

**MOTOR DEALERS (AMENDMENT) ACT, 1978,
No. 115**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 115, 1978.

An Act to amend the Motor Dealers Act, 1974. [Assented to,
21st December, 1978.]

Motor Dealers (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, 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 :—

Short title. **1.** This Act may be cited as the "Motor Dealers (Amendment) Act, 1978".

Commence- **2.** (1) This section and section 1 shall commence on the date
ment. of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE LONG TITLE TO THE MOTOR DEALERS ACT, 1974.

SCHEDULE 2.—AMENDMENTS TO PART I OF THE MOTOR DEALERS ACT, 1974.

SCHEDULE 3.—AMENDMENTS TO PART II OF THE MOTOR DEALERS ACT, 1974.

SCHEDULE 4.—SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974.

SCHEDULE 5.—SUBSTITUTION OF PART IV OF THE MOTOR DEALERS ACT, 1974.

SCHEDULE 6.—AMENDMENTS TO PART V OF THE MOTOR DEALERS ACT, 1974.

Motor Dealers (Amendment).

SCHEDULE 7.—AMENDMENTS TO PART VI OF THE MOTOR DEALERS ACT, 1974.

SCHEDULE 8.—AMENDMENTS TO PART VII OF THE MOTOR DEALERS ACT, 1974.

SCHEDULE 9.—INSERTION OF SCHEDULE 1 INTO THE MOTOR DEALERS ACT, 1974.

SCHEDULE 10.—SAVINGS AND TRANSITIONAL PROVISIONS.

4. The Motor Dealers Act, 1974, is amended in the manner set forth in Schedules 1–9.

Amendment
of Act No.
52, 1974.

5. Schedule 10 has effect.

Savings
and transi-
tional
provisions.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE LONG TITLE TO THE MOTOR DEALERS ACT,
1974.

(1) Long title—

Omit “or a vehicle-wrecker”, insert instead “, a vehicle-wrecker, a wholesaler, a motor vehicle parts reconstructor, a car market operator or a motor vehicle consultant”.

(2) Long title—

Omit “motor dealers, vehicle-wreckers and persons carrying on a prescribed business”, insert instead “those persons”.

Motor Dealers (Amendment).

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO PART I OF THE MOTOR DEALERS ACT, 1974.

(1) (a) Section 3—

From the matter relating to Part IV, omit “29”, insert instead “29c”.

(b) Section 3—

After the matter relating to Part VII, insert :—

SCHEDULE 1.

(2) (a) Section 4 (1), definition of “accessories”—

After “wirelesses”, insert “, sound reproducing equipment, air conditioning units and spare wheels”.

(b) Section 4 (1), definitions of “car market operator”, “car market operator’s licence”—

After the definition of “accessories”, insert :—

“car market operator” means a person who carries on the business of providing a site for a market for the sale by other persons of second-hand motor vehicles, whether or not that site is used for any other purpose;

“car market operator’s licence” means a car market operator’s licence granted under section 12;

(c) Section 4 (1), definition of “cash price”—

(i) From paragraph (a), omit “and other attachments”;

Motor Dealers (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE MOTOR DEALERS ACT, 1974—
continued.

- (ii) After “time of the sale” in paragraph (b) (iii), insert “, less any amount paid, or to be paid, by the vendor to the purchaser in connection with the sale”.

- (d) Section 4 (1), definition of “commercial vehicle”—

After “does not include”, insert “a motor vehicle belonging to a class of motor vehicle prescribed for the purposes of this definition or”.

- (e) Section 4 (1), definitions of “demonstrator motor vehicle”, “District Court”—

After the definition of “dealer’s licence”, insert :—

“demonstrator motor vehicle” means a motor vehicle that has not been sold to a person other than a dealer or wholesaler and that has been registered only in the name of any one or more of the following persons :—

- (a) any dealer or wholesaler or any person on behalf of any dealer or wholesaler;
(b) any person in anticipation of the sale of the vehicle to that person;

“District Court” means the District Court of New South Wales;

- (f) Section 4 (1), definition of “licence”—

Omit the definition, insert instead :—

“licence” means a dealer’s licence, a vehicle-wrecker’s licence, a wholesaler’s licence, a

Motor Dealers (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART I OF THE MOTOR DEALERS ACT, 1974—
continued.

motor vehicle parts reconstructor's licence, a car market operator's licence, a motor vehicle consultant's licence or a prescribed licence;

(g) Section 4 (1), definition of "magistrate"—

Omit the definition.

(h) Section 4 (1), definitions of "motor vehicle consultant", "motor vehicle consultant's licence", "motor vehicle parts reconstructor", "motor vehicle parts reconstructor's licence"—

After the definition of "motor vehicle", insert :—

"motor vehicle consultant" means a person who carries on the business of advising any person (not being the holder of a licence) who wishes to buy a motor vehicle of any description where or from whom he can buy a motor vehicle of that description, whether or not that person also carries on the business of advising such a buyer of the suitability of a motor vehicle for any particular purpose;

"motor vehicle consultant's licence" means a motor vehicle consultant's licence granted under section 12;

"motor vehicle parts reconstructor" means a person who carries on the business of purchasing or otherwise acquiring for the purpose of reconstructing and selling, or for the purpose of reconstructing and exchanging, such parts or accessories of motor vehicles as may be prescribed for the purposes of this definition;

Motor Dealers (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE MOTOR DEALERS ACT, 1974—
continued.

“motor vehicle parts reconstructor’s licence” means
a motor vehicle parts reconstructor’s licence
granted under section 12;

(i) Section 4 (1), definition of “second-hand motor cycle”—

After the definition of “restricted licence”, insert :—

“second-hand motor cycle” means a motor cycle
that is a second-hand motor vehicle;

(j) Section 4 (1), definition of “second-hand motor
vehicle”—

After “registered”, insert “, but does not include a
demonstrator motor vehicle”.

(k) Section 4 (1), definition of “trade owner”—

After “dealer”, insert “, a wholesaler”.

(l) Section 4 (1), definition of “vehicle-wrecker”—

After “motor vehicles”, insert “or parts or accessories
of motor vehicles”.

(m) Section 4 (1), definitions of “wholesaler”, “wholesaler’s
licence”—

After the definition of “vehicle-wrecker’s licence”,
insert :—

“wholesaler” means a person who carries on the
business of buying motor vehicles from, selling
motor vehicles to, or exchanging motor

Motor Dealers (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART I OF THE MOTOR DEALERS ACT, 1974—
continued.

vehicles with, persons who are financiers or the holders of licences (not being car market operators' licences or motor vehicle consultants' licences), and those persons only;

“wholesaler's licence” means a wholesaler's licence granted under section 12;

(n) Section 4 (4)—

After “dealer” wherever occurring, insert “or a wholesaler”.

(o) Section 4 (6), (7)—

After section 4 (5), insert :—

(6) In this Act, a reference to a motor vehicle is a reference to the vehicle complete with all accessories fitted to the vehicle.

(7) For the purposes of this Act a motor vehicle is not a second-hand motor vehicle or a demonstrator motor vehicle at the time it is sold by a dealer by reason only that it is registered for the first time in the name of the purchaser prior to the completion of the sale.

(3) (a) Section 6 (1), (2)—

Omit “of the Bureau or the Department” wherever occurring, insert instead “appointed and holding office under section 15 (1) of the Consumer Protection Act, 1969.”.

Motor Dealers (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE MOTOR DEALERS ACT, 1974—
continued.

(b) Section 6 (3)—

Omit the subsection.

(4) Section 7 (a)—

After “such”, insert “used or”.

SCHEDULE 3.

Sec. 4.

AMENDMENTS TO PART II OF THE MOTOR DEALERS ACT, 1974.

(1) (a) Section 9 (1), (2)—

Omit “of \$100” wherever occurring, insert instead
“not exceeding \$100”.

(b) Section 9 (2A), (2B), (2C), (2D)—

After section 9 (2), insert :—

(2A) On or after the relevant day, no person
(other than an exempted person) shall—

(a) carry on or advertise that he carries on or is
willing to carry on the business of a whole-
saler unless he is the holder of a dealer’s
licence (not being a restricted licence) or a
wholesaler’s licence; or

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

- (b) carry on the business of a wholesaler at any place of business unless he is the holder of a dealer's licence (not being a restricted licence) or a wholesaler's licence, granted in respect of that place of business.

Penalty : \$1,000, and in addition a further penalty not exceeding \$100 a day for each day on which the offence continues.

(2B) On or after the relevant day, no person (other than an exempted person) shall—

- (a) carry on or advertise that he carries on or is willing to carry on the business of a motor vehicle parts reconstructor unless he is the holder of a dealer's licence (not being a restricted licence) or a motor vehicle parts reconstructor's licence; or
- (b) carry on the business of a motor vehicle parts reconstructor at any place of business unless he is the holder of a dealer's licence (not being a restricted licence) or a motor vehicle parts reconstructor's licence, granted in respect of that place of business.

Penalty : \$1,000, and in addition a further penalty not exceeding \$100 a day for each day on which the offence continues.

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(2c) On or after the relevant day, no person
(other than an exempted person) shall—

- (a) carry on or advertise that he carries on or is willing to carry on the business of a car market operator unless he is the holder of a car market operator's licence; or
- (b) carry on the business of a car market operator at any place of business unless he is the holder of a car market operator's licence granted in respect of that place of business.

Penalty : \$1,000, and in addition a further penalty not exceeding \$100 a day for each day on which the offence continues.

(2d) On or after the relevant day, no person
(other than an exempted person) shall—

- (a) carry on or advertise that he carries on or is willing to carry on the business of a motor vehicle consultant unless he is the holder of a dealer's licence (not being a restricted licence) or a motor vehicle consultant's licence; or
- (b) carry on the business of a motor vehicle consultant at any place of business unless he is the holder of a dealer's licence (not being a restricted licence) or a motor vehicle consultant's licence, granted in respect of that place of business.

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

Penalty : \$1,000, and in addition a further penalty not exceeding \$100 a day for each day on which the offence continues.

(c) Section 9 (3)—

Omit “of \$100”, insert instead “not exceeding \$100”.

(d) Section 9 (3A)—

After section 9 (3), insert :—

(3A) Notwithstanding subsection (1), the holder of a vehicle-wrecker’s licence, a wholesaler’s licence or a motor vehicle parts reconstructor’s licence who buys, sells or exchanges motor vehicles in the course of carrying on his business as a vehicle-wrecker, wholesaler or motor vehicle parts reconstructor, as the case may be, is not required to be the holder of a dealer’s licence.

(e) Section 9 (5)—

Omit “or a vehicle-wrecker”, insert instead “,vehicle-wrecker, wholesaler, motor vehicle parts reconstructor, car market operator or motor vehicle consultant”.

(f) Section 9 (6) (a)—

Omit “or”.

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(g) Section 9 (6) (a1), (a2)—

After section 9 (6) (a), insert :—

(a1) subsections (2A) and (2B), the relevant day
is the day on which those subsections
commence;

(a2) subsections (2C) and (2D), the relevant day
is the day that is three months after the day
on which those subsections commence; or

(2) Section 10 (1)—

Omit “dealer’s licence, a vehicle-wrecker’s licence or a
prescribed licence”, insert instead “licence”.

(3) (a) Section 12 (2)—

Omit “dealer’s licence, a vehicle-wrecker’s licence or
a prescribed licence”, insert instead “licence”.

(b) Section 12 (3)—

Omit “10 (5)”, insert instead “10 (6)”.

(c) Section 12 (6) (a)—

After “restricted licence)”, insert “or a car market
operator’s licence”.

(d) Section 12 (6) (b)—

Omit the paragraph. insert instead :—

(b) in any other case, \$75 or such other fee as
may be prescribed.

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(4) Section 13 (2A), (2B)—

After section 13 (2), insert :—

(2A) The Commissioner shall not grant a dealer's licence unless he is satisfied—

- (a) in the case of an application by an individual or a corporation, that the individual or corporation, as the case may be, has sufficient material and financial resources to comply with the requirements of this Act; or
- (b) in the case of a joint application, that the individuals to whom the licence is to be granted together have sufficient material and financial resources to comply with the requirements of this Act.

(2B) Where the applicant for a dealer's licence (not being a joint licence) proposes to carry on the business of a dealer in partnership with one, or more than one, person, the Commissioner shall not refuse to grant the licence under subsection (2A) unless the Commissioner is satisfied that the applicant's material and financial resources, together with those of the person or persons with whom he proposes to carry on that business in partnership, are not sufficient to enable him to comply with the requirements of this Act.

(5) (a) Section 17 (2)—

After "subsection (5)", insert "or section 17A".

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(b) Section 17 (6), (7), (8), (9)—

Omit section 17 (6), insert instead :—

(6) When a licence ceases to have effect under subsection (5) the person who was the holder of the licence shall forthwith deliver it to the Commissioner.

Penalty : \$200.

(7) If the appropriate fee in respect of a licence is paid in accordance with subsection (3) and is accompanied by the prescribed form completed as provided in subsection (4), the Commissioner shall give or send to the holder of the licence an acknowledgment of the receipt of that fee in the form approved by the Minister.

(8) The holder of a licence shall—

- (a) keep an acknowledgment given or sent to him pursuant to subsection (7) at the place in respect of which the licence is granted until the next acknowledgment is given or sent to him pursuant to that subsection; and
- (b) make an acknowledgment so kept available for inspection by a person referred to in section 23 (1) if requested to do so by that person.

Penalty : \$200.

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(9) The appropriate fee—

- (a) in respect of a dealer's licence (not being a restricted licence) or a car market operator's licence, is \$100 or such other fee as may be prescribed; or
- (b) in any other case, is \$75 or such other fee as may be prescribed.

(6) Section 17A—

After section 17, insert :—

Dealer's
licence
and car
market
operator's
licence not
to be held
by same
person.

17A. (1) A dealer's licence ceases to have effect if the holder of the licence is granted a car market operator's licence.

(2) A car market operator's licence ceases to have effect if the holder of the licence is granted a dealer's licence.

(3) When a dealer's licence or car market operator's licence ceases to have effect under subsection (1) or (2), as the case may be, the person who was the holder of the licence shall forthwith deliver it to the Commissioner.

Penalty : \$200.

(7) (a) Section 18 (1) (c)—

Omit "or".

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(b) Section 18 (1) (f)—

Omit “Act.”, insert instead “Act;”.

(c) Section 18 (1) (g), (h), (i), (j)—

After section 18 (1) (f), insert :—

- (g) if, in the case of a holder of a dealer's licence (not being a corporation), the holder has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made an assignment of his remuneration for their benefit;
- (h) if, in the case of a holder of a dealer's licence (being a corporation), the holder—
 - (i) is in the course of being wound up;
 - (ii) is under official management;
 - (iii) is a corporation in respect of which a receiver or manager has been appointed; or
 - (iv) has entered into a compromise or scheme of arrangement with its creditors;
- (i) if he is satisfied that the holder of the licence has, for a period of 1 month or more, ceased to carry on the business to which the licence relates at the place specified in the licence for that purpose; or
- (j) if he is satisfied that the holder of the licence is contravening another Act or an instrument

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

made under another Act by carrying on the business to which the licence relates at the place specified in the licence for that purpose.

(d) Section 18 (2)—

Omit “or (d)” wherever occurring, insert instead “, (d), (g) or (j)”.

(e) Section 18 (4) (b)—

Omit “or (d)”, insert instead “, (d), (g) or (j)”.

(f) Section 18 (5)—

After “revoked”, insert “for the reasons specified by the Commissioner”.

(g) Section 18 (10) (a)—

Omit “magistrate hearing the appeal”, insert instead “District Court”.

(h) Section 18 (10) (b)—

Omit “that magistrate” wherever occurring, insert instead “the District Court”.

(8) (a) Section 19 (1), (2), (6), (10)—

Omit “a magistrate” wherever occurring, insert instead “the District Court”.

Motor Dealers (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART II OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(b) Section 19 (5)—

Omit “magistrate”, insert instead “District Court”.

(c) Section 19 (7), (8)—

Omit “A magistrate” wherever occurring, insert
instead “The District Court”.

(d) Section 19 (7)—

Omit “to him” wherever occurring, insert instead “to
that Court”.

(e) Section 19 (8)—

Omit “he”, insert instead “that Court”.

(f) Section 19 (9)—

Omit the subsection.

(g) Section 19 (12), definition of “registrar”—

Omit the definition, insert instead :—

“registrar” means the registrar for a proclaimed
place under the District Court Act, 1973.

Motor Dealers (Amendment).

Sec. 4.

SCHEDULE 4.

SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974.

Part III—

Omit the Part, insert instead :—

PART III.

DEALERS' AND OTHER RECORDS.

Dealer's
register.

21. (1) This section does not apply—

- (a) to an exempted person; or
- (b) in relation to an exempted motor vehicle.

(2) The holder of a dealer's licence shall keep a dealer's register, in the prescribed form, at the place of business in respect of which the licence is granted.

Penalty : \$500.

(3) The holder of a dealer's licence shall, in accordance with subsection (4), enter in the register kept by him pursuant to subsection (2) at the place of business in respect of which the licence is granted the prescribed particulars of—

- (a) every second-hand motor vehicle and every demonstrator motor vehicle bought, acquired by exchange or taken in possession for sale, in, or for the purpose of, carrying on the business of a dealer at that place; and
- (b) the sale or disposal of each vehicle referred to in paragraph (a).

and sign his name to the entry.

Penalty : \$500.

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*

SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

(4) The requirements of subsection (3) shall be complied with in relation to a motor vehicle immediately after the vehicle is bought, acquired by exchange or taken in possession for sale or immediately after the sale or disposal of the vehicle, as the case may be.

22. (1) This section does not apply—

- (a) to an exempted person;
- (b) in relation to an exempted motor vehicle; or
- (c) in relation to any part or accessory of a motor vehicle unless that part or accessory is prescribed for the purposes of this section.

Vehicle-
wrecker's
register.

(2) The holder of a vehicle-wrecker's licence shall keep a vehicle-wrecker's register, in the prescribed form, at the place of business in respect of which the licence is granted.

Penalty : \$500.

(3) The holder of a vehicle-wrecker's licence shall, in accordance with subsection (4), enter in the register kept by him pursuant to subsection (2) at the place of business in respect of which the licence is granted the prescribed particulars of—

- (a) every motor vehicle and every part and accessory of a motor vehicle bought or received, in, or for the purpose of, carrying on the business of a vehicle-wrecker at that place; and

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

- (b) the sale or disposal of each vehicle and each part and accessory referred to in paragraph (a),

and sign his name to the entry.

Penalty : \$500.

(4) The requirements of subsection (3) shall be complied with in relation to a motor vehicle or a part or accessory of a motor vehicle immediately after the vehicle or the part or accessory, as the case may be, is bought or received or immediately after the sale or disposal of the vehicle or the part or accessory, as the case may be.

(5) In this section, a reference to the holder of a vehicle-wrecker's licence includes a reference to a person who is the holder of a dealer's licence and who carries on the business of a vehicle-wrecker.

Wholesaler's
register.

22A. (1) This section does not apply—

- (a) to an exempted person; or
(b) in relation to an exempted motor vehicle.

(2) The holder of a wholesaler's licence shall keep a wholesaler's register, in the prescribed form, at the place of business in respect of which the licence is granted.

Penalty : \$500.

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*

SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

(3) The holder of a wholesaler's licence shall, in accordance with subsection (4), enter in the register kept by him pursuant to subsection (2) at the place of business in respect of which the licence is granted the prescribed particulars of—

- (a) every second-hand motor vehicle and every demonstrator motor vehicle bought, acquired by exchange or taken in possession for sale, in, or for the purpose of, carrying on the business of a wholesaler at that place; and
- (b) the sale or disposal of each vehicle referred to in paragraph (a),

and sign his name to the entry.

Penalty : \$500.

(4) The requirements of subsection (3) shall be complied with in relation to a motor vehicle immediately after the vehicle is bought, acquired by exchange or taken in possession for sale or immediately after the sale or disposal of the vehicle, as the case may be.

22B. (1) This section does not apply—

- (a) to an exempted person; or
- (b) in relation to any part or accessory of a motor vehicle unless that part or accessory is prescribed for the purposes of the definition of "motor vehicle parts reconstructor" in section 4 (1).

Motor
vehicle
parts recon-
structor's
register.

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

(2) The holder of a motor vehicle parts reconstructor's licence shall keep a motor vehicle parts reconstructor's register, in the prescribed form, at the place of business in respect of which the licence is granted.

Penalty : \$500.

(3) The holder of a motor vehicle parts reconstructor's licence shall, in accordance with subsection (4), enter in the register kept by him pursuant to subsection (2) at the place of business in respect of which the licence is granted the prescribed particulars of—

- (a) every part and accessory of a motor vehicle bought or received, in, or for the purpose of, carrying on the business of a motor vehicle parts reconstructor at that place; and
- (b) the sale and disposal of each part or accessory referred to in paragraph (a),

and sign his name to the entry.

Penalty : \$500.

(4) The requirements of subsection (3) shall be complied with in relation to a part or accessory of a motor vehicle immediately after the part or accessory is bought or received or immediately after the sale or disposal of the part or accessory, as the case may be.

(5) In this section, a reference to the holder of a motor vehicle parts reconstructor's licence includes a reference to a person who is the holder of a dealer's licence and who carries on the business of a motor vehicle parts reconstructor.

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*

SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

22c. (1) This section does not apply—

- (a) to an exempted person; or
- (b) in relation to an exempted motor vehicle.

Car market
operator's
register.

(2) The holder of a car market operator's licence shall keep a car market operator's register, in the prescribed form, at the place of business in respect of which the licence is granted.

Penalty : \$500.

(3) The holder of a car market operator's licence shall, in accordance with subsection (4), enter in the register kept by him pursuant to subsection (2) at the place of business in respect of which the licence is granted the prescribed particulars of—

- (a) every motor vehicle offered or displayed for sale, in, or for the purpose of, carrying on the business of a car market operator at that place; and
- (b) where he is notified under subsection (5) of the sale at that place of a vehicle referred to in paragraph (a), that sale,

and sign his name to the entry.

Penalty : \$500.

(4) The requirements of subsection (3) shall be complied with in relation to a motor vehicle before the vehicle is offered or displayed for sale or immediately after notification is given of the proposed sale of the vehicle, as the case may be.

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

(5) A person who sells a motor vehicle at a place at which a car market operator is carrying on the business of a car market operator shall, immediately after he sells the vehicle at that place, notify the car market operator of the sale.

Penalty : \$200.

Motor
vehicle
consultant's
register.

22D. (1) The holder of a motor vehicle consultant's licence shall, if the regulations so provide, keep a motor vehicle consultant's register, in the prescribed form, at the place of business in respect of which the licence is granted.

Penalty : \$500.

(2) The holder of a motor vehicle consultant's licence shall, in accordance with subsection (3), enter in the register kept by him pursuant to subsection (1) at the place of business in respect of which the licence is granted the prescribed particulars of every prescribed transaction entered into in, or for the purpose of, carrying on the business of a motor vehicle consultant at that place, and sign his name to the entry.

Penalty : \$500.

(3) The requirements of subsection (2) shall be complied with in relation to a prescribed transaction at the prescribed time.

Register
to be kept
by person
carrying on
prescribed
business.

22E. (1) The holder of a prescribed licence shall, if the regulations so provide, keep a register, in the prescribed form, at the place of business in respect of which the licence is granted.

Penalty : \$500.

