

AUSTRALIAN CAPITAL TERRITORY

SALE OF MOTOR VEHICLES (AMENDMENT) ORDINANCE 1983

ORDINANCE NO. 16 OF 1983

EXPLANATORY STATEMENT

The Sale of Motor Vehicles Ordinance 1977 (the existing Ordinance) provides for the licensing of dealers in new and second-hand motor vehicles. Sections 27-30 laid down procedures for the settlement of disputes between purchasers and licensed dealers. Under section 27 the Registrar of Motor Vehicle Dealers was empowered, on the request of either party, to make any order, other than an order rescinding the sale of a motor vehicle, that he considered just. Failure to comply with the Registrar's order was punishable by a fine not exceeding \$1000. Section 28 allowed the Registrar to transfer a dispute to the Court of Petty Sessions and section 29 provided for appeals to the Court of Petty Sessions against an order made by the Registrar under section 27. Section 30 allowed for appeals to the Supreme Court against an order made by the Court of Petty Sessions. Sub-section 55(2) of the Ordinance provided that the fees and travelling expenses of witnesses at an inquiry before the Registrar were to be met by the person requesting the attendance of the witness unless the attendance of the witness was requested by the Registrar.

In 1977 the Senate Standing Committee on Regulations and Ordinances criticized sections 27-30 because these provisions gave the Registrar quasi-judicial functions and contemplated the enforcement of civil orders by means of criminal penalties. The Committee also considered that the requirement in sub-section 55(2) that a party might be obliged to pay the costs of a large number of witnesses was potentially oppressive.

As a result of these criticisms sections 27-30 were not brought into effect and the then Minister for the Capital Territory, the Hon. A.A. Staley gave the Committee an undertaking that the provisions would be reviewed. The Sale of Motor Vehicles (Amendment) Ordinance 1983 gives effect to that review. Details of the Ordinance are set out below:

Sections 1 and 2 are interpretation provisions.

Section 3 repeals sections 27 to 30 of the existing Ordinance and adds a new section 27 empowering the Registrar, in the event of a dispute over the sale of a motor vehicle between the purchaser and a licensed dealer, to examine the problem on the request of either party and to give an advisory opinion. Where a party refuses to have the Registrar prepare an opinion or the Registrar's opinion is not acceptable to either of the parties, the aggrieved party will be able to take the matter to an

appropriate Court. The Registrar will not be able to give an opinion, however, where proceedings in relation to the dispute are pending in any court or where the dispute has previously been determined by a Court.

Section 4 amends section 55 of the existing Ordinance to enable the Registrar to order that the fees and travelling expenses of a witness appearing at an inquiry before the Registrar at the request of a person other than the Registrar be paid by the Commonwealth if the Registrar considers that the request was reasonable.

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