

**USED CAR DEALERS.**

13° Elizabeth II., No. LI.

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**No. 51 of 1964.**

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**AN ACT to make better provision for the Licensing and Control of Dealers in Used Motor Vehicles and for incidental and other purposes.**

*[Assented to 30th November, 1964.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

**Short title**      1. This Act may be cited as the *Used Car Dealers Act, 1964.*

**Commencement.**      2. This Act shall come into operation on a day to be fixed by proclamation.

3. (1) In this Act, unless the context requires otherwise— Interpre-  
tation.

“acquire”, in relation to a used motor vehicle, means buy, accept for sale, or receive by way of exchange or barter, and inflexions and derivatives of that verb have a corresponding meaning;

“Commissioner” means the person for the time being holding the office of Commissioner of Police, under the Police Act, 1892, and includes a Deputy Commissioner of Police;

“company” means a company incorporated pursuant to the Companies Act, 1961 and includes a foreign company within the meaning of that Act;

“dealer” means a person who carries on (whether or not as part of, or in connection with, any other business) the business of—

- (a) acquiring used motor vehicles for sale;
- (b) acquiring and breaking up used motor vehicles for sale, piecemeal; or
- (c) selling used motor vehicles, whether as integral units, or piecemeal;

and the verb “to deal” and inflexions and derivatives of the verb have a corresponding meaning; but a person is not a dealer by reason only of carrying on the business of acquiring used motor vehicles from dealers and disposing of them to hirers, in the course of financing their purchase, under hire purchase agreements made in accordance with the Hire Purchase Act, 1959, or by reason only of disposing of used motor vehicles, repossessed in the course of that business, to dealers;

“firm” means an unincorporated body of persons (whether consisting of natural persons or of companies or partly of natural persons and

partly of companies) associated for the purpose of carrying on business, and includes a partnership;

“foreign company” has the same meaning as that expression has in, and for the purposes of, the Companies Act, 1961;

“licence” means a licence to deal in used motor vehicles issued under this Act, and the verb, “to license”, and inflexions and derivatives of the verb have a corresponding meaning;

“licensing or registering authority” means the authority authorised or required to license or register motor vehicles under the provisions of any Act;

“person” includes a firm and a company;

“premises” means a place where a person is, or proposes to be, engaged in dealing and includes any building at that place;

“resident director”, in relation to a foreign company, means a director resident in the State;

“section” means a section of this Act;

“sell”, in relation to a used motor vehicle, includes exchange, barter and assign, or dispose of, for valuable consideration, and inflexions and derivatives of the verb and the word, “sale”, have a corresponding meaning;

“traffic inspector” means a traffic inspector appointed under the Traffic Act, 1919, or under any Act enacted in substitution for that Act;

“used motor vehicle” means a motor vehicle that has, at any time, been licensed or registered, whether under the law of this State or of any other State or any country.

See Act No. 30  
of 1918, s. 26.

(2) Without limiting the provisions of the Interpretation Act, 1918, in this Act, unless the context requires otherwise, every word in the masculine gender shall be construed as including a firm.

4. (1) Subject to the Minister, this Act shall be administered by the Commissioner. Adminis-  
tration.

(2) The Commissioner may delegate to a member of the Police Force such of his powers under this Act as, in his opinion, are necessary and convenient for its due administration.

5. (1) Every dealer is required to be the holder of a licence for each of the premises at which he deals. Dealers to  
be licensed.

(2) Where the dealer is a firm, the licence shall be issued in its name, to a member or to a director or agent of a corporate member, of the firm.

(3) Where the dealer is a company, the licence shall be issued in its name, to a director or agent of the company.

6. Except as provided by this Act, a licence shall not be transferred from one person to another or operate so as to authorise dealing at any premises other than the premises in respect of which it was issued. Licences not  
transferable.

7. (1) Every person who,—

(a) not being the holder of a valid licence, engages in dealing or represents himself, or suffers himself to be represented, as a dealer; or

(b) while being the holder of a valid licence, engages in dealing at premises other than the premises in respect of which the licence was issued,

commits an offence.

Penalty: For a first offence, one hundred pounds; for a subsequent offence two hundred pounds.

(2) A person, being a firm, is deemed to have committed an offence against this section if it is committed by a member, servant or agent of the

Offence of  
unauthorised  
dealing.

firm; and, in any other case, a person is deemed to have committed the offence if it is committed by a servant or agent of that person.

Applications  
for licences.

8. (1) Every application for a licence shall be made to the Commissioner in the prescribed form and shall be accompanied by an amount of five pounds, by way of prepayment of the first annual fee.

(2) An application for a licence made on behalf of a firm shall be made by a member, or a director or agent of a corporate member, of the firm.

(3) An application for a licence made on behalf of a company shall be made by a director, or, in the case of a foreign company, the agent, of the company.

Information  
to be  
furnished  
with  
application.

9. (1) Every application for a licence shall indicate the premises to which the licence is to apply and, in the case of—

(a) an applicant who is a natural person shall—

(i) set out the full name, address, description and age of the applicant; and

(ii) be accompanied by such testimonials as to his character and such evidence of his financial stability as may be required by the Commissioner;

(b) an applicant that is a firm shall—

(i) set out the full name, address, description and age of every natural person who is a member of the firm;

(ii) set out the corporate name and registered office of, and the full names, addresses and descriptions of the directors or, in the case of a

foreign company, of the resident directors and the agent, of every corporate member of the firm;

- (iii) if the firm is carrying on business under a business name, set out the business name, the principal place of business of the firm and the date of its registration under the Business Names Act, 1962; and
- (iv) be accompanied by such evidence of its financial stability as may be required by the Commissioner;

and

(c) an applicant that is a company shall—

- (i) set out the corporate name and the registered office of the company, together with the full names, addresses and descriptions of the directors of the company or, if a foreign company, the full names, addresses and descriptions of the resident directors and of the agent of the company; and
- (ii) be accompanied by such evidence of its financial stability as may be required by the Commissioner;

(2) Where the premises in respect of which a licence is sought is not owned by the applicant for the licence, the application shall be accompanied by the consent in writing of the owner to the issue of the licence.

(3) Nothing in this section limits the prescribing of further particulars to be given upon the making of an application for a licence.

(4) Every person who includes in an application made pursuant to this Act any information that he knows to be false commits an offence; and the court convicting a person of that offence shall, whether or not imposing any penalty, cancel any licence that may have been issued, renewed or transferred pursuant to that application.

**Validity and  
renewal of  
licences.**

10. (1) A licence is valid for a period of twelve months from the date of its issue and may, subject to the succeeding provisions of this Act, be renewed so as to take effect on its expiry for a like period.

(2) Every application for the renewal of a licence shall be made to the Commissioner in the prescribed form, and may be made at any time within two months prior to the date of its expiry, and shall be accompanied by the annual licence fee of five pounds.

(3) Every used car dealer's licence that was issued under the provisions of any other Act and is valid upon the coming into operation of this Act is deemed to be a licence issued under, and subject to, the provisions of this Act; and the Commissioner may call on the holder of such a licence to furnish, and the holder of the licence shall thereupon furnish, all or any of the particulars that are required to be furnished by applicants for a licence under this Act.

**Transfer of  
licences.**

11. (1) A person may, with the consent in writing of the holder, apply to the Commissioner for the transfer of a licence to the applicant.

(2) Every application made under this section shall set out the information required, and be accompanied by such testimonials or evidence, or both, as the Commissioner may require, to be furnished pursuant to section nine of this Act, together with such other matters or things as may be prescribed, and shall be accompanied by a fee of five pounds.

(3) Where a licence is transferred pursuant to an application under this section it shall, thereupon and notwithstanding that it may not have expired, be renewed and be valid for a period of twelve months from the date of the transfer.

12. (1) Where an application is made for the issue, renewal or transfer of a licence and the Commissioner, after causing due inquiry and examination to be made, is satisfied that—

Issue,  
renewals and  
transfers of  
licences.

(a) the applicant,—

(i) being a natural person, is of the full age of twenty-one years, and is, or continues to be, of good repute and a proper person to hold a licence;

(ii) being a firm, is constituted by persons all of whom, or, in the case of corporate persons, the directors or resident directors and the agent of whom, are, or continue to be, of good repute and proper persons to operate a licence; or

(iii) being a company, has, as its directors or resident directors and its agent, persons all of whom are, or continue to be, of good repute and proper persons to operate a licence;

(b) the applicant is, or continues to be, of such financial stability as to minimise the possibility of monetary loss being incurred by others, by reason of their entering into any transaction with the applicant; and

(c) the premises in respect of which the licence is required to be, or was, issued are, or continue to be, suitable for the purpose of dealing,

then, but not otherwise, he shall issue, renew or transfer the licence, as the case may require.

(2) Without limiting the grounds on which the issue, renewal or transfer of a licence may be refused, the fact that—

(a) the applicant; or



(b) in the case of an applicant firm, a member, or a director or agent of a corporate member, of the applicant firm; or

(c) in the case of an applicant company, a director or agent of the applicant company, has been convicted of an offence against section seven is a ground for refusing the issue or transfer of a licence; and the fact that the applicant or any person standing in such relationship to the applicant as is mentioned in paragraph (b) or (c) of this subsection has been convicted of an offence against section twenty-four or, on two or more occasions, of any other offence against this Act is a ground for refusing the renewal of a licence.

(3) Without limiting the grounds on which premises may be held to be unsuitable, the fact that premises are, or would on the issue of a licence be, used in contravention of a Town Planning Scheme or Zoning by-laws renders them unsuitable for the purpose of dealing.

**Amendment  
of licences  
for new  
premises.**

13. (1) The holder of a licence may apply to the Commissioner for the licence to be amended so as to authorise dealing in premises, other than those in respect of which the licence was issued.

(2) Every application made under this section shall set out the address of the premises in respect of which the authority is sought and shall be accompanied—

(a) by the licence;

(b) where the applicant is not the owner of the premises, by the consent in writing of the owner to the grant of the application; and

(c) by an examination fee of two pounds.

(3) If the Commissioner, after causing them to be examined, is satisfied that the premises are suitable for dealing, then, but not otherwise, he shall cause the licence to be amended, so as to authorise dealing there, in lieu of at the premises in respect of which it was issued.

14. Where the Commissioner decides to refuse an application made under section eight, eleven or thirteen, he shall give to the applicant notice in writing of that decision, setting out, in the notice, the grounds for the refusal and shall, in the case of an application under section eight or eleven, refund the licence fee.

Appeals by persons aggrieved.

15. Where it appears to him that a licence holder has ceased to be a proper person to hold a licence, on grounds relating to the licence holder's character, convictions under this Act, business methods or financial stability, the Commissioner may, by notice to the licence holder, setting out the grounds for his decision, cancel the licence.

Cancellation of licences.

16. (1) Any applicant or licence holder, being aggrieved by a decision of the Commissioner such as is mentioned in section fourteen or fifteen, may, within one month after his receipt of the notice thereof or within such further time as the Minister may allow, apply to a Court of Petty Sessions, by way of complaint under the Justices Act, 1902, for a review of that decision.

Appeals.

(2) The court hearing a complaint made under subsection (1) of this section shall comprise a stipendiary magistrate and may, after hearing the parties, grant or dismiss the application; and, in granting the application, shall review the decision of the Commissioner and make such order as it thinks fit.

(3) The decision of a court made under subsection (2) of this section is final.

(4) Where the court, in reviewing the decision of the Commissioner, orders the issue or transfer of a licence, the applicant shall remit to the Commissioner the fee refunded pursuant to section fourteen.

Licences to be indorsed with names of members or directors of holders.

17. Where a licence is issued to a firm, it shall be indorsed with the full name, address and description of every person who is then a member, or a director, resident director or agent of a corporate member, of the firm; and, where the licence is issued to a company, the like particulars with respect to every person who is a director, resident director or agent of the company shall be indorsed on the licence.

Changes of constitution or directors to be notified.

18. Every firm that is the holder of a licence shall, within fourteen days after any change in its membership, including any change of the directors, resident directors or agent of a corporate member, and every company that is the holder of a licence shall, within fourteen days after any change of its directors, resident directors or agent, send to the Commissioner a notice in writing, giving particulars of that change, accompanied by the licence which shall be indorsed accordingly.

Register to be kept.

19. (1) The Commissioner shall cause a register of licence holders to be kept, and there shall be set out in the register all such particulars, matters and things, relating to the licences and licence holders, and any changes thereof, as may be prescribed.

(2) An entry in the register of licence holders is *prima facie* evidence of the facts thereby recorded and, where the name of a person is not recorded in the register, as a licence holder, there is a presumption that the person is not the holder of a valid licence.

Register to be kept by licence holders.

20. (1) Every licence holder shall keep a register, in the prescribed form, at the premises in respect of which the licence is issued; and shall record in that register the prescribed particulars of every transaction entered into, in the course of dealing there.

(2) A licence holder shall produce the register kept pursuant to this section, for inspection, on demand, by any member of the Police Force or by a traffic inspector, duly appointed for the district wherein the premises are situated.

(3) Every person who knowingly makes a false entry, or who causes a false entry to be made, in any register kept pursuant to this section commits an offence.

21. (1) Every licence holder acquiring or selling a used motor vehicle shall, forthwith after the acquisition or sale, send to the authority that licensed or registered the vehicle, if within the State, such particulars of the transaction as may be prescribed; and, where that authority is not within the State, shall forthwith deliver the number plates (if any) attached to the vehicle to the nearest licensing or registering authority.

Transactions  
in used motor  
vehicles  
to be  
notified.

(2) Upon the expiration or cancellation of the licence or registration of a used motor vehicle that is in the possession of a licence holder, he shall, unless renewing the licence or registration, return any number plates attached to that vehicle to the nearest licensing or registering authority.

(3) Nothing in this section affects the obligation of a person to apply for the transfer of the licence or registration of a motor vehicle, under the provisions of any other Act.

22. (1) Every licence holder shall permit a member of the Police Force or a traffic inspector, at all reasonable hours, to enter upon the premises in respect of which the licence is issued, with such persons as he may require to assist him, and there to examine any used motor vehicle; and where, in the opinion of the member of the Police Force or the traffic inspector, it is necessary to road-test any such vehicle, the licence holder shall permit him, or such other person as the member of the Police Force or the traffic inspector may nominate, to remove the vehicle from the premises and drive it, for that purpose.

Inspection  
of used  
motor  
vehicles.

(2) Notwithstanding the provisions of any other Act, a person may drive an unlicensed motor vehicle on a road, for the purposes of this section, if a tablet prescribed by, and issued by the Commissioner in accordance with, the regulations is affixed to the vehicle.

Vehicles  
may be  
declared  
unfit for  
sale.

23. (1) Where, in the opinion of any member of the Police Force or traffic inspector examining or testing a used motor vehicle, under the provisions of section twenty-two, the vehicle requires any repair, adjustment or re-conditioning, or the supply, fitting or removal of any equipment or any other attention, in order to make it comply with any law relating to the equipment, serviceability or roadworthiness of motor vehicles, he may attach to the vehicle a notice, in the prescribed form, prohibiting the sale of that vehicle, except for the purpose of being broken up, until—

- (a) the repair, adjustment or re-conditioning, or the supply, fitting or removal of the equipment or the other attention has been effected, made or given; and
- (b) the vehicle has again been inspected, and the notice has, subsequent to that inspection, been removed, by a member of the Police Force or a traffic inspector.

(2) A person who wilfully removes, damages or obliterates a notice affixed to a vehicle, pursuant to the provisions of subsection (1) of this section, or who permits or suffers any of those things to be done, commits an offence.

Restriction  
on sale of  
unroad-  
worthy  
vehicles.

24. (1) Except where he has reasonable grounds for believing that the vehicle is being acquired for the purpose of being broken up (the proof whereof shall lie upon him), a licence holder or the servant or agent of a licence holder shall not sell a used motor vehicle of which the sale has been prohibited by a notice affixed to the vehicle, under the provision of section twenty-three, until the notice has been removed, as provided in subsection (1) of that section.

(2) Where an offence against this section is committed by a servant or agent of a licence holder on the premises in respect of which the licence is issued, or is committed in respect of a used motor vehicle that has been removed by him from those premises with the consent of the licence holder, then, in either of those cases, both the licence holder and the servant or agent is liable to the penalty for that offence.

25. Where, by a representation that it is being acquired for the purpose of being broken up, a person induces another to sell a used motor vehicle of which the sale would, but for that representation, be unlawful under this Act, and does so knowing the representation to be false, the person making the representation commits an offence.

Offence of acquiring unroad-worthy motor vehicles by misrepresentation.

26. (1) A licence holder selling a used motor vehicle that he is led to believe is being acquired for the purpose of being broken up shall, before yielding up possession of it, remove from the vehicle any number plates attached to it and shall, forthwith, return them to the nearest licensing or registering authority, with the advice that the vehicle in respect of which they were issued is to be broken up.

Number plates of vehicles sold for breaking up to be returned.

(2) The provisions of subsection (1) of this section apply, *mutatis mutandis*, to a licence holder acquiring a used motor vehicle, from a person who is not a dealer, for the purpose of breaking it up.

(3) A licence holder shall not break up a motor vehicle, or cause it to be broken up, unless and until it has been in his possession for seven days.

27. Every person who contravenes any of the provisions of this Act is guilty of an offence and is liable, where no other penalty is provided, to a fine of fifty pounds.

General penalty.

Proceedings,  
how brought  
and heard.

28. (1) Proceedings for an offence against this Act may be brought by a member of the Police Force or a traffic inspector, only.

See Act No.  
30 of 1918,  
s. 4, "This  
Act".

(2) The court hearing any complaint for an offence against this Act shall comprise a stipendiary magistrate.

(3) Except as otherwise provided in this Act, in any proceedings against a person for failure to comply with the provisions of this Act, it is a defence to prove that he had reasonable ground to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that those provisions were complied with and was in a position to discharge that duty.

Regulations.

29. (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or expedient for giving full effect to the provisions of, and for the due administration of, this Act.

(2) The regulations may prescribe a fine not exceeding twenty pounds for a breach of any regulation made under this section.

Repeal.

30. Part IIIA of the Traffic Act, 1919, is repealed.

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