



Motor Vehicle Sales Regulations 2003

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 17th day of November 2003

Present:

Her Excellency the Governor-General in Council

Pursuant to section 144 of the Motor Vehicle Sales Act 2003, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Motor Vehicle Sales Regulations 2003.

2 Commencement

These regulations come into force on the commencement of the Motor Vehicle Sales Act 2003.

3 Interpretation

In these regulations, **Act** means the Motor Vehicle Sales Act 2003.

Records of contracts for sale of motor vehicles

4 Motor vehicle trader must keep record of contracts for sale

The information that is required, under section 21(2)(a) of the Act, to be included in a record of each contract for the sale of a motor vehicle is as follows:

- (a) the names of all parties to the contract; and
- (b) the consideration for the sale; and
- (c) a description of the motor vehicle, including—
 - (i) the make and model of the motor vehicle as recorded on the motor vehicle register established under the Transport (Vehicle and Driver Registration and Licensing) Act 1986 (the **motor vehicle register**); and
 - (ii) the calendar year in which the motor vehicle was manufactured or the model year of the motor vehicle (as designated by the manufacturer) as recorded on the motor vehicle register; and
 - (iii) the vehicle identification number of the motor vehicle as recorded on the motor vehicle register, if so recorded; and

- (iv) the chassis number of the motor vehicle as recorded on the motor vehicle register, if so recorded and if the vehicle identification number is not recorded on the motor vehicle register.

Registration of motor vehicle traders

5 Information required in application for registration by individual

An application for registration as a motor vehicle trader made by an individual must contain, in addition to the information required under section 32 of the Act, the information specified in Part 1 of Schedule 1 to the extent that the information is applicable to the individual.

6 Information required in application for registration by company

An application for registration as a motor vehicle trader made by a company must contain, in addition to the information required under section 32 of the Act, the information specified in Part 2 of Schedule 1 to the extent that the information is applicable to the company.

7 Licensed motor vehicle dealers to provide further information

- (1) This regulation applies to a person who, immediately before the date of commencement of the Act, held a motor vehicle dealer's licence that was in force under the former Act.
- (2) A person to whom this regulation applies must provide to the Registrar, in addition to the information and other matters required under section 152(3) of the Act, the information specified in Part 3 of Schedule 1.

8 Evidence of change in circumstances of individual

- (1) This regulation applies to an individual who gives written notice to the Registrar under section 40 of the Act of a change in circumstances in relation to a matter set out in Part 1 of Schedule 2.
- (2) An individual to whom this regulation applies must produce evidence of that change in circumstances to the Registrar.
- (3) The evidence produced must be acceptable to the Registrar.

9 Evidence of change in circumstances of company

- (1) This regulation applies to a company that gives written notice to the Registrar under section 40 of the Act of a change in circumstances in relation to a matter set out in Part 2 or Part 3 of Schedule 2.
- (2) A company that this regulation applies to must produce evidence of that change in circumstances to the Registrar.
- (3) The evidence produced must be acceptable to the Registrar.

*Searches of register of motor vehicle traders and list of banned persons***10 Search results**

- (1) A search result in relation to a search of the register must include all data contained in the register that match the search criteria provided by the searcher in accordance with section 57 of the Act.
- (2) A search result in relation to a search of the list of banned persons must include all data contained in the list of banned persons that match the search criteria provided by the searcher in accordance with section 79 of the Act.
- (3) A manual search of the register may be requested from the Registrar after payment of the fee prescribed under regulation 13(1)(d).
- (4) Search results must be delivered to the person who requested the search within 5 working days of the Registrar's receipt of the request for a manual search of the register.

*Access to register of motor vehicle traders and banned persons list***11 Access to register of motor vehicle traders**

Without limiting section 52 of the Act, the Registrar may refuse access to the register or otherwise suspend the operation of the register, in whole or in part, if the Registrar considers that—

- (a) there is a fault affecting the register; or
- (b) the integrity of the register is, has been, or may be compromised.

12 Access to list of banned persons

Without limiting section 73 of the Act, the Registrar may refuse access to the list of banned persons or otherwise suspend the operation of the list, in whole or in part, if the Registrar considers that the integrity of the list is, has been, or may be compromised.

Fees and forms

13 Fees

- (1) The fees set out below are payable for the following matters:
 - (a) for registering as a motor vehicle trader under section 31 of the Act, \$456:
 - (b) for renewing a registration as a motor vehicle trader under section 39 of the Act, \$456:
 - (c) for a certified copy of information contained in the register, \$25 per document:
 - (d) for a manual search of the register, \$10:
 - (e) for applying to commence proceedings before a Motor Vehicle Disputes Tribunal under clause 4 of Schedule 1 of the Act, \$50.
- (2) The fees prescribed in subclause (1) are inclusive of goods and services tax.

14 Arrangements for payment of certain prescribed fees

- (1) A fee payable under regulation 13(1)(a) to (d) must be paid—
 - (a) to the Registrar; and
 - (b) in a form that is acceptable to the Registrar.
- (2) Subject to subclauses (3) and (4) and the Act, the Registrar may enter into an arrangement with any person for the payment of a fee payable under regulation 13(1)(a) to (d) (for example, the method of that person's payment).
- (3) The prescribed fee in regulation 13(1)(c) must be paid before the copy of the information is certified.
- (4) The prescribed fee in regulation 13(1)(d) must be paid before the search is submitted.

15 Arrangements for payment of prescribed fee for commencing proceedings

- A fee payable under regulation 13(1)(e) must be paid—
- (a) to the chief executive of the Ministry of Justice; and

- (b) in a form that is acceptable to the chief executive of the Ministry of Justice.

16 Forms

The forms set out in Schedule 3 are the forms that must be used for the matters under the Act to which the forms relate.

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Schedule 1

Content of application for registration as motor vehicle trader

Part 1

Application for registration as motor vehicle trader by individual

An application for registration as a motor vehicle trader made by an individual must contain the following information:

- any alias used by the applicant; and
- the applicant's—
 - postal address; and
 - phone number; and
 - mobile phone number; and
 - driver licence number and country of issue; and
 - passport number and country of issue.

Part 2

Application for registration as motor vehicle trader by company

An application for registration as a motor vehicle trader made by a company must contain the following information for each person concerned in the management of the company:

- any alias used by the person; and
- whether or not the person is a director of the company; and
- the person's—
 - postal address; and
 - phone number; and
 - mobile phone number; and

Part 2—*continued*

- fax number; and
- email address; and
- driver licence number and country of issue; and
- passport number and country of issue.

Part 3

Further information to be provided by licensed motor vehicle dealers

The information provided by a licensed motor vehicle dealer must contain the following information:

- the dealer's current motor vehicle dealer's licence number; and
 - the dealer's current registered licensed motor vehicle dealer name.
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Schedule 2

Change in circumstances for which evidence is required

Part 1

Change in circumstances of individual for which evidence is required

An individual must produce evidence if there is a change in his or her—

- name; or
- date of birth; or
- driver licence number and country of issue; or
- passport number and country of issue.

Part 2

Change in circumstances of company for which evidence is required

A company must produce evidence if there is a change in the—

- company's name; or
- date of its incorporation; or
- address of its registered office; or
- unique number assigned to the company on its incorporation.

Part 3

Change in circumstances of person concerned in the management of company for which evidence is required

A company must produce evidence if there is a change in any of the following matters in relation to a person concerned in the management of that company:

- the person's name; or
 - the person's date of birth; or
 - the person's driver licence number and country of issue; or
 - the person's passport number and country of issue.
-

Schedule 3
Forms

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Form 1

Application for exemption under section 27 of Motor Vehicle Sales Act 2003 from requirement to register as motor vehicle trader

To Minister of Consumer Affairs

I, *[full name and address of applicant]*, apply under section 28 of the Motor Vehicle Sales Act 2003 to be exempt from registration as a motor vehicle trader under the Act. The grounds on which this application are made are—

[applicant must state the grounds for the exemption].

*Information supporting this application is/is not attached.

*Delete whichever is inapplicable.

.....
Signature of applicant

.....
Date

Form 2

Infringement notice under section 113 of Motor Vehicle Sales Act 2003

Infringement Notice — Issued under section 113 of the Motor Vehicle Sales Act 2003.

Notice number _____

Enforcement Authority: Ministry of Economic Development

| | | |
|----------------|------------|---------|
| Issued to: | First name | Surname |
| | | |
| Address: | | |
| | | |
| | | |
| Date of birth: | | |

Alleged infringement offence(s) details

You are alleged to have committed an infringement offence(s) against section(s) _____ of the Motor Vehicle Sales Act 2003 as follows:

| Section | Description of offence | Infringement fee payable |
|-----------|---|--------------------------|
| 102 | Failing to take reasonable steps to ensure that a consumer complies with section 14(2) | \$ |
| 105(1)(a) | Entering any false information into a record of contracts for sale | \$ |
| 105(1)(b) | Falsifying any matter recorded in a record of contracts for sale | \$ |
| 105(1)(c) | Failing to comply with the requirements of section 21 (Motor Vehicle Trader must keep record of contracts for sale) | \$ |
| 106 | Failing to produce a certificate of registration, or a copy of the certificate, when requested to do so | \$ |
| 108 | Failing to notify the Registrar of any change in circumstances in accordance with section 40 | \$ |
| 109(1)(a) | Resisting or obstructing an inspection by the Registrar, or any person authorised by the Registrar, or deceiving or attempting to deceive that person | \$ |
| 109(1)(b) | Failing to comply with any requirement made by the Registrar, or any person authorised by the Registrar, during an inspection | \$ |
| 109(1)(c) | Giving false or misleading information to the Registrar, or any person authorised by the Registrar, during an inspection | \$ |
| 110 | Resisting, obstructing, or delaying any person executing, or assisting in the execution of, a search warrant | \$ |

| | | |
|-----------|-------|-------------------------------|
| Date: | Time: | Day of week: M T W T F S S |
| Location: | | |

Payment of infringement fees(s)

The infringement fee(s) is/are payable to the "Ministry of Economic Development" within 28 days after service of this notice.

Payment by cheque or money order should be crossed "Account payee only".

The infringement fee(s) must be paid to the Ministry of Economic Development and posted to the National Enforcement Unit at Private Bag 92513, Auckland.

IMPORTANT – please read the summary of rights printed overleaf

Form 2—*continued***Summary of rights****Notes**

If, after reading these notes, you do not understand anything in the notes, you should consult a lawyer immediately.

- (1) This notice sets out an alleged infringement offence.

If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement to pay by installments with an informant in respect of an infringement fee payable by you, paragraphs 4(b), 4(c), 5, 6, and 7 in these notes do not apply and you are not entitled either to request a hearing to deny liability or to ask the Court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Payments

- (2) If you pay the infringement fee within 28 days of the issue of this notice, no further action will be taken. Payments may be made at the place indicated on the front page of this notice.

Defences

- (3) You have a complete defence against proceedings if the infringement fee has been paid to the Ministry of Economic Development at the place for payment shown on the front page of this notice before, or within 28 days, after you have been served with a reminder notice.

Late payment or payment at any other place will not be a defence.

Further action

- (4) If you wish to—
- (a) raise any matter relating to the alleged offence for consideration by the Ministry of Economic Development; or
 - (b) deny liability for the offence and request a court hearing (refer to paragraph 5); or
 - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraph 7),—
- you should write to the Ministry of Economic Development at the address shown on the front page of this notice. Any such letter must be personally signed.

- (5) You have a right to request a hearing. If you deny liability for the offence and request a hearing, the Ministry of Economic Development will serve you with a notice of hearing that sets out the place and time of court proceedings.

If the court finds you guilty of the offence, costs may be imposed against you in addition to any penalty.

- (6) A request for a hearing must—
- (a) be in writing and signed by you; and
 - (b) be delivered to the Ministry of Economic Development at the address shown on the front page of this notice; and
 - (c) be delivered before, or within 28 days after, you have been served with a reminder notice.
- (7) If you admit liability for the offence but want the Court to consider your submissions as to penalty or otherwise, you must, in your letter,—
- (a) ask for a hearing; and
 - (b) admit the offence; and
 - (c) set out the written submissions you wish to be considered by the Court.

The Ministry of Economic Development will then file your letter with the Court (unless the Ministry of Economic Development decides not to commence Court proceedings). There is no provision for an oral hearing before the Court if you follow this course of action.

Costs may be imposed against you in addition to any penalty.

Form 2—*continued***Non-payment of fee**

- (8) If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless the Ministry of Economic Development decides otherwise).
- (9) If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice, you will become liable to pay costs in addition to the infringement fee (unless the Ministry of Economic Development decides not to commence proceedings against you).
- (10) When writing or making payment, please include —
- (a) the date of the infringement; and
 - (b) the infringement notice number; and
 - (c) your address for replies.

All queries and all correspondence regarding this infringement must be directed to the Ministry of Economic Development at the address shown on the front page of this notice.

Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Form 3

Search warrant issued under section 130 of Motor Vehicle Sales Act 2003

To [*Name of member of the police*] or any member of the police or the Registrar of Motor Vehicle Traders or [*name of person authorised by the Registrar of Motor Vehicle Traders under section 125 of the Motor Vehicle Sales Act 2003*]

I am satisfied, on an application made on oath, that, in relation to [*address of place or description of thing that may be searched*], there are reasonable grounds to believe that there is in, on, over, or under that place or thing some thing—

- *(a) in respect of which an offence against [*specify offence provision*] of the Motor Vehicle Sales Act 2003 has been or is being committed; or
- *(b) that has been, is being, or is intended to be used by a person for the commission of an offence against [*specify offence provision*] of the Motor Vehicle Sales Act 2003; or
- *(c) that is or may be evidence of the commission of an offence against [*specify offence provision*] of the Motor Vehicle Sales Act 2003 by a person.

*Delete whichever is inapplicable.

1 This warrant authorises you, on 1 occasion within 20 working days of the date of issue of this warrant, to—

- (a) enter and search the place or thing specified at a time that is reasonable in the circumstances; and
- (b) use any assistance that is reasonable in the circumstances to enter and search the place or thing; and
- (c) use any force that is reasonable in the circumstances to gain entry and to break open any article or thing in, on, over, or under the place or thing; and
- (d) search for and remove [*describe the kind of property that is authorised to be seized*] and any documents or any article or thing that you believe on reasonable grounds may be relevant to the commission of the offence; and
- (e) when necessary, take copies of documents, or extracts from documents, that you believe on reasonable grounds may be relevant to the commission of the offence; and
- (f) if necessary, require a person to reproduce, or assist you to reproduce in usable form, information recorded or stored in a document.

2 A person assisting you also has the powers referred to in paragraph 1(c) to (e).

Form 3—*continued*

- 3 This warrant is subject to the following reasonable conditions:
[*set out any reasonable conditions, or state "None specified"*].

Issued at [*place*], [*date*].

.....
(District Court Judge *or*
Community Magistrate *or*
Justice of the Peace *or*
Registrar of a District Court)

Form 4

Application for proceedings before a Motor Vehicle Disputes Tribunal under clause 4 of Schedule 1 of the Motor Vehicle Sales Act 2003

To **The Secretary**
Motor Vehicle Disputes Tribunal

| |
|--|
| Application No (MVDT Use only) |
|--|

Applicant

| | | |
|--|------------------------------|------------------------------|
| Title | Surname | First Names (In Full) |
| Residential Address | | |
| Flat/House No:..... | Street or Road:..... | |
| Suburb:..... | Town, City or Locality:..... | |
| Telephone Number: Home: ()..... | Business: ()..... | Mobile: ()..... |
| E-mail (if applicable)..... | | |
| Postal Address – if different from above residential address | | |

Trader (Respondent)

| | |
|--|-------------------------------|
| Motor Vehicle Trader Name | Trader Registration Number |
| Address for Service _____ | Other Contact Details |
| _____ | Phone (Business) (.....)..... |
| _____ | Fax (Business) (.....)..... |
| | Mobile (.....)..... |
| | Email..... |
| Location of sale (town/city where the transaction took place) | |

Description of Vehicle

| | | | | |
|----------------------------------|---------------------------|---------------------|------------------------|----------------|
| Registration Plate No | Make | Model | Price of Vehicle \$ | Date Purchased |
| Year of Manufacture/Registration | | WOF Details | | |
| | | No..... | Date of Issue..... | |
| | | Date of Expiry..... | | |
| | | Issuer..... | | |
| Vehicle Identification No | Distance Recorder Reading | | | |
| Engine No..... | When Purchased | | | |
| | <i>Km</i> | | | |
| Chassis Number..... | Now | | | |
| | <i>Miles</i> | | | |
| | <i>Km</i> | | | |
| | <i>Miles</i> | | | |

Particulars of Complaint

Set out as clearly as you can the complaint and the circumstances relevant to it. If there is not enough space, continue on a separate sheet and attach to this form.

Signature: _____ Date: _____

Please include copies of the following documents with your application and ✓ the box:

| | | | | | |
|-----------------------------|--------------------------|--|--------------------------|---|--------------------------|
| Supplier Information Notice | <input type="checkbox"/> | Contract of Sale | <input type="checkbox"/> | Any other supplementary documents | <input type="checkbox"/> |
| Reports | <input type="checkbox"/> | Invoices | <input type="checkbox"/> | Hire Purchase Agreement (if applicable) | <input type="checkbox"/> |
| \$50 Filing Fee | <input type="checkbox"/> | Certificate of Registration "Ownership Papers" | | | <input type="checkbox"/> |

Please attach a cheque or money order made out to "Ministry of Justice"

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the commencement of the Motor Vehicle Sales Act 2003,—

- specify what information must be recorded by a motor vehicle trader in relation to each contract for sale of a motor vehicle; and
 - supplement the requirements of that Act in relation to the information that must be provided by an individual or a company registering as a motor vehicle trader; and
 - specify that evidence must be produced to the Registrar of Motor Vehicle Traders if there is a change in circumstances in relation to certain information recorded on the register of motor vehicle traders; and
 - regulate searches of the register and the list of banned persons; and
 - permit the Registrar to refuse access to the register or the list of banned persons in certain circumstances; and
 - prescribe certain fees and provide for payment of those fees; and
 - prescribe 4 forms under the Act.
-

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 20 November 2003.

These regulations are administered in the Ministry of Economic Development.
