

Supplementary Order Paper

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HOUSE OF REPRESENTATIVES

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Wednesday, the 10th Day of September 1958

MOTOR-VEHICLE DEALERS BILL

*Proposed Amendments*

Hon. Mr MASON, in Committee, to move the following amendments:

Clause 2: To insert in subclause (1), after the definition of the term "motor-vehicle dealer's licence" or "licence", the following definition:

"Officer", in relation to a company, means a director, manager, or secretary of the company; and includes any person, however designated, who is responsible for the management of the company or, in the case of any company that carries on any other business in addition to the business of a motor-vehicle dealer, the person who is responsible for the management of the motor-vehicle dealer's business of the company:

To insert, after the definition of the term "power cycle", the following definition:

"Responsible employee", in relation to any licensee or to any applicant for a licence, means any employee who (not being an officer of a company which is the licensee or the applicant for a licence) is responsible or is intended to be responsible (wholly or in part) for the management of any branch or place where the licensee or applicant carries on or intends to carry on business as a motor-vehicle dealer or for the management of any section of that business, whether in relation to any specified area or otherwise:

Clause 5: to insert in subclause (1), after the words "the Queen" in line 31, the words "with a surety or sureties approved by the Registrar".

Clause 7: To insert in subclause (3), after the words "the applicant" in line 9, the words "or the character or fitness of any responsible employee of the applicant".

To insert in subclause (3), after the words "the partners" in line 11, the words "or the character or fitness of any responsible employee of the firm".

To omit from subclause (3) the words "the directors, manager, or any other responsible officer" in lines 13 and 14, and substitute the words "any officer or responsible employee".

Clause 8: To add the following subclause as subclause (2) thereof:

(2) Every application or objection under this Act may be heard by the Magistrate, either as to the whole application or objection or part thereof, in open Court or in Chambers, as the Magistrate decides.

Clause 9: To insert in subclause (1), after the words "the applicant" in line 28, the words "and the character and fitness of the responsible employees of the applicant".

To add to subclause (2) the words "and such of the responsible employees of the firm as the Magistrate thinks fit".

To omit from subclause (3) the words "directors and manager and such other responsible officers" in lines 40 and 41, and substitute the words "officers of the company and such of the responsible employees".

To add to subclause (3) the following proviso:

Provided that, where the Magistrate is satisfied that it is not necessary to require evidence as to the financial position of the company, he may if he thinks fit, dispense with the production of that evidence.

Clause 10: To omit from subclause (4) the words "a director or the manager or other principal officer of any company holding a motor-vehicle dealer's licence or the manager of any branch where the company carries on business as a motor-vehicle dealer who" in lines 33 to 37, and substitute the words "an officer of any company holding a motor-vehicle dealer's licence or a responsible employee of any person, firm, or company holding such a licence, if he".

Clause 14: To insert in subclause (3), after the words "the applicant" in line 3, the words "or the character or fitness of any responsible employee of the applicant".

To insert in subclause (3), after the words "the partners" in line 6, the words "or the character or fitness of any responsible employee of the firm".

To omit from subclause (3) the words "the directors or of the manager or any other responsible officer" in lines 8 and 9, and substitute the words "any officer or responsible employee".

Clause 18: To omit subclauses (1) and (2), and substitute the following subclauses:

(1) No licensee shall after the issue of his licence employ any person as a responsible employee in respect of his business as a motor-vehicle dealer for a period of more than fourteen days without the prior consent of the Registrar of the Magistrate's Court in which the licence was granted or, in any case to which the proviso to subsection two B of this section applies, without the consent of a Magistrate.

(2) No licensee shall after the issue of his licence enter into any partnership with any person in respect of his business as a motor-vehicle dealer without the prior consent of the Registrar of the Magistrate's Court in which the licence was granted or, in any case to which the proviso to subsection two B of this section applies, without the consent of a Magistrate.

(2A) Where a company registered under the Companies Act 1955 as a private company is a licensee under this Act, no person who is not at the date of the issue of the licence or, as the case may be, at the date of the last renewal of the licence an officer of the company shall act as an officer of the company for a period of more than fourteen days without the consent of the Registrar of the Magistrate's Court in which the licence was granted or, in any case to which the proviso to subsection two B of this section applies, without the consent of a Magistrate.

(2B) Where any application is made to the Registrar for his consent under subsection one or subsection two or subsection two A of this section, and the Registrar is satisfied as to the character and fitness of the proposed employee or officer or, as the case may be, the character, fitness, and financial position of the proposed partner, he shall grant the application:

Provided that, if he is not so satisfied, he shall refer the application to a Magistrate, who shall refuse to grant the application unless he is satisfied as to the character and fitness of the proposed employee or officer or, as the case may be, the character, fitness, and financial position of the proposed partner.

