

MOTOR VEHICLE DEALERS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Motor Vehicle Dealers Act 1975

Clause 1 relates to the Short Title.

Clause 2 inserts in section 2 of the principal Act a definition of the term “chief executive officer”, makes a consequential amendment to the definition of the term “officer”, and amends the definition of the term “salesman” to exclude officers of licensee companies and branch managers.

Clause 3 makes 2 amendments to the definition of the term “Court” in section 3 of the principal Act. The changes in *subclauses (1) and (2)* are consequential upon *clauses 19 and 11* of the Bill respectively.

Clause 4 amends the definition of the term “motor vehicle dealer” in section 4 of the principal Act. Subsection (3) of that section provides that every person who, in any period of 12 months, purchases, sells, exchanges, or leases more than 6 motor vehicles shall be presumed to be a motor vehicle dealer for the purposes of the Act unless he proves that he did not act for the primary purpose of gain.

The amendment excludes from this provision any trustee corporation, except where such a corporation purchases, sells, exchanges, or leases more than 6 motor vehicles in any year on behalf of the same person or estate.

Clause 5 exempts a car-fair operator from compliance with section 6 of the Act in respect of motor vehicles sold through the operator by a licensee.

Clause 6 empowers the Institute to object to or be heard in respect of an application for exemption from the requirement to hold a licence in respect of each branch office.

Clause 7 repeals section 8 (2) (c) of the principal Act which disqualifies a person from applying for a licence within 12 months after he has unsuccessfully applied for a licence, or for the renewal of a licence, under the Bill or the previous Act.

Clause 8 removes the requirement for an applicant for a licence to specify his date of birth in the application. The same amendment is made in respect of officers of licensee companies and branch managers.

Clause 9 makes two drafting amendments consequential upon *clause 10*.

Clause 10 amends section 14 of the Act relating to evidence of the suitability of an applicant for a licence.

Subclause (1) relates to applications by companies, and clarifies the criteria to be met by prospective officers of the company. The present provision (section 14 (2) (a) of the principal Act) requires each officer to be “eligible to apply for and obtain a licence under this Act in his own right”. Under the new provision an applicant company must satisfy the Magistrate that none of its officers is disqualified, by virtue of section 8 of the principal Act, from applying for or holding a licence, and that each of them is a proper person to be an officer of a licensee company, having regard to the matters specified in the proposed *paragraph (aa)*. In addition, the effect of the proposed *paragraph (ab)* is that a licensee company will now be required to show that the person who will be the company’s chief executive officer if the application is granted meets all the criteria necessary to apply for and obtain a licence in his own right, except those relating to the financial position of the applicant.

Subclause (2) makes similar provision in respect of prospective branch managers where the application for a licence relates to a branch office.

Clause 11 provides that where a licensee proposes to remove his business from his principal place of business or one of his branch offices to new premises he may, with the approval of the Court, remove his licence to those new premises.

Clause 12 empowers the Institute to object to or be heard in respect of an application by a licensee company for approval of an officer or the chief executive officer.

Clause 13 makes similar provision in respect of applications for approval of branch managers. It also makes a drafting amendment, consequential upon *clause 10*.

Clause 14: Subclause (1) is a drafting amendment.

Subclause (2) provides that while a person is carrying on any licensee’s business pursuant to an order of the Court made under subsection (1) of section 23 of the principal Act, or to an authority granted under subsection (7) of that section, he is deemed to be the holder of the licence. It supersedes and extends the present subsection (2), which is consequentially repealed.

Clause 15 repeals section 35 (4) of the principal Act which provides that if a person commences business during the last 3 months of a licensing year the Council of the Institute may reduce the amount of the contribution to the Motor Vehicle Dealers Fidelity Guarantee Fund payable by the person in respect of that year.

Clause 16 adds to the class of claims that may be admitted against the Motor Vehicle Dealers Fidelity Guarantee Fund under section 39 of the principal Act those arising out of a breach by a licensee of the term implied in a contract for sale of a category B motor vehicle by section 93 (2) of the principal Act, or of any warranty implied in a contract for sale of any motor vehicle by sections 14 to 16 of the Sale of Goods Act 1908.

Clause 17 amends section 40 of the principal Act. Subsection (2) (b) (iii) and the proviso to subsection (3) of that section contemplate that certain classes of claims against the Motor Vehicle Dealers Fidelity Guarantee Fund can only be admitted after adjudication by a Disputes Tribunal constituted under Part VIII of the Act.

The clause amends both provisions to allow for the admission of claims after adjudication by a Disputes Tribunal or by a Court.

The clause also makes two drafting amendments consequential upon *clause 16*.

Clause 18 inserts in the principal Act a new *section 47A*. Under sections 46 and 47 of the principal Act the Council is empowered in certain circumstances to apply to the Court for an order authorising it to seize and inspect documents relating to a licensee's business.

Under the new provision the Council may, if it is necessary to avoid loss or further loss to any person or to the Fund, seize any such document without first obtaining leave of the Court. However, within 7 days after exercising this power the approval of the Court to the retention of the documents must be sought.

Clause 19 amends section 54 (1) of the principal Act which prohibits a licensee from conducting his business elsewhere than at one of his places of business. The amendment allows him to purchase or negotiate to purchase any motor vehicle at any other place.

Clause 20 amends section 57 of the principal Act which requires a licensee to personally supervise, manage, and conduct his business as a motor vehicle dealer at his principal place of business. The clause requires a licensee company to supervise, manage, and conduct its business at its principal place of business through its chief executive officer or such other person as the Court may approve.

Clause 21 amends section 58 of the principal Act relating to the employment of salesmen and provides that, where two or more licensees are in partnership, it is sufficient compliance with section 58 (2) of the principal Act (which requires licensees to keep a list of salesmen employed by them) by each licensee if one of the licensees keeps such a list.

Clause 22 amends section 66 (2) of the principal Act which provides a period of grace for persons who were employed as motor vehicle salesmen at the commencement of Part V of the principal Act to register as salesmen under the Bill without meeting the educational requirements specified in section 66 (1) (b). Under the present provision this period runs for 12 months after the commencement of Part V. Under the amendment the period will still be 12 months, but it will run from the date of the first meeting of the Motor Vehicle Salesmen Registration Board, established by section 63 of the principal Act.

Clause 23 amends section 68 (1) of the principal Act which requires an applicant for registration as a salesman to give public notice of his application in the prescribed form. The clause removes this latter requirement. The form is now to be that approved by the Secretary to the Motor Vehicle Salesmen Registration Board.

Clause 24 amends sections 82, 84, and 87 of the principal Act relating to certificates of approval.

Subclause (1) amends section 82 (1) of the principal Act which provides that where an application for the approval of a salesman has been filed but not determined, the Registrar may authorise the applicant to employ the prospective salesman for a short period. The amendment makes it clear that the prospective salesman may also be employed, during that period, by any partner of the applicant.

Subclause (2) requires a Registrar, on issuing a certificate of approval to a salesman, to issue a copy of the certificate to the applicant.

Subclause (3) makes it clear that a certificate of approval authorises the holder to be employed by the applicant and by his partners.

Subclause (4) makes it clear that where an approved salesman is employed by 2 or more licensees in partnership with one another any of them may apply for the renewal of the salesman's certificate of approval.

Clause 25 removes the requirement for a licensee, on selling a motor vehicle to a trade owner, to give him a trade owner's disposal notice.

Clause 26 redefines category B motor vehicles for the purposes of sections 93 to 95 of the principal Act. The effect is to bring into this category those motor vehicles that are less than 4 years old and have been driven between 50,000 and 75,000 kilometres. At present, such vehicles fall into category D.

Clause 27 amends section 93 of the principal Act relating to the obligations of licensees in respect of secondhand motor vehicles sold by them.

Subsection (2) of that section implies into a contract of sale of such a vehicle a warranty in the prescribed form that the vehicle has a current warrant of fitness and that it is of merchantable quality. *Subclause (1)* removes the requirement for this warranty to be set out in the prescribed form: a warranty to the effect specified will be sufficient.

Subclause (2) corrects a drafting error in section 93 (3).

Subclause (3) also amends section 93 (3). That subsection provides that if a licensee wishes to recover from the purchaser any sum by way of betterment he must demand the same in the prescribed form. The subclause removes this formal requirement.

Subclause (4) inserts in section 93 a new subsection (4A). Subsection (3) provides that if it is not practicable, when a defect first appears, to call upon the licensee to repair it the purchaser may have it repaired and recover the reasonable cost of doing so from the licensee. The new provision makes it clear that in such a case the licensee has the same right to recover betterment from the purchaser as he has under subsection (4) when he repairs the defect himself.

Clause 28: Subclause (1) amends section 96 (1) of the principal Act, consequential upon *clause 16 (1)*.

Subclause (2) allows complaints against licensees by consumers to be addressed to the Institute at the nearest branch or at its Head Office.

Subclause (3) provides that where a dispute is to be referred to a Disputes Committee the purchaser shall pay a prescribed fee.

Clause 29 provides for all members of Disputes Tribunals to be paid fees and allowances out of money appropriated by Parliament. At present, only the Chairmen are entitled to fees and allowances.

Clause 30 sets out the powers of a Disputes Tribunal where it finds a licensee to be in breach of the term implied in contracts for the sale of secondhand motor vehicles by section 93 (2) of the principal Act that the vehicle has a warrant of fitness, and that it is of merchantable quality and fit for the purpose for which vehicles of that type are usually used.

Clause 31 simplifies the present procedure prescribed by section 104 of the principal Act relating to the enforcement of decisions of Disputes Tribunals. Under that section either party to the dispute may, in the prescribed manner, register the decision in the Court, and thereafter the decision will be enforceable as if it were an order of the Court. Under the clause it will be necessary only to file a copy of the decision in the Court.

Clause 32 corrects a drafting error in section 110 (1) (d) of the principal Act. The words to be omitted are otiose.

Clause 33 provides for the disciplining of officers of licensee companies and branch managers as if they were salesmen.

Clause 34 makes two minor procedural amendments to section 130 of the principal Act relating to appeals to the Supreme Court against certain decisions made under the Act.

Clause 35 corrects a drafting error in section 136 of the principal Act.

Clause 36 is a drafting amendment, consequential upon *clause 27 (2)*.

Hon. Mr Thomson

MOTOR VEHICLE DEALERS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Motor Vehicle Dealers Act 1975

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

No. 156—1

1. Short Title—This Act may be cited as the Motor Vehicle Dealers Amendment Act 1976, and shall be read together with and deemed part of the Motor Vehicle Dealers Act 1975* (hereinafter referred to as the principal Act).

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2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “certificate of approval”, the following definition:

“‘Chief executive officer’, in relation to a licensee company,—

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“(a) In any case where the company conducts business only as a motor vehicle dealer, means the chief executive officer of the company, however designated; or

“(b) In any case where the company carries on any other business in addition to the business of a motor vehicle dealer, means the chief executive officer of the company, however designated, in respect of the company’s motor vehicle dealer’s business;— and includes any other person approved by the Court under section 57 (2) of this Act to conduct the company’s business as a motor vehicle dealer at its principal place of business:”.

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(2) The said section 2 (1) is hereby further amended by omitting from paragraph (a), and also from paragraph (b), of the definition of the term “officer” the word “manager”, and substituting in each case the words “chief executive officer”.

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(3) The said section 2 (1) is hereby further amended by adding to the definition of the term “salesman” the words “; but does not include a branch manager employed by any licensee or an officer of a licensee company”.

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3. Meaning of “Court”—(1) Section 3 (1) (c) of the principal Act is hereby amended by inserting, after the words “registered office,”, the words “or to an application under section 57 of this Act for the approval of a person through whom a licensee company may conduct its business as a motor vehicle dealer at its principal place of business,”.

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(2) Section 3 (1) of the principal Act is hereby further amended by inserting, after paragraph (d), the following paragraph:

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“(da) In relation to an application under section 18A of this Act for the removal of a licence to any premises, means the Magistrate’s Court nearest to those premises.”.

5 **4. Meaning of “motor vehicle dealer”**—Section 4 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

10 “(3A) Nothing in subsection (3) of this section shall apply to any trustee corporation (within the meaning of section 2 of the Trustee Act 1956) that, in any period of 12 consecutive months commencing after the commencement of this Act, purchases, sells, exchanges, or leases more than 6 motor vehicles, otherwise than on behalf of the same person or estate, in the capacity of executor, administrator, trustee, 15 guardian, committee, manager, agent, attorney, or liquidator, or in any other fiduciary capacity.”

5 **5. Car-fair operators**—Section 6 of the principal Act is hereby amended by adding the following subsection:

20 “(4) Nothing in this section applies in respect of a motor vehicle offered or displayed for sale or sold through a car-fair operator by a licensee.”

6 **6. Applications for exemption from requirement to hold licence in respect of particular place of business**—(1) Section 7 (5) of the principal Act is hereby amended by omitting the 25 words “charged with the management of the branch office”, and substituting the words “through whom the licensee conducts or will conduct his or its business as a motor vehicle dealer at that place of business”.

30 (2) Section 7 (2) of the principal Act is hereby further amended by inserting, after subsection (5), the following subsection:

35 “(5A) The Institute may object to or be heard in respect of an application under subsection (5) of this section; and for that purpose the provisions of sections 10, 12, and 13 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to an application under that subsection as if it were an application for a licence.”

40 **7. Eligibility for licences**—Section 8 (2) of the principal Act is hereby amended by repealing paragraph (c).

8 **8. Application for licence**—(1) Section 9 (2) (a) of the principal Act is hereby amended by omