

SECOND-HAND MOTOR DEALERS ACT.

Act No. 5, 1956.

Elizabeth II,
No. 5, 1956.

An Act to provide for the licensing of dealers in used or reconstructed motor vehicles, and, if so prescribed, in used or reconstructed parts or accessories of motor vehicles, and for the control and regulation in certain respects of the operations of those dealers; to amend the Motor Traffic Act, 1909-1955, by extending the power to make regulations and by creating certain new offences; to amend the Transport Act, 1930-1955; and for purposes connected therewith. [Assented to, 2nd August, 1956.]

BE

BE it enacted by the Queen's Most Excellent Majesty, No. 5, 1956.
 by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Second-hand Motor Dealers Act, 1956." Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act shall be administered in the Department of Motor Transport by the Commissioner. Administration of Act.

3. (1) In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

"Accessories" includes—

- (a) car-wirelesses;
- (b) tools usually carried on motor vehicles.

"Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

"Dealer" means any person (whether or not he carries on any other business) who for reward (whether monetary or otherwise) carries on any one or more of the following, namely:—

- (a) the business of buying, selling, exchanging, demolishing or dismantling; or
- (b) such other prescribed class of business in relation to,

used or reconstructed motor vehicles or such used or reconstructed parts or accessories of motor vehicles as may be prescribed for the purposes of this definition.

"Dealer's

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“Dealer’s license” means a valid and unexpired dealer’s license or renewed license issued under this Act.

“Identification number”, when used in relation to the engine or engine block of a motor vehicle or to any part or accessory of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block, part or accessory as a means of identifying that engine, engine block, part or accessory, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks, parts or accessories.

“License” means a dealer’s license.

“Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes a trailer, but does not mean or include any vehicle used on a railway or tramway.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

(2) Any reference in this Act to an engine, engine block or other part or accessory of a motor vehicle shall, where that engine, engine block or other part or accessory has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part or accessory so removed except where it has been installed as an engine, engine block, part or accessory of a motor launch or other vehicle or machinery, not being a motor vehicle.

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4. The Governor may by regulation—

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(a) (i) exempt to the extent prescribed any person or class of persons from the operation of this Act; and

Exemption from operation of Act.

(ii) specify what provisions (if any) of this Act and the regulations are, with such modifications as are necessary or seem desirable, to apply to any person or to any class of persons so exempted;

(b) exempt from the operation of all or any of the provisions of this Act any specified class of motor vehicles.

5. After the expiration of three months from the commencement of this Act no person (either by himself or as a member of a partnership) shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of a dealer unless he is the holder of a dealer's license.

No person or partner to act as dealer without a license.

6. (1) (a) No person shall, by virtue of one license, keep more than one place for the conduct of his business as a dealer.

License to be held for each place of business.

(b) Where a person conducts his business as a dealer at more than one place of business, he shall obtain in respect of each such place a separate and distinct license.

(2) The Commissioner shall, upon application made in that behalf and upon payment of any fee prescribed therefor, alter a license by substituting another place of business for the place of business specified in the license.

Particulars of the alteration shall be endorsed on the license and entered in the record of licenses referred to in subsection five of section eight of this Act.

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license.

7. (1) A license shall be in or to the effect of the form prescribed and shall specify the place of business in respect of which it is issued.

(2) A license shall, unless sooner suspended or cancelled, be in force for twelve months from the date of its issue.

A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

Application
for
license.

8. (1) An application for a license or for the renewal of a license shall be in or to the effect of the prescribed form and shall be lodged with the Commissioner.

(2) The application shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of licenses and renewals of licenses.

(3) The Commissioner shall, upon the receipt of an application for the grant or renewal of a license, notify the Commissioner of Police who shall cause enquiries to be made as to the character of the applicant and shall furnish a report thereon to the Commissioner.

(4) The Commissioner shall consider such report and such other matters as may be relevant, and if he is satisfied that the applicant is a person of good character and a fit and proper person to hold a license under this Act he may grant a license or renewal of license.

(5) The Commissioner shall keep or cause to be kept a record of all licenses and renewals of licenses granted by him.

Cancellation
or
suspension
of
license.

9. (1) The Commissioner may cancel or suspend a license if—

(a) the license was issued erroneously or granted in consequence of any false or fraudulent document, statement or representation;

(b) the holder thereof is convicted of an offence against this Act or the regulations;

(c)

- (c) the holder thereof ceases to carry on business as a dealer at the place of business for the time being specified in the license; No. 5, 1956.
- (d) the Commissioner is of opinion that by reason of the manner in which the holder thereof conducts his business as a dealer or by reason of any other fact or circumstance such holder is not a fit and proper person to hold a license.

(2) Where any license has been cancelled or suspended, the person to whom the license was issued shall deliver up the license to the Commissioner within such time as may be specified in a notice given by the Commissioner to that person for the purpose.

(3) Particulars of the cancellation or suspension shall be entered in the record of licenses referred to in subsection five of section eight of this Act.

10. (1) (a) Where the Commissioner refuses an application under section eight of this Act or cancels or suspends a license under section nine of this Act, he shall notify the dealer or person making the application, as the case may be, of his decision. Appeal
against
decision of
Commis-
sioner.

(b) Such dealer or person, as the case may be, may in the prescribed manner appeal to a court of petty sessions.

(c) Notice of any such appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made and with the Commissioner within one month after the dealer was notified of the decision of the Commissioner as directed by paragraph (a) of this subsection.

The notice shall specify the grounds of appeal.

(2) Any report furnished to the Commissioner by the Commissioner of Police in relation to the person making an appeal under this section shall be admissible in evidence in that appeal.

(3)

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(3) The decision of the court given in any appeal under this section shall be final and shall be deemed to be the decision of the Commissioner and be carried into effect accordingly.

(4) Every appeal under this section shall be heard before a court of petty sessions holden before a stipendiary magistrate.

Duties
of
dealers.

11. (1) Every dealer shall—

(a) keep or cause to be kept the prescribed records in respect of—

(i) used or reconstructed motor vehicles;

(ii) prescribed used or reconstructed parts or accessories of motor vehicles;

in respect of which he transacts any business as a dealer;

(b) at the prescribed times forward or cause to be forwarded to such member of the police force as may be prescribed such copies of or extracts from the records required to be kept by him under paragraph (a) of this subsection as the regulations may require to be so forwarded;

(c) keep or cause to be kept all prescribed used or reconstructed parts or accessories of motor vehicles, purchased or received by him from any person other than the holder of a license, without changing the form in which they were when so purchased or received, for a period of three days after they were purchased or received by him.

(2) In this section “prescribed used or reconstructed parts or accessories of motor vehicles” means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

12.

12. (1) Any person authorised in writing by the Commissioner in that behalf or any member of the police force may require—

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Inspection
of records
and used or
reconstructed
motor
vehicles, &c.

- (a) any dealer;
- (b) without limiting the generality of the foregoing provisions of this section, the officer, agent or employee of the dealer in control or charge at any premises at which the dealer carries on business, if the dealer is a company or is not personally in control or charge of those premises,

to produce for inspection by the person so authorised or that member, as the case may be—

- (i) the records that the dealer is required to keep, or cause to be kept, by or under this Act;
- (ii) any used or reconstructed motor vehicles or prescribed used or reconstructed parts or accessories of motor vehicles that are then in the possession of the dealer in his capacity as such.

(2) The person so authorised or that member may make copies of or extracts from any records produced pursuant to subsection one of this section and may make notes in respect of those records or any motor vehicle or part or accessory of a motor vehicle so produced.

(3) Any person who—

- (a) wilfully delays or obstructs the person so authorised or that member in the exercise of his powers, authorities and functions under this section;
- (b) on demand refuses or fails to produce any records, motor vehicles, or parts or accessories of motor vehicles, required for inspection under this section and in his possession, custody or control,

shall be guilty of an offence against this Act.

(4)

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(4) In this section "prescribed used or reconstructed parts or accessories of motor vehicles" means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

Penalties
for
certain
fraudulent
acts.

13. If any person knowingly makes or causes or permits or allows to be made any false or misleading entry in any record prescribed by or under this Act or in any prescribed copy of or extract from such records he shall be guilty of an offence against this Act and shall be liable, if a company, to a penalty not exceeding two hundred pounds, or, if any other person, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

Non-
observance
of
prescribed
requirement
or
prohibition.

14. Where any act, matter or thing is by or under this Act or any regulation directed or forbidden to be done, and the act, matter or thing so directed to be done remains undone, or the act, matter or thing so forbidden to be done is done, in every such case every person offending against the direction or prohibition shall be guilty of an offence against this Act.

Penalty.

15. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided by or under this Act be liable to a penalty not exceeding one hundred pounds.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

(3) Any court before whom a person is convicted of an offence against this Act or the regulations shall cause particulars of such conviction to be forwarded to the Commissioner.

Evidence.

16. (1) In all courts and upon all occasions whatsoever—

(a) an extract from or copy of any entry recorded in the record of licenses referred to in subsection five of section eight of this Act; or

(b)

(b) a certificate that on a specified day or during ^{No. 5, 1956.} the whole of a specified period—

- (i) a person was or was not the holder of a license; or
- (ii) certain specified premises were or were not the premises specified in a specified license; or
- (iii) a specified license was or was not cancelled or suspended,

shall, where the extract, copy or certificate purports to be certified under the hand of a prescribed officer, be prima facie evidence of all particulars contained therein without proof of the signature or of the official character of the officer appearing to have certified the extract, copy or certificate.

(2) Where in any proceedings for a contravention of any provision of this Act it is proved that on a certain day or during the whole of a certain period a person was the holder of a license, it shall be presumed, in the absence of proof to the contrary, that on that day or during that period the person was a dealer.

17. (1) The Commissioner may delegate to any officer nominated by him any of his powers, authorities, ^{of} duties or functions under this Act, other than this power _{powers, etc.} of delegation.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, authority, duty or function by the Commissioner.

Second-hand Motor Dealers Act.**No. 5, 1956.**Amendment
of Act
No. 18, 1930.**Sec. 202.**(Road
Transport
and Traffic
Fund.)**18.** (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

(a) by inserting at the end of subsection one of section two hundred and two the following new paragraph:—

(d) all fees charged under the Second-hand Motor Dealers Act, 1956.

(b) by inserting at the end of subsection two of the same section the following new paragraph:—

(f) all administrative and other expenses of the Commissioner for Motor Transport in respect of the Second-hand Motor Dealers Act, 1956.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1956.

Amendment
of
Act No. 5,
1909.**Sec. 2.**
(Defini-
tions.)**19.** (1) The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended—

(a) (i) by inserting in section two next after the definition of "Driver" the following new definition:—

"Identification number", when used in relation to the engine, engine block or other prescribed part of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block or part as a means of identifying that engine, engine block or part, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks or parts.

(ii)

- (ii) by inserting at the end of the same section No. 5, 1956.
the following new subsection:—

(2) Any reference in this Act to an engine, engine block or other part of a motor vehicle shall, where that engine, engine block or other part has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part so removed except where it has been installed as an engine, engine block or part of a motor launch or other vehicle or machinery, not being a motor vehicle.

- (b) by inserting next after paragraph (k) of subsection one of section three the following new paragraphs:— (Regulations.)

- (k1) provide for the allotment by the Commissioner for Motor Transport of special identification numbers for the engines or engine blocks, and other prescribed parts, of motor vehicles and regulating the stamping or affixing of such numbers thereon or thereto;
- (k2) provide for the furnishing to the Commissioner for Motor Transport of notification of the changing or replacement of any engine, engine block or other prescribed part of a motor vehicle.

The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of this paragraph and paragraph (k1) of this subsection, be read and construed as if the words "upon any public street" were not contained in the definition;

(c)

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New sec. 7B.

Offences
relating to
identification
numbers of
engines, &c.,
of motor
vehicles.

(c) by inserting next after section 7A the following new section:—

7B. (1) Any person—

- (a) not being the manufacturer, who without the written authority of the Commissioner for Motor Transport and except as prescribed stamps or affixes or causes or permits any person to stamp or affix any identification number on or to the engine, engine block or other prescribed part of a motor vehicle; or
- (b) who, except as prescribed, alters, defaces, removes, or obliterates any identification number stamped on or otherwise affixed to the engine, engine block or other prescribed part of a motor vehicle; or
- (c) who, without lawful authority or excuse, has in his possession any engine, engine block or other prescribed part of a motor vehicle knowing that the identification number stamped thereon or otherwise affixed thereto has been altered, defaced, removed or obliterated otherwise than as prescribed,

shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

(2) The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of subsection one of this section, be read and construed as if the words "upon any public street" were not contained in the definition.

(2)

(2) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1956. No. 5, 1956.

20. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) Without prejudice to the generality of subsection one of this section, the Governor may make regulations with respect to—

- (a) prescribing any forms to be used under this Act;
- (b) prescribing the records to be kept by dealers under this Act;
- (c) the destruction or other disposal of records which are more than five years old or which have ceased to be of practical utility;
- (d) the granting of exemption or conditional exemption from compliance with all or any of the provisions of the Act or regulations;
- (e) the granting of duplicate licenses and matters connected with such licenses;
- (f) requiring any or all of the following persons, namely, dealers and officers, agents and employees of dealers, in such circumstances as may be prescribed, to give or furnish without delay or within the prescribed time, to such person as may be prescribed particulars of—
 - (i) any motor vehicle or prescribed part or accessory of a motor vehicle that he or they know or have any reason to suspect has been stolen, embezzled or fraudulently obtained;
 - (ii)

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(ii) any engine or engine block of a motor vehicle or any other prescribed part or accessory of a motor vehicle (whether or not the engine, engine block, part or accessory is for the time being affixed or installed in a motor vehicle) that may come into his or their possession, custody or control the identification number of which appears to have been altered, defaced, removed or obliterated.

(3) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.

(4) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner or by the Commissioner of Police either generally or for any class of cases or in any particular case.

(5) Any regulation may confer on the Commissioner, or on any prescribed person, any power or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.

(6) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

STAMP