 - (ii) a data storage device containing information that can be readily copied.
- (2) The person in charge or other person may ask the inspector to give the person a copy of the thing or information.
- (3) The inspector must give the person the copy as soon as practicable after the seizure.
- (4) However, the inspector is not required to give the copy if—
 - (a) the thing was seized under section 70L (Use of electronic equipment at premises); or
 - (b) possession of the thing or information by a person in charge of the premises or someone else would be an offence.

Division 10A.4 Return and forfeiture of things seized**70P Receipt for things seized**

- (1) If an inspector seizes a thing under this part, the inspector must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the inspector must leave the receipt, secured conspicuously, at the place of seizure under section 70E (Power to seize things).
- (3) A receipt under this section must include the following:
 - (a) a description of the thing seized;
 - (b) an explanation of why the thing was seized;
 - (c) the inspector's name, and how to contact the inspector;
 - (d) if the thing is moved from the premises where it is seized—where the thing is to be taken.

70Q Moving things to another place for examination or processing under search warrant

- (1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—
 - (a) both of the following apply:
 - (i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;
 - (ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or
 - (b) the occupier of the premises agrees in writing.

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- (2) The thing may be moved to another place for examination or processing for not longer than 3 business days.
- (3) An inspector may apply to a magistrate for an extension of time if the inspector believes on reasonable grounds that the thing cannot be examined or processed within 3 business days.
- (4) The inspector must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.
- (5) If a thing is moved to another place under this section, the inspector must, if practicable—
 - (a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and
 - (b) allow the occupier or the occupier's representative to be present during the examination or processing.
- (6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

70R Access to things seized

A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—

- (a) inspect it; and
- (b) if it is a document—take extracts from it or make copies of it.

70S Return of things seized

- (1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid by the Territory to the owner for the loss of the thing, if—
- (a) an infringement notice for an offence relating to the thing is not served on the owner within 90 days after the day of the seizure and a prosecution for an offence relating to the thing—
 - (i) is not started within the 90-day period; or
 - (ii) is started within the 90-day period but the court does not find the offence proved; or
 - (b) an infringement notice for an offence relating to the thing is served on the owner within 90 days after the day of the seizure, the infringement notice is withdrawn and a prosecution for an offence relating to the thing—
 - (i) is not started within the 90-day period; or
 - (ii) is started within the 90-day period but the court does not find the offence proved; or
 - (c) an infringement notice for an offence relating to the thing is served on the owner and not withdrawn within 90 days after the day of the seizure, liability for the offence is disputed under the *Magistrates Court Act 1930*, section 132 (Disputing liability for infringement notice offence) and an information—
 - (i) is not laid in the Magistrates Court against the person for the offence within 60 days after the day notice is given under section 132 of that Act that liability is disputed; or
 - (ii) is laid in the Magistrates Court against the person for the offence within the 60-day period, but the Magistrates Court does not find the offence proved; or

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- (d) before the thing is forfeited to the Territory under section 70T, the chief executive—
 - (i) becomes satisfied that there has been no offence against this Act with which the thing was connected; or
 - (ii) decides not to prosecute or have an infringement notice served for the offence.
- (2) However, this section does not apply to a thing if—
 - (a) the chief executive believes on reasonable grounds that the only practical use of the thing in relation to the premises where it was seized would be an offence against this Act; or
 - (b) possession of the thing by its owner would be an offence.

70T Forfeiture of seized things

- (1) This section applies if—
 - (a) anything seized under this part has not been returned under section 70S; and
 - (b) an application for disallowance of the seizure under section 70U—
 - (i) has not been made within 10 days after the day of the seizure; or
 - (ii) has been made within that period, but the application has been refused or has been withdrawn before a decision in relation to the application had been made.
- (2) If this section applies to the seized thing—
 - (a) it is forfeited to the Territory; and
 - (b) it may be sold, destroyed or otherwise disposed of as the chief executive directs.

70U Application for order disallowing seizure

- (1) A person claiming to be entitled to anything seized under this part may apply to the Magistrates Court within 10 days after the day of the seizure for an order disallowing the seizure.
- (2) The application may be heard only if the applicant has served a copy of the application on the chief executive.
- (3) The chief executive is entitled to appear as respondent at the hearing of the application.

70V Order for return of seized thing

- (1) This section applies if a person claiming to be entitled to anything seized under this part applies to the Magistrates Court under section 70U for an order disallowing the seizure.
- (2) The Magistrates Court must make an order disallowing the seizure if the court is satisfied that—
 - (a) the applicant would, apart from the seizure, be entitled to the return of the seized thing; and
 - (b) the thing is not connected with an offence against this Act; and
 - (c) possession of the thing by the person would not be an offence.
- (3) The Magistrates Court may also make an order disallowing the seizure if satisfied there are exceptional circumstances justifying the making of the order.
- (4) If the Magistrates Court makes an order disallowing the seizure, the court may make 1 or more of the following ancillary orders:
 - (a) an order directing the chief executive to return the thing to the applicant or to someone else who appears to be entitled to it;

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- (b) if the thing cannot be returned or has depreciated in value because of the seizure—an order directing the Territory to pay reasonable compensation;
- (c) an order about the payment of costs in relation to the application.

Division 10A.5 Miscellaneous

70W Damage etc to be minimised

- (1) In the exercise, or purported exercise, of a function under this part, an inspector must take all reasonable steps to ensure that the inspector, and any person assisting the inspector, causes as little inconvenience, detriment and damage as practicable.
- (2) If an inspector, or a person assisting an inspector, damages anything in the exercise or purported exercise of a function under this part, the inspector must give written notice of the particulars of the damage to the person the inspector believes on reasonable grounds is the owner of the thing.
- (3) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it, secured conspicuously, at the premises.

70X Compensation for exercise of enforcement powers

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an inspector or a person assisting an inspector.
- (2) Compensation may be claimed and ordered in a proceeding for—
 - (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.

- (3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

55 Sections 76, 77, 78 and 80

omit

56 Dictionary, new definitions

insert

ACTPLA certificate, for premises to which an application for the grant or renewal of a licence relates, means a certificate by the planning and land authority stating—

- (a) whether the authority considers the carrying on of business at the premises under the licence would not comply with a provision of—
- (i) the lease of the land where premises are located; or
 - (ii) the Territory plan; and
- (b) if paragraph (a) applies—the relevant provision of the lease or Territory plan.

connected with an offence, for part 10A (Enforcement)—see section 70.

occupier, of premises, for part 10A (Enforcement)—see section 70.

offence, for part 10A (Enforcement)—see section 70.

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police certificate, for a person, means a written statement by the Australian Federal Police indicating—

- (a) whether, according to the records held by the Australian Federal Police, the person has been charged with, or convicted of, an offence against a law of—
 - (i) the Territory; or
 - (ii) the Commonwealth; or
 - (iii) a State; or
 - (iv) another country; and
- (b) if so—particulars of each offence.

Note A conviction does not include a spent conviction (see *Spent Convictions Act 2000*, s 16 (c) (i)).

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