(2c) Notwithstanding anything in subsection one or subsection two A of this section, where within the period of fourteen days mentioned in those subsections an application has been made to the Registrar for his consent to the employment of any person as a responsible employee of the licensee or, as the case may be, to any person acting as an officer of the licensee, and the application has not been disposed of before the expiration of that period, that person may, subject to the provisions of sections ten and eleven of this Act, be so employed or act in that capacity pending the decision of the Registrar or the Magistrate on the application.

Clause 25: To insert in subclause (1), after paragraph (d), the following paragraph:

(dd) If, after the issue of the licence, the licensee, without the prior consent of the Registrar or a Magistrate, employs any person as a responsible employee in respect of his business as a motor-vehicle dealer for a period of more than fourteen days:

Provided that, where within the said period of fourteen days an application has been made to the Registrar for his consent to the employment of any person as a responsible employee and the application has not been disposed of before the expiration of that period, the provisions of this paragraph shall not apply pending the decision of the Registrar or a Magistrate on the application; or

To insert in paragraph (e) of subsection (1), after the words "consent of" in line 15, the words "the Registrar or".

To omit paragraph (f) of subsection (1), and substitute the following paragraph:

(f) If, after the issue or renewal of a licence to a company registered under the Companies Act 1955 as a private company, any person who was not at the date of the issue or renewal an officer of the company acts, without the prior consent of the Registrar or a Magistrate, as an officer of the company for a period of more than fourteen days:

Provided that, where within the said period of fourteen days an application has been made to the Registrar for his consent to any person acting as an officer of the company and the application has not been disposed of before the expiration of that period, the provisions of this paragraph shall not apply pending the decision of the Registrar or a Magistrate on the application; or

To omit from paragraph (h) of subsection (1) the words "director or the manager or other principal" in line 15.

## EXPLANATORY NOTE

*Clause 2:* The amendments to this clause define the terms "officer", in relation to a company, and "responsible employee". These terms are used in the amendments to subsequent clauses of the Bill referred to in this note. Wherever the Bill refers to the directors, manager, or other principal officer or responsible officer of a company, that reference is replaced by a reference to the officers of the company as defined in this clause.

*Clause 5:* This amendment is intended to make it clear that there must be a surety or sureties approved by the Registrar of the Magistrate's Court to every bond given by a licensee.

*Clause 7:* The effect of the amendments to this clause is that objections made to the grant of a licence may relate to the character or fitness of any responsible employee of the applicant as defined in *clause 2*.

*Clause 8:* This amendment provides that an application for a licence or an objection to the grant of a licence or any other application under the Bill may be heard by the Magistrate either in open Court or in chambers, as he thinks fit.

*Clause 9:* The effect of these amendments is to require the Magistrate hearing an application for a licence to be satisfied as to the character and fitness of the responsible employees of the applicant as defined in *clause 2*.

A further amendment provides that the Magistrate may, if he thinks fit, dispense with the production of evidence as to the financial position of a company that is an applicant for a licence.

*Clause 10:* This amendment prohibits any person from being employed as a responsible employee of a licensee as defined in *clause 2*, if he would be disqualified from obtaining a licence.

*Clause 14:* The effect of this amendment is to enable an objection to be made to the renewal of a licence on grounds relating to the character or fitness of any responsible employee of the licensee as defined in *clause 2*.

*Clause 18:* This amendment substitutes subclauses (1) and (2) of this clause with provisions which include the existing provisions of the clause relating to partners and officers of companies, and also includes new provisions requiring the consent of the Registrar or a Magistrate to be obtained before a person may be employed as a responsible employee as defined in *clause 2*. Applications for consent to the employment of a responsible employee or the entering into partnership with any person or the appointment of an officer of a company will require to be made to the Registrar of the Magistrate's Court in which the licence was granted, who must grant his consent if he is satisfied as to the character and fitness of the proposed employee or officer or, as the case may be, the character, fitness, and financial position of the proposed partner. If he is not so satisfied, the application must be referred to a Magistrate for decision.

*Clause 25:* The amendments to this clause are consequential on the amendments proposed to be made to *clause 18* of the Bill, requiring the consent of the Registrar or a Magistrate to be obtained before a person may be employed as a responsible employee of a licensee, and providing for applications to be heard by the Registrar in the first instance.

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