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*

SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

(2) The holder of a prescribed licence shall, in accordance with subsection (3), enter in the register kept by him pursuant to subsection (1) at the place of business in respect of which the licence is granted the prescribed particulars of every prescribed transaction entered into in, or for the purpose of, carrying on at that place the business to which the licence relates, and sign his name to the entry.

Penalty : \$500.

(3) The requirements of subsection (2) shall be complied with in relation to a prescribed transaction at the prescribed time.

22F. Where the holder of a licence is required pursuant to this Part to make an entry in a register and to sign his name to the entry, it is a sufficient compliance with that requirement if an agent of that holder or a person employed by that holder in the business to which the licence relates makes the entry and signs his name to the entry.

Agent or employee may make entry in register.

22G. Where a joint licence is granted in respect of the same place of business, or 2 or more licences are granted in respect of the same place of business to 2 or more persons carrying on in partnership the business to which the licences relate—

Single register to be kept in case of joint licence, etc.

(a) a requirement in this Part that the holder of a licence shall keep a register at that place shall be construed as a requirement that the holders of

Motor Dealers (Amendment).

 SCHEDULE 4—*continued.*

 SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

the joint licence or the holders of the 2 or more licences, as the case may be, shall keep a single register at that place;

- (b) a requirement in this Part that the holder of a licence shall make an entry in a register kept by him and sign his name to the entry shall be construed as a requirement that one of the holders of the joint licence or one of the holders of the 2 or more licences, as the case may be, shall make the entry and sign his name to the entry; and
- (c) each holder of the joint licence or of the 2 or more licences, as the case may be, is guilty of an offence under the relevant provision of this Part if a register is not kept, in the prescribed form, at that place or if an entry required to be made and signed pursuant to this Part is not made or signed.

Falsifica-
tion of
register.

22H. A person shall not, in respect of any particulars required under this Part to be entered in a register, wilfully make an entry in the register that is false or misleading in a material particular.

Penalty : \$1,000.

Inspection
of
registers.

23. (1) A register kept pursuant to this Part may, at all reasonable times, be inspected, and copies of all or any part of any entry in the register taken, by—

- (a) any member of the police force;

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*

SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

- (b) an inspector appointed under the Consumer Protection Act, 1969;
- (c) any person authorised in writing by the Commissioner; or
- (d) any person authorised in writing by the Commissioner for Motor Transport.

(2) A person referred to in subsection (1) may, for the purposes of inspecting and of taking copies of all or any part of any entry in a register kept pursuant to this Part, take and retain possession of the register if he supplies the person who is required to keep the register with a blank duplicate register.

(3) Until a register taken by a person referred to in subsection (1) is returned, an entry required to be made in the register under this Part shall not be required to be so made, but shall be made in the duplicate register supplied by that person under subsection (2).

(4) Forthwith after a register, taken under subsection (2), is returned to the person who is required to keep the register, that person shall—

- (a) transfer each entry made in the duplicate register to the register so returned, and sign his name to each entry so transferred; and
- (b) return the duplicate register to a person referred to in subsection (1).

Penalty : \$500.

Motor Dealers (Amendment).

SCHEDULE 4—*continued.*

SUBSTITUTION OF PART III OF THE MOTOR DEALERS ACT, 1974—
continued.

(5) Subject to subsection (6)—

- (a) the holder of a licence who, on demand made at a reasonable time, refuses or neglects to produce a register kept by him pursuant to this Part to a person referred to in subsection (1); or
- (b) a person who wilfully obstructs any person referred to in subsection (1) while acting in the exercise of any powers conferred on him under that subsection or subsection (2),

is guilty of an offence and liable to a penalty not exceeding \$500.

(6) The holder of a licence is not required under this section to produce a register, kept by him pursuant to this Part, to any person unless that person produces evidence of his appointment or authority, if requested to do so.

Sec. 4.

SCHEDULE 5.

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974.

Part IV—

Omit the Part, insert instead :—

PART IV.

DEALINGS IN MOTOR VEHICLES.

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

24. (1) This section does not apply to or in relation to—
- (a) the offering or displaying for sale, or sale, of an exempted motor vehicle; or
 - (b) the offering or displaying for sale, or sale, of a motor vehicle—
 - (i) by bona fide auction;
 - (ii) to an exempted person; or
 - (iii) to a trade owner.

Dealers' notices in respect of sale of second-hand motor vehicles, second-hand motor cycles, demonstrators and damaged new motor vehicles.

(2) Where a dealer offers or displays for sale a second-hand motor vehicle (not being a second-hand motor cycle), he shall attach, or cause to be attached, to the vehicle, in the prescribed manner, a notice, in the prescribed form, containing the prescribed particulars in relation to the vehicle.

(3) A dealer shall not sell a second-hand motor vehicle (not being a second-hand motor cycle) unless, at or before the time of sale, he and the purchaser sign the notice attached to the vehicle pursuant to subsection (2), or a copy of that notice, and the dealer delivers the notice or the copy, as the case may be, to the purchaser for retention by him.

(4) In any proceedings against a dealer for failing to comply with the requirements of subsection (2), it shall be presumed, in the absence of proof to the contrary, that a second-hand motor vehicle (not being a second-hand motor cycle) found at the place of business in respect of which a dealer's licence is granted is offered or displayed for sale unless—

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

- (a) the vehicle has attached to it, in the prescribed manner, a notice, in the prescribed form, specifying that the vehicle is not for sale; and
- (b) the vehicle does not have any other notice attached to it, or any marking on it, that purports to be the price of the vehicle or that suggests that the vehicle is being offered or displayed for sale.

(5) A dealer shall not sell a second-hand motor cycle unless, at or before the time of sale, he and the purchaser sign a notice, in the prescribed form, containing the prescribed particulars in relation to the motor cycle and the dealer delivers the notice to the purchaser for retention by him.

(6) A dealer shall not sell a demonstrator motor vehicle unless, at or before the time of sale, he and the purchaser sign a notice, in the prescribed form, containing the prescribed particulars in relation to the vehicle and the dealer delivers the notice to the purchaser for retention by him.

(7) Where any prescribed damage is done to a motor vehicle (not being a second-hand motor vehicle) and a dealer is aware, or on a reasonable inspection of the vehicle would have been aware, of the damage, the dealer shall not sell the vehicle, whether or not the damage has been repaired, unless, at or before the time of sale, he and the purchaser sign a notice, in the prescribed form, containing the prescribed particulars in relation to the damage to the vehicle and the dealer delivers the notice to the purchaser for retention by him.

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(8) A notice shall not be treated for the purposes of subsection (2), (5), (6), or (7) as containing the prescribed particulars if any of the prescribed particulars contained in the notice is false or misleading in a material particular.

(9) Where the sale of a motor vehicle is effected by a person acting as the agent or employee of a dealer, compliance by that agent or employee with the requirements imposed on the dealer by subsection (3), (5), (6) or (7), as the case may require, shall be treated as compliance by the dealer with those requirements.

(10) Where the holder of a dealer's licence offers or displays for sale, or sells, a motor vehicle on behalf of another dealer, this section does not apply to the other dealer.

(11) Where—

- (a) a person carrying on (whether in partnership or otherwise) the business of a dealer does not comply with any requirement imposed on him by subsection (2), (3), (5), (6) or (7), he is guilty of an offence; or
- (b) a person carrying on in partnership (whether under a joint licence or otherwise) the business of a dealer does not comply with any requirement imposed on him by subsection (2), (3), (5), (6) or (7), each of his partners is guilty of an offence,

and liable to a penalty not exceeding \$500.

Motor Dealers (Amendment).

 SCHEDULE 5—*continued.*

 SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
 ACT, 1974—*continued.*

(12) In proceedings for an offence under subsection (11), it is a defence if the accused person proves that the motor vehicle concerned was offered or displayed for sale, or sold, as the case may be, to a vehicle-wrecker or motor vehicle parts reconstructor for the purpose of being demolished or dismantled.

Sale of
second-
hand
motor
vehicle or
demonstra-
tor to trade
owner.

25. (1) This section does not apply to or in relation to—

- (a) the sale of an exempted motor vehicle; or
- (b) the sale of a motor vehicle by or to a financier.

(2) A trade owner who sells a second-hand motor vehicle or a demonstrator motor vehicle to another trade owner shall sign a disposal notice, in the prescribed form, containing the prescribed particulars and forthwith deliver the notice to the other trade owner for retention by him.

(3) A trade owner who arranges with an auctioneer for the sale by the auctioneer of a second-hand motor vehicle or demonstrator motor vehicle shall comply with the requirements of subsection (2) in every respect as if the auctioneer were another trade owner purchasing the vehicle.

(4) Where a person acting as the agent or employee of a trade owner—

- (a) sells a second-hand motor vehicle or demonstrator motor vehicle to another trade owner; or

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

- (b) arranges with an auctioneer for the sale by an auctioneer of a second-hand motor vehicle or demonstrator motor vehicle,

compliance by that agent or employee with the requirements imposed on the trade owner by subsection (2) or (3), as the case may be, shall be treated as compliance by the trade owner with those requirements.

(5) Where—

- (a) a person carrying on (whether in partnership or otherwise) the business of a trade owner does not comply with any requirement imposed on him by subsection (2) or (3), he is guilty of an offence; or
- (b) a person carrying on in partnership (whether under a joint licence or otherwise) the business of a trade owner does not comply with any requirement imposed on him by subsection (2) or (3), each of his partners is guilty of an offence,

and liable to a penalty not exceeding \$500.

(6) Where an auctioneer, pursuant to an arrangement under subsection (3) or (4) (b), sells a motor vehicle by bona fide auction to a person known to him to be a trade owner he shall forthwith deliver to that person the disposal notice delivered to the auctioneer pursuant to subsection (3) or comply with the requirements of subsection (2) in every respect as if he were a trade owner.

Penalty : \$500.

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(7) A disposal notice shall not be treated for the purposes of subsection (2), (3) or (6) as containing the prescribed particulars if any of the prescribed particulars contained in the notice is false or misleading in a material particular.

(8) A disposal notice under this section may contain the prescribed particulars in relation to more than one motor vehicle.

(9) Where a trade owner sells a motor vehicle, or arranges with an auctioneer for the sale of a motor vehicle, on behalf of another trade owner, subsections (2) and (3) do not apply to the other trade owner.

Defences.

26. In proceedings for an offence under section 24 or 25 it is a defence if—

- (a) in the case of the omission of any prescribed particular from a notice referred to in either of those sections, the accused person proves that the motor vehicle concerned was brought into New South Wales for the purpose of resale and that the prescribed particular omitted was unknown to him and could not, with reasonable diligence, be ascertained by him; or
- (b) in the case of the inclusion in any such notice of a prescribed particular that is false or misleading in a material particular, the accused person

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

proves that he took all reasonable steps to ascertain the true particulars and that those included were, to the best of his knowledge and belief, true.

27. (1) Except as provided in this section and sections 28 and 29, where a motor vehicle of a description specified in Column 1 of Schedule 1 is sold by a dealer and before—

Obligations
of dealer
to repair
defects.

- (a) the vehicle has been driven for the number of kilometres after being manufactured or so sold, as the case may be, specified opposite the description of the vehicle in Column 2 of Schedule 1; or
- (b) the expiration of the period, specified opposite the description of the vehicle in Column 3 of Schedule 1, after the vehicle is so sold,

whichever first occurs, a defect appears or occurs in the vehicle, the dealer shall, whether or not the defect existed at the time of the sale, at his own expense, repair or make good, or cause to be repaired or made good, the defect so as to place the vehicle in a reasonable condition having regard to its age and his obligation to do so shall be deemed to be a term of the contract of sale relating to the vehicle.

(2) For the purposes of calculating the period referred to in subsection (1) (b), no regard shall be paid to any period during which the dealer has the motor vehicle in his possession for the purpose or purported purpose of ascertaining or carrying out his obligations under subsection (1).

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(3) The obligation of a dealer under subsection (1) in relation to a motor vehicle (not being a second-hand motor vehicle) sold by him is extinguished if, subsequent to that sale, he or another dealer acquires ownership of the vehicle, or the vehicle is repossessed by a financier.

(4) Subject to subsection (3), the obligation of a dealer under subsection (1) in relation to a motor vehicle (not being a second-hand motor vehicle) sold by him subsists for the benefit of the owner, from time to time, of the vehicle and, for this purpose, the owner from time to time shall be deemed to have entered into a contract of sale with the dealer in respect of the vehicle.

(5) The obligation of a dealer under subsection (1) in relation to a second-hand motor vehicle sold by him is an obligation only to the person who purchased the vehicle from him.

(6) The fact that a dealer's licence has been revoked under section 18 or has ceased to have effect under section 17 (5) or 17A (1), or that a dealer is not the holder of a dealer's licence or has ceased to be a dealer, does not affect his obligation under subsection (1).

(7) Where the holder of a dealer's licence sells a motor vehicle on behalf of another dealer, this section does not apply to the other dealer.

Motor Dealers (Amendment).

SCHEDULE 5—continued.

**SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—continued.**

(8) The Governor may, by regulation, amend Schedule 1 by increasing any amount (being a reference to the cash price of a motor vehicle) specified in that Schedule.

(9) Where Schedule 1 is amended by a regulation made pursuant to subsection (8), that Schedule as so amended applies to and in relation to the sale of a motor vehicle by a dealer on or after the date on which the regulation takes effect.

28. (1) Section 27 (1) does not apply to or in relation to any defect—

(a) occurring in—

- (i) a tyre or battery;
- (ii) a chain or sprocket on a motor cycle; or
- (iii) a prescribed accessory fitted to a motor vehicle;

(b) arising from or incidental to any accidental damage to a motor vehicle that occurred after the sale, referred to in section 27 (1), of the vehicle, and when the vehicle was not in the possession of the dealer;

(c) arising from misuse or negligence on the part of a driver of a motor vehicle, or arising from the use of a motor vehicle for motor racing or motor rallying, that occurred after the sale, referred to in section 27 (1), of the vehicle; or

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(d) appearing or occurring in an accessory that was not fitted to or supplied with a motor vehicle at the time of the sale, referred to in section 27 (1), of the vehicle.

(2) In the case of a second-hand motor vehicle, section 27 (1) does not apply to or in relation to any superficial damage to the paint-work or upholstery of the vehicle which would have been apparent on a reasonable inspection of the vehicle carried out at the time of the sale, referred to in section 27 (1), of the vehicle.

(3) Section 27 (1) does not apply to or in relation to the sale of—

- (a) a motor vehicle to a trade owner;
- (b) a second-hand motor vehicle where the purchaser has been in possession of the vehicle for a period of not less than 3 months immediately preceding the day of that sale;
- (c) a motor vehicle to an exempted person;
- (d) a commercial vehicle;
- (e) a trailer;
- (f) a motor vehicle the cash price of which exceeds \$20,000 or such greater amount as may be prescribed;
- (g) a motor vehicle manufactured more than 35 years, or such other period as may be prescribed, before the day of that sale; or

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS ACT, 1974—
continued.

- (h) a motor vehicle (not being a motor cycle) or a second-hand motor cycle that is of such design as to be incapable of being registered in New South Wales.

(4) Where the proposed purchaser of a motor vehicle (not being a second-hand motor vehicle) is in possession of the vehicle for a period immediately preceding the day on which he purchases the vehicle from a dealer then, for the purposes of section 27 (1), he shall be deemed to have purchased the vehicle on the day when he first acquired that possession.

(5) Section 27 (1) does not apply to or in relation to the sale of—

- (a) a second-hand motor vehicle (not being a second-hand motor cycle) where the cash price is less than \$1,500 or such greater amount as may be prescribed; or
- (b) an exempted motor vehicle (not being a motor cycle),

if, but only if, at all material times when the vehicle is offered or displayed for sale by the dealer there is attached to the vehicle, in the prescribed manner, a notice, in the prescribed form, to the effect that section 27 (1) does not apply to or in relation to the sale of the vehicle.

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*SUBSTITUTION OF PART IV OF THE MOTOR DEALERS ACT, 1974—
continued.

(6) Section 27 (1) does not apply to or in relation to the sale of—

- (a) a second-hand motor cycle where the cash price is less than \$500 or such greater amount as may be prescribed; or
- (b) an exempted motor vehicle (being a motor cycle),

if, but only if, a notice, in the prescribed form, is delivered to the purchaser at or before the time of sale to the effect that section 27 (1) does not apply to or in relation to the sale of the motor cycle.

(7) Section 27 (1) does not apply to or in relation to the sale of a motor vehicle by bona fide auction if, but only if, at the time of the auction there is attached to the vehicle, in the prescribed manner, a notice, in the prescribed form, to the effect that section 27 (1) does not apply to or in relation to the sale of the vehicle.

Excluded
defects.

29. (1) Where a dealer offers or displays for sale a second-hand motor vehicle (not being a second-hand motor cycle) he may attach, or cause to be attached, to the vehicle, in the prescribed manner, a notice, in the prescribed form, setting out with reasonable particularity any defect that he believes to exist in the vehicle together with, in relation to each such defect, his estimate of the fair cost of repairing or making good the defect.

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(2) If—

- (a) a notice referred to in subsection (1) has been attached to a second-hand motor vehicle (not being a second-hand motor cycle) at all material times when the vehicle is offered or displayed for sale by the dealer; and
- (b) at or before the time of sale of the vehicle, the notice, or a copy of the notice, has been signed by the dealer and the purchaser and has been delivered to the purchaser for retention by him,

then section 27 (1) does not apply to or in relation to the defects set out in the notice.

(3) If, at or before the time of sale of a motor vehicle (being a second-hand motor cycle or a demonstrator motor vehicle), a notice, in the prescribed form, setting out with reasonable particularity any defect that the dealer selling the vehicle believes to exist in the vehicle together with, in relation to each such defect, his estimate of the fair cost of repairing or making good the defect, has been signed by the dealer and the purchaser and has been delivered to the purchaser for retention by him, then section 27 (1) does not apply to or in relation to any such defect.

(4) If in any notice referred to in subsection (1) or (3) the amount estimated by the dealer as the fair cost of repairing or making good any defect set out in the notice is less than the amount of the fair cost of then repairing or making good that defect, the purchaser may sue for and recover the difference between those fair costs as a debt due to the purchaser from the dealer.

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*SUBSTITUTION OF PART IV OF THE MOTOR DEALERS ACT, 1974—
continued.

Car market operator liable for loss incurred by purchaser of encumbered vehicle in certain circumstances.

29A. (1) Except as provided in subsection (4), if a person has incurred a loss in connection with the sale, made after the commencement of this section, of a motor vehicle at a place at which a car market operator was, at the time of the sale, carrying on his business as a car market operator by reason of the fact that the vendor has not passed an unencumbered title to the vehicle, the person may sue for and recover the amount of the loss as a debt due to the person from the car market operator.

(2) For the purposes of subsection (1), a motor vehicle is sold at a place at which a car market operator is, at the time of the sale, carrying on his business as a car market operator, if the vehicle is offered to the purchaser at that place and at that time, but the sale is completed elsewhere.

(3) The fact that a car market operator's licence has been revoked under section 18 or has ceased to have effect under section 17 (5) or 17A (2), or that a car market operator is not the holder of a car market operator's licence or has ceased to be a car market operator, does not affect his liability under subsection (1).

(4) A car market operator is not liable for any loss under subsection (1) in connection with the sale of a motor vehicle if he satisfies the court that the notice referred to in section 29B to the effect that the title to the vehicle is not guaranteed by the car market operator was attached to the vehicle in the manner, and at the times, required by that section.

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS ACT, 1974—
continued.

29B. A car market operator contravenes this section if a motor vehicle is offered or displayed for sale at the place at which he is carrying on the business of a car market operator and there is not attached to the vehicle, in the prescribed manner, a notice, in the prescribed form—

Notices
to be
displayed
on vehicles
at car
markets.

(a) to the effect that the title to the vehicle is either—

(i) guaranteed by the car market operator;
or

(ii) not guaranteed by the car market operator; and

(b) to the effect that the vehicle is sold without statutory warranty.

Penalty : \$500.

29C. (1) A notice permitted to be attached at any time to a motor vehicle under section 29 (1) shall be combined with any notice required to be attached to the vehicle at that time under section 24 (2).

Combination
of notices
under this
Part.

(2) A notice required to be delivered at any time to a purchaser under section 28 (6) in order to exclude the operation of section 27 (1) or permitted to be delivered at any time to a purchaser under section 29 (3) shall be combined with any notice required to be delivered to the purchaser at that time under section 24 (5), (6) or (7).

Motor Dealers (Amendment).

SCHEDULE 5—*continued.*

SUBSTITUTION OF PART IV OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(3) A notice required to be combined with another notice pursuant to subsection (1) or (2) is not in the prescribed form for the purposes of this Part if it is not so combined.

Sec. 4.

SCHEDULE 6.

AMENDMENTS TO PART V OF THE MOTOR DEALERS ACT, 1974.

(1) Section 30 (3)—

After section 30 (2), insert :—

(3) For the purposes of this Part, an obligation of a dealer to repair or make good any defect in a motor vehicle does not cease to exist by reason only that the defect has been repaired or made good by some other person.

(2) (a) Section 34 (1) (c)—

Omit “and”.

(b) Section 34 (1) (d), (e), (f)—

Omit section 34 (1) (d), insert instead :—

(d) the New South Wales Branch of the Vehicle
Builders Employees Federation of Australia:

Motor Dealers (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(e) where the motor vehicle to which the dispute relates is, in the opinion of the Commissioner, not a second-hand motor vehicle—

(i) the Chamber of Automotive Industries of New South Wales; and

(ii) the Federal Chamber of Automotive Industries; and

(f) where the motor vehicle to which the dispute relates is a motor cycle, the Motor Cycle Dealers' Section of the Motor Traders' Association of New South Wales,

(c) Section 34 (6)—

Omit "or (d)" wherever occurring, insert instead "
(d), (e) or (f)".

(d) Section 34 (8)—

After section 34 (7), insert :—

(8) A member of a disputes committee shall be entitled to be paid such fees or allowances as the Minister may from time to time determine in respect of him.

(3) Section 35 (2)—

Omit ", under section 27 (1) (a).", insert instead "(not being a second-hand motor vehicle), under section 27,".

Motor Dealers (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(4) (a) Section 36 (1)—

Omit “may order that any defect required to be repaired or made good under section 27 shall be repaired or made good by a person (being a person other than the dealer) named in the order.”, insert instead :—

may—

- (c) order that any defect required to be repaired or made good under section 27 shall be repaired or made good by a person (being a person other than the dealer) named in the order; or
- (d) where any such defect has already been repaired or made good by a person other than the dealer, order that the dealer pay to the applicant the amount, determined by the Commissioner and specified in the order, of the fair cost of repairing or making good the defect.

(b) Section 36 (2)—

After “subsection (1)”, insert “(c)”.

(c) Section 36 (2A)—

After section 36 (2), insert :—

(2A) Where an order is made under subsection (1) (d), the applicant may enforce the order by filing, free of charge, with a registrar of a court of competent jurisdiction—

- (a) a copy of the order certified by the Commissioner to be a true copy; and

Motor Dealers (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE MOTOR DEALERS
ACT, 1974—*continued.*

- (b) the affidavit of the applicant as to the amount unpaid under the order,

and thereupon the registrar concerned shall enter judgment in favour of the applicant against the dealer for the amount specified in the affidavit as being unpaid.

- (5) (a) Section 38 (1), (2), (3), (3A), (4)—

Omit section 38 (1), (2), (3) and (4), insert instead :—

(1) In this section, a reference to a court of competent jurisdiction is, in relation to an order for rescission of the sale of a motor vehicle, a reference to—

- (a) a court of petty sessions exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970, if the cash price for which the motor vehicle was sold does not exceed the amount for the time being specified in section 12 (1) of that Act;
- (b) the District Court if the cash price for which the motor vehicle was sold does not exceed the amount for the time being specified in section 44 (1) (a) of the District Court Act, 1973; and
- (c) the Supreme Court of New South Wales.

Motor Dealers (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(2) Upon application being made by the Commissioner, a court of competent jurisdiction may, if—

- (a) a notice required under section 24 to be attached to a motor vehicle was not attached at all material times when the vehicle was offered or displayed for sale by a dealer;
- (b) a notice required under section 24 to be delivered by a dealer to the purchaser of a motor vehicle was not delivered at or before the time of sale of the vehicle;
- (c) the prescribed particulars contained in a notice attached to a motor vehicle, or delivered to the purchaser of a motor vehicle, by a dealer under section 24 were, in the opinion of the court, false or misleading in a material particular; or
- (d) the body of, or mechanical equipment in, a motor vehicle sold by a dealer was, at the time it was sold by the dealer, in such a condition that, in the opinion of the court, it is not practicable to repair or make good the defects in the vehicle so as to place the vehicle in a reasonable condition having regard to its age,

order that the sale be rescinded, the vehicle returned to the dealer and any consideration passed by the purchaser or the value of any such consideration assessed under subsection (5) returned to the

Motor Dealers (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART V OF THE MOTOR DEALERS
ACT, 1974—*continued.*

purchaser, and make such further or consequential orders, including an order as to the payment of the costs of the application, as to the court seem necessary or desirable.

(3) A court of competent jurisdiction shall not make an order under subsection (2) until the court has afforded the Commissioner or a representative of the Commissioner, and any other person likely to be affected by the order, an opportunity of being heard.

(3A) An appeal lies to the Supreme Court of New South Wales against an order made under subsection (2)—

- (a) by a court of petty sessions as if it were exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970; and
- (b) by the District Court as if it were exercising jurisdiction under the District Court Act, 1973.

(4) Subject to subsection (8), where a dealer is convicted of an offence under section 24 in respect of a motor vehicle sold by the dealer, the court may, in addition to any penalty imposed, order that the sale be rescinded, the vehicle returned to the dealer and any consideration passed by the purchaser or the value of any such consideration assessed under subsection (5) returned to the purchaser, and may make such further or consequential orders as to the court seem necessary or desirable.

Motor Dealers (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART V OF THE MOTOR DEALERS
ACT, 1974—*continued.*

(b) Section 38 (5)—

Omit “(1)”, insert instead “(2)”.

(c) Section 38 (5)—

Omit “magistrate”, insert instead “court”.

(d) Section 38 (8)—

Omit the subsection, insert instead :—

(8) A court shall not make an order under subsection (4) if the total amount of any consideration passed by the purchaser or the value of any such consideration assessed under subsection (5) exceeds the amount for the time being specified in section 12 (1) of the Courts of Petty Sessions (Civil Claims) Act, 1970.

(e) Section 38 (10) (b)—

Omit the paragraph.

Motor Dealers (Amendment).

SCHEDULE 7.

Sec. 4.

AMENDMENTS TO PART VI OF THE MOTOR DEALERS ACT, 1974.

(1) (a) Section 39 (2) (a), (3)—

After “regulations” wherever occurring, insert “by holders of dealers’ licences and holders of car market operators’ licences and by applicants for those licences”.

(b) Section 39 (4)—

Omit “(2)”.

(2) (a) Section 40 (3)—

After “Commissioner”, insert “under subsection (2)”.

(b) Section 40 (3A)—

After section 40 (3), insert :—

(3A) Subject to this section, if the Commissioner is satisfied that a person submitting a claim has incurred a loss for which a car market operator is liable under section 29A (1), the Commissioner may certify the amount of the loss.

(c) Section 40 (4)—

After “Commissioner” where firstly occurring, insert “under subsection (3A)”.

(3) Section 42—

Omit “(2)”.

Motor Dealers (Amendment).

Sec. 4.

SCHEDULE 8.

AMENDMENTS TO PART VII OF THE MOTOR DEALERS ACT, 1974.

(1) Section 45 (2)—

Omit “dealer or a manufacturer”, insert instead “trade owner or a person who carries on the business of manufacturing or assembling motor vehicles”.

(2) (a) Section 46 (1) (c)—

Omit the paragraph, insert instead :—

- (c) a motor vehicle if, at any time within 1 month preceding the sale, the vehicle was registered for the first time under and in accordance with the regulations or the registration of the vehicle was renewed under and in accordance with the regulations.

(b) Section 46 (2), (2A)—

Omit section 46 (2), insert instead :—

(2) Subject to subsection (3), a dealer shall not sell a motor vehicle that is registered under and in accordance with the regulations—

- (a) in the case of a motor cycle, at a cash price of less than \$500 or such greater amount as may be prescribed; or
- (b) in any other case, at a cash price of less than \$1,500 or such greater amount as may be prescribed,

unless, at or before the time of sale, a certificate in relation to the vehicle that is in force is delivered to the purchaser for retention by him.

Penalty : \$500.

Motor Dealers (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART VII OF THE MOTOR DEALERS ACT, 1974
—*continued.*

(2A) Subject to subsection (3), a car market operator shall not permit a motor vehicle that is registered under and in accordance with the regulations to be offered or displayed for sale at the place at which he, at the time of the offer or display, carries on the business of a car market operator, unless a certificate in relation to the vehicle is in force.

Penalty : \$500.

(c) Section 46 (3)—

After “(2)”, insert “or (2A)”.

(d) Section 46 (3)—

Omit “for the purpose of being demolished”, insert instead “or motor vehicle parts reconstructor for the purpose of being demolished or dismantled”.

(3) (a) Section 47 (1) (a), (b), (c), (d)—

Omit “second-hand” wherever occurring.

(b) Section 47 (2)—

Before “magistrate”, insert “stipendiary”.

(4) Section 48 (1), (2)—

Omit “of \$500” wherever occurring, insert instead “not exceeding \$500”.

Motor Dealers (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART VII OF THE MOTOR DEALERS ACT, 1974
—*continued.*

(5) Section 49 (1)—

Omit the subsection, insert instead :—

(1) Where the holder of a dealer's licence causes or permits to be published any advertisement that suggests that a motor vehicle is being offered or displayed for sale, he shall disclose in that advertisement—

- (a) his name or, if he carries on the business of a dealer under a business name, that name;
- (b) the number of the licence; and
- (c) a telephone number (if any) of the place of business in respect of which the licence is granted.

Penalty : \$500.

(6) Section 52 (1)—

Omit "\$200", insert instead "\$500".

(7) Section 53—

Omit "of \$500", insert instead "not exceeding \$500".

(8) (a) Section 55 (1) (a)—

After "Minister", insert "or a prescribed officer".

(b) Section 55 (1) (b)—

Omit "magistrate or a stipendiary magistrate", insert instead "court of petty sessions constituted by a stipendiary magistrate sitting alone".

(c) Section 55 (2)—

After "Minister", insert "or a prescribed officer".

Motor Dealers (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART VII OF THE MOTOR DEALERS ACT, 1974
—*continued.*

(d) Section 55 (2)—

Omit “the Minister’s signature”, insert instead “the signature of the Minister or the prescribed officer, as the case may be”.

(e) Section 55 (3)—

Omit the subsection.

(9) (a) Section 56 (1)—

Omit “a vehicle-wrecker’s licence or a”, insert instead “vehicle-wrecker’s licence, wholesaler’s licence, motor vehicle parts reconstructor’s licence, car market operator’s licence, motor vehicle consultant’s licence or”.

(b) Section 56 (1)—

Omit “a vehicle-wrecker or a”, insert instead “vehicle-wrecker, wholesaler, motor vehicle parts reconstructor, car market operator, motor vehicle consultant or”.

(10) (a) Section 57 (2) (a)—

Omit the paragraph, insert instead :—

- (a) regulating the conduct of any person who is required to hold a licence, or his servants or agents, in carrying on the business to which the licence relates;

Motor Dealers (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART VII OF THE MOTOR DEALERS ACT, 1974
—*continued.*

(b) Section 57 (2) (b)—

Omit “dealers, vehicle-wreckers or persons carrying on a prescribed business,”, insert instead “any person who is required to hold a licence”.

(c) Section 57 (2) (c)—

Omit “dealers, vehicle-wreckers or persons carrying on a prescribed business, or their”, insert instead “any person who is required to hold a licence, or his”.

(d) Section 57 (2) (c)—

Omit “them”, insert instead “him”.

(e) Section 57 (2) (d)—

Omit the paragraph.

(f) Section 57 (2) (g)—

Omit “dealers, vehicle-wreckers or persons carrying on a prescribed business,”, insert instead “any person who is required to hold a licence”.

Motor Dealers (Amendment).

SCHEDULE 9.

Sec. 4.

INSERTION OF SCHEDULE 1 INTO THE MOTOR DEALERS ACT, 1974.

Schedule 1—

At the end of the Act, insert:—

SCHEDULE 1.

Sec. 27
(1).

OBLIGATION OF DEALER TO REPAIR DEFECTS.

Column 1.	Column 2.	Column 3.
<i>Description of Motor Vehicle.</i>	<i>Kilometres.</i>	<i>Period.</i>
1. Motor vehicle (not being a motor cycle or a second-hand motor vehicle) that has been driven for less than 15,000 km at the time it is sold by dealer	20,000 (after manufacture)	12 months less 1 month for each 2,000 km that the vehicle has been driven before sold by dealer
2. Motor vehicle (not being a motor cycle or a second-hand motor vehicle) that has been driven for 15,000 km or more at the time it is sold by dealer	5,000 (after sale)	3 months
3. Second-hand motor vehicle (not being a motor cycle) sold at a cash price of or over \$3,000	5,000 (after sale)	3 months
4. Second-hand motor vehicle (not being a motor cycle) sold at a cash price of less than \$3,000	3,000 (after sale)	2 months
5. Motor cycle (not being a motor cycle that is of such design as to be incapable of being registered in New South Wales, or a second-hand motor cycle) that has been driven for less than 7,000 km at the time it is sold by dealer	10,000 (after manufacture)	6 months less 1 month for each 2,000 km that the motor cycle has been driven before sold by dealer
6. Motor cycle (not being a motor cycle that is of such design as to be incapable of being registered in New South Wales, or a second-hand motor cycle) that has been driven for 7,000 km or more at the time it is sold by dealer	3,000 (after sale)	3 months
7. Motor cycle (not being a second-hand motor cycle) that is of such design as to be incapable of being registered in New South Wales	5,000 (after sale)	3 months

*Motor Dealers (Amendment).*SCHEDULE 9—*continued.*INSERTION OF SCHEDULE 1 INTO THE MOTOR DEALERS ACT,
1974—*continued.*

Column 1. <i>Description of Motor Vehicle.</i>	Column 2. <i>Kilometres.</i>	Column 3. <i>Period.</i>
8. Second-hand motor cycle (not being a motor cycle or such design as to be incapable of being registered in New South Wales) sold at a cash price of or over \$1,500	3,000 (after sale)	3 months
9. Second-hand motor cycle (not being a motor cycle of such design as to be incapable of being registered in New South Wales) sold at a cash price of or over \$1,000 but of less than \$1,500	2,000 (after sale)	2 months
10. Second-hand motor cycle (not being a motor cycle of such design as to be incapable of being registered in New South Wales) sold at a cash price of less than \$1,000	1,000 (after sale)	1 month

Sec. 5.

SCHEDULE 10.

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpre-
tation.

1. In this Schedule, "appointed day" means the day appointed and notified under section 2 (2).

Obligation
of dealers
to repair
defects in
vehicles
sold before
appointed
day.

2. Sections 27, 28 and 29 of, and Schedule 1 to, the Motor Dealers Act, 1974, as amended by this Act, do not apply to or in relation to a motor vehicle sold before the appointed day, but sections 27, 28 and 29 of the Motor Dealers Act, 1974, as in force immediately before that day, shall continue to apply to such a motor vehicle.

Dealers'
notices.

3. A notice which is required to be attached to a motor vehicle under section 28 (5) of the Motor Dealers Act, 1974, as amended by this Act, in order to exclude the operation of section 27 (1) of that Act or permitted to be attached to a motor vehicle under section 29 (1) of that Act, as so amended, at all material times when the vehicle is offered or displayed for sale shall, in respect of any period before the appointed day, be deemed

*Motor Dealers (Amendment).*SCHEDULE 10—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

to be so attached if it was, during that period, attached in accordance with the corresponding provision of the Motor Dealers Act, 1974, as in force immediately before that day.

4. The fees or travelling or other allowances that a member of a disputes committee is entitled to receive pursuant to the regulations made under the Motor Dealers Act, 1974, and in force immediately before the appointed day shall, until the Minister makes a determination in respect of the member under section 34 (8) of that Act, as amended by this Act, be deemed to be the fees or allowances that the member is entitled to be paid under that section.

Fees, etc., payable to members of disputes committees.

5. On the appointed day—

- (a) any appeal against a refusal to grant, or a revocation of, a licence under the Motor Dealers Act, 1974, which is pending before an industrial magistrate appointed under the Industrial Arbitration Act, 1940;
- (b) any application for the rescission of sale of a motor vehicle under section 38 of the Motor Dealers Act, 1974, which is pending before such a magistrate;
- (c) any proceedings for an offence against the Motor Dealers Act, 1974, which are pending before such a magistrate; or
- (d) any appeal from the decision of such a magistrate under the Motor Dealers Act, 1974, which is pending before the Industrial Commission of New South Wales,

Proceedings pending before industrial magistrates on appointed day.

shall be disposed of as if this Act had not been enacted.

6. Notwithstanding the amendments made to section 34 of the Motor Dealers Act, 1974, by this Act, relating to the composition of a disputes committee, a disputes committee constituted before the appointed day may continue to investigate and may report upon any dispute referred to it by the Commissioner for Consumer Affairs.

Disputes committees.

7. (1) On and from the appointed day, the business of a wholesaler and a motor vehicle parts reconstructor are not prescribed businesses, and a wholesaler's licence and a motor vehicle parts reconstructor's licence are not prescribed licences, for the purposes of the Motor Dealers Act, 1974, as amended by this Act.

Wholesalers and motor vehicle parts recon-structors.

Motor Dealers (Amendment).

SCHEDULE 10—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) A wholesaler's licence or a motor vehicle parts reconstructor's licence granted before the appointed day and in force immediately before that day shall, on and from that day, be deemed to have been granted under the Motor Dealers Act, 1974, as amended by this Act.

(3) Where an application for a wholesaler's licence or a motor vehicle parts reconstructor's licence made before the appointed day has not, before that day, resulted in the granting or refusal of the licence, the application shall be dealt with as an application for such a licence under the Motor Dealers Act, 1974, as amended by this Act, and shall be so dealt with as if this Act had commenced immediately before the making of the application.

Application
for dealer's
or vehicle-
wrecker's
licence.

8. Where an application for a dealer's licence or vehicle-wrecker's licence made before the appointed day has not, before that day, resulted in the granting or refusal of the licence, the application shall be dealt with as an application under the Motor Dealers Act, 1974, as amended by this Act, and shall be so dealt with as if this Act had commenced immediately before the making of the application.

Registers.

9. A register kept by the holder of a dealer's licence, vehicle-wrecker's licence, wholesaler's licence or motor vehicle parts reconstructor's licence pursuant to the Motor Dealers Act, 1974, immediately before the appointed day shall, on and from that day, form part of the register that that person is required to keep pursuant to that Act, as amended by this Act.