

MOTOR VEHICLE DEALERS.

No. 74 of 1975.

AN ACT to amend the Motor Vehicle Dealers Act,
1973-1974.

[Assented to 14th November, 1975.]

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:—

1. (1) This Act may be cited as the *Motor Vehicle Dealers Act Amendment Act, 1975*.

Short title
and
citation.

(2) In this Act the Motor Vehicle Dealers Act, 1973-1974 is referred to as the principal Act.

Act No. 101
of 1973, as
amended by
Act No. 58
of 1974.

(3) The principal Act as amended by this Act may be cited as the Motor Vehicle Dealers Act, 1973-1975.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 5
amended.

3. Subsection (1) of section 5 of the principal Act is amended—

(a) by deleting the definition “second-hand vehicle”; and

(b) by adding after subsection (1) a subsection as follows—

(1a) For the purposes of this Act, “second-hand vehicle” includes a vehicle that has, at any time before being offered or exposed for sale, been licensed or registered whether under the law of this State or of any other State or Territory of the Commonwealth regulating the use of vehicles but does not include a vehicle—

(a) that is registered under the provisions of the Road Traffic Act, 1974, in the name of the dealer to whom it is sold by the manufacturer for the purposes of demonstration; and

(b) in respect of which there remains an obligation on the part of the manufacturer to the purchaser of the vehicle from the dealer greater than the obligation which would be imposed on a dealer by the provisions of subsection (1) of section 34 were that vehicle to be sold by him at the material time. .

Section 16
amended.

4. Section 16 of the principal Act is amended—

(a) by deleting the passage “licence; and” at the end of paragraph (b) and substituting the passage “licence;” ;

- (b) by deleting the passage "salesmen." at the end of paragraph (c) and substituting the passage "salesmen; and" ; and
- (c) by adding after paragraph (c) a paragraph as follows—
 - (d) that he is employed by a dealer who is licensed under this Act or that such a dealer is prepared to employ him as a yard manager. .

5. Section 17 of the principal Act is amended— Section 17 amended.

- (a) by deleting the passage "licence; and" at the end of paragraph (b) and substituting the passage "licence;" ;
- (b) by deleting the passage "managers." at the end of paragraph (c) and substituting the passage "managers; and"; and
- (c) by adding after paragraph (c) a paragraph as follows—
 - (d) that he is employed by a dealer who is licensed under this Act or that such a dealer is prepared to employ him as a salesman. .

6. Section 19 of the principal Act is amended— Section 19 amended.

- (a) as to subsection (2), by deleting the words "not less than nine months and", in lines three and four; and
- (b) as to subsection (3), by deleting the words "one month" in line three and substituting the words "two months".

7. Subsection (1) of section 20 of the principal Act is amended by adding after paragraph (c) a paragraph as follows— Section 20 amended.

- (ca) if the person has been found by the Board to have failed to maintain the premises at which he carries on the business of a dealer

to a standard which in the opinion of the Board is required by the public interest and is suitable for the purpose; .

Section 21
amended.

8. Section 21 of the principal Act is amended—

(a) by deleting the words “A dealer” in line one of subsection (3) and substituting the passage “Subject to this section, a dealer”; and

(b) by adding after subsection (3) the following subsections—

(4) Subject to this section, where in respect of a special occasion a dealer proposes to carry on business for a period of limited duration at premises other than premises at which he normally carries on business he shall apply to the Board in writing setting out the relevant details for the issue of a special certificate in respect of those premises and the Board may, if it is satisfied that the provisions of the Factories and Shops Act, 1963 have been and will be complied with, issue a certificate to the dealer in respect of that trading.

(5) A special certificate issued under subsection (4) of this section is subject to such conditions and limitations as the Board may impose in the certificate.

(6) Subject to subsection (7) of this section, the provisions of this Act apply to any premises in relation to which a special certificate is issued under this section as if those premises were the registered premises of the person to whom the special certificate is issued.

(7) Where a special certificate is issued by the Board under this section the secretary is not required to enter the premises to which it relates in the register as the registered premises of the person to whom it is issued but shall retain a

copy of the special certificate so issued and the copy so retained is deemed to form part of the register for the purposes of this Act.

(8) An application under this section shall be made not less than one month before the date on which the dealer proposes to commence carrying on business at the premises the subject of the application.

9. The principal Act is amended by adding after section 21 the following section—

Section 21A
added.

21A. A person who carries on the business of a dealer shall cause the business name stated in his application for a licence and the number of the licence issued to him to appear—

Premises
and
advertisements to
bear name
and
number.

- (a) on a sign of reasonable dimensions affixed or erected at every premises at which he conducts the business of a dealer; and
- (b) in every advertisement published by him or on his behalf.

10. Subsection (1) of section 22 of the principal Act is amended—

Section 22
amended.

- (a) by deleting the passage "licence; or" at the end of paragraph (b) and substituting the passage "licence;" ;
- (b) by deleting the passage "section 21," at the end of paragraph (c) and substituting the passage "section 21; or";
- (c) by adding after paragraph (c) a paragraph as follows—
 - (d) refusing to approve of any change submitted to it under section 23, ;
and
- (d) by deleting the words "that person" in line nine and substituting the words "the person affected by its decision or order".

Section 22A
added.

11. The principal Act is amended by adding after section 22 a section as follows—

Licence to
be
returned.

22A. (1) A person who has been issued with a licence and who pursuant to an order under section 20—

- (a) has been refused an application for the renewal thereof; or
- (b) has been disqualified from holding a licence,

shall, as soon as may be after being notified of the Board's order, return the licence together with any certificates issued to him under section 21 to the secretary unless the Local Court otherwise orders pursuant to section 22.

(2) A person who ceases to carry on business as a dealer shall thereupon return to the secretary any licence or certificate issued to him relevant to that business.

Section 23
amended.

12. Section 23 of the principal Act is amended—

(a) as to subsection (1), by deleting paragraph (b) and substituting a paragraph as follows—

(b) fourteen days before any change occurs in—

(i) the membership of the firm;
or

(ii) the person or persons concerned in the management and conduct of any corporate member of the firm,

full particulars thereof shall be sent to the secretary. ;

(b) as to subsection (2), by deleting paragraph (b) and substituting a paragraph as follows—

(b) fourteen days before any change occurs in the persons concerned in

the management and conduct of the body corporate, full particulars thereof shall be sent to the secretary. ;

(c) by adding after subsection (2) the following subsections—

(3) Upon receipt of the particulars of a change of the kind referred to in paragraph (b) of subsection (1) of this section or paragraph (b) of subsection (2) of this section, the secretary shall submit those particulars to the Board and the Board may approve of or, if it is satisfied that there are reasons to do so, refuse to approve of, all or any of the changes referred to in the particulars so submitted.

(4) If the Board approves of the changes submitted to it pursuant to subsection (3) of this section the secretary shall require the dealer to forward his licence to the Board and shall cause such alterations to be made in the endorsements on the licence as the case requires.

(5) Where the Board refuses to approve of the changes submitted to it pursuant to subsection (3) of this section the secretary shall notify the dealer and any other person affected by the decision of the refusal.

13. Section 31 of the principal Act is amended by adding after the passage "section 21", in line three, the passage "or to which a certificate under section 21 issued in his name relates, or otherwise than in premises maintained in a condition which in the opinion of the Board is required in the public interest and is suitable for the purpose".

Section 31
amended.

Section 32
amended.

14. Section 32 of the principal Act is amended—

(a) by deleting subsection (1) and substituting two new subsections as follows—

(1) The provisions of this Part do not apply to or in relation to the sale of a vehicle—

(a) to a dealer; or

(b) by auction, unless that vehicle is owned by a trade owner.

(1a) The provisions of paragraph (c) of subsection (3) of section 33 do not apply where a vehicle owned by a trade owner is sold by auction. ; and

(b) as to subsection (2), by deleting the expression “(3)” in the penultimate line and substituting the expression “(6)”.

Section 33
amended.

15. Section 33 of the principal Act is amended—

(a) as to subsection (3), by deleting paragraph (f); and

(b) as to subsection (6), by deleting paragraph (a) and substituting the following paragraph—

(a) except as provided in paragraph (b) of this subsection, be placed inside the vehicle where it can be clearly read through the windscreen; .

Section 52
amended.

16. Section 52 of the principal Act is amended by adding after subsection (3) a subsection as follows—

(4) Notwithstanding anything in any Act proceedings for an offence against this Act may be brought within the period of twelve months after the commission of the alleged offence. .
