



ANALYSIS

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1994, No. 46

An Act to amend the Motor Vehicle Dealers Act 1975

[1 July 1994]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Motor Vehicle Dealers Amendment Act 1994, and shall be read together with and deemed part of the Motor Vehicle Dealers Act 1975 (hereinafter referred to as the principal Act).

(2) Except as provided in section 4 (4) of this Act, this Act shall come into force on the day on which it receives the Royal assent.

2. Interpretation—Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “wholesaler”, and substituting the following definition:

“Wholesaler” means—

“(a) A person who engages in the business of selling new motor vehicles to licensed motor vehicle dealers, or to other persons who engage in that business; or

“(b) A person who engages in the business of selling secondhand motor vehicles to licensed motor vehicle dealers:”.

3. Motor vehicle dealers to be licensed—Section 7 (6) of the principal Act is hereby amended by omitting the expression “\$2,000”, and substituting the expression “\$10,000”.

4. Evidence of suitability required—(1) Section 14 (4) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Has had, in the period of 3 years immediately preceding the date of the application, not less than 2 years’ business experience.”

(2) Section 14 of the principal Act is hereby amended by repealing subsection (5) (as substituted by section 6 of the Motor Vehicle Dealers Amendment Act 1979).

(3) Section 6 of the Motor Vehicle Dealers Amendment Act 1979 is hereby consequentially repealed.

(4) This section shall come into force on a date to be appointed by the Governor-General by Order in Council.

5. Motor vehicle dealers to contribute to Fund—Section 35 (1) (a) of the principal Act is hereby amended by omitting the expression “\$100”, and substituting the expression “\$500”.

6. Particulars to be displayed in respect of secondhand motor vehicles—Section 90 (3) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) In any case where there are reasonable grounds to believe that the odometer reading of the motor vehicle may not be correct, the words ‘Warning. Odometer reading may be incorrect.’”.

7. Odometer readings—Section 91 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1) of this section, a notice that complies with section 90 (3) (ca) of this Act is not evidence that a reading shown on an odometer is inaccurate.”

8. Jurisdiction of Disputes Tribunal—Section 98 (1) (a) of the principal Act is hereby amended by omitting the expression “\$3,000”, and substituting the expression “\$12,000”.

9. Costs—(1) The principal Act is hereby amended by inserting, after section 99, the following section:

“99A. (1) Except as provided in this section, costs shall not be awarded against a party to any proceedings before a Disputes Tribunal.

“(2) A Disputes Tribunal may order any party to the dispute to pay to the Crown towards the costs of and incidental to the hearing by the Tribunal the amount prescribed by regulations made under this Act or such part of that amount as the Tribunal thinks just.

“(3) Where, in the opinion of a Disputes Tribunal, a party to the dispute has acted vexatiously or frivolously, it may order that party to pay to any other party the costs of that other party in connection with the proceedings.

“(4) A Disputes Tribunal may order a licensee to refund to a purchaser the amount of any fee paid by the purchaser under section 96 (4) of this Act.”

(2) Section 99 (9) of the principal Act is hereby consequentially repealed.

10. Determination of disputes alleging motor vehicle substantially different from that represented—(1) The principal Act is hereby amended by repealing section 101 (as amended by section 18 of the Motor Vehicle Dealers Amendment Act 1979) and section 101A (as inserted by section 19 of the Motor Vehicle Dealers Amendment Act 1979), and substituting the following section:

“101. (1) Where any dispute referred to a Disputes Tribunal under section 96 of this Act involves an allegation that a secondhand motor vehicle (not being a commercial vehicle) as sold by the licensee to the purchaser—

“(a) Is substantially different from the vehicle as represented in the notice attached to it in purported compliance with section 90 of this Act; or

“(b) Did not have a notice attached to it as required by section 90 of this Act and is substantially different from the vehicle as represented to the purchaser by the licensee,—

the Tribunal may, if it is satisfied that the vehicle is substantially different as aforesaid,—

“(c) Order that the contract of sale be rescinded in accordance with this section; or

“(d) Where, having regard to all the circumstances of the case, it considers that such an order for rescission would be unwarranted or unjust, order the licensee to pay to the purchaser, or to any other person claiming through the purchaser, such sum (not

exceeding \$12,000) as the Tribunal thinks just by way of compensation in respect of the difference in value between the vehicle as represented and the vehicle as sold by the licensee,—

and, in either such case, the Tribunal may make such further or consequential order as it thinks fit.

“(1A) Notwithstanding anything in section 98 of this Act, a Disputes Tribunal may make an order under subsection (1) (c) of this section in any case where it is satisfied that the value of the motor vehicle in dispute does not exceed \$30,000.

“(2) An order may be made under subsection (1) (c) of this section notwithstanding that the parties cannot be restored to the position that they were in immediately before the contract was made, and in any such case the rights and obligations of each party shall be as specified in the order.

“(3) In any case in which a Disputes Tribunal makes an order under subsection (1) (c) of this section, other than a case to which subsection (2) of this section applies, it shall, in the order,—

“(a) Require the purchaser to return the vehicle to the licensee; and

“(b) Require any consideration passed by the purchaser to be returned to him or her.

“(4) Where, in any case in which a Disputes Tribunal has made an order under subsection (1) (c) of this section in respect of any contract of sale, there is associated with that contract a collateral credit agreement, the purchaser's rights and obligations under that agreement shall, on the making of the order, be vested in the licensee and may thereafter be enforced by and against the licensee as if he or she were the purchaser.

“(4A) For the avoidance of doubt, it is hereby declared that the Tribunal may make an order under subsection (1) of this section in any case where it is proved that the distance travelled by a secondhand motor vehicle substantially exceeded the odometer reading as represented to the purchaser by the licensee, notwithstanding that a notice was attached to the vehicle pursuant to section 90 (1) of this Act that stated the reading on the odometer at the time the vehicle was displayed for sale, unless the notice or a separate notice contained the statement referred to in section 90 (3) (ca) of this Act.

“(5) In this section, the term ‘collateral credit agreement’, in relation to a contract for the sale of a motor vehicle, means a contract or agreement arranged or procured by the licensee or by the purchaser for the provision of credit by a person other than the licensee to enable the purchaser to pay the price

reserved by the contract for sale in respect of the motor vehicle.”

(2) Sections 18 and 19 of the Motor Vehicle Dealers Amendment Act 1979 are hereby consequentially repealed.

11. Regulations—Section 148 (1) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) Prescribing amounts that a Disputes Tribunal may order any party to a dispute to pay to the Crown in respect of the costs of and incidental to the hearing of the dispute by the Tribunal:”.

12. Transitional provisions—(1) Where, before the commencement of this Act, a Disputes Tribunal has commenced but not completed hearing and determining any matter pursuant to the principal Act, the Tribunal shall complete the hearing and determination as if this Act had not been passed.

(2) Where, before the commencement of this Act, any matter has been referred to a Disputes Tribunal pursuant to the principal Act but the Tribunal has not commenced to hear and determine the matter, the Tribunal shall hear and determine the matter in accordance with the principal Act as amended by this Act.

This Act is administered in the Department of Justice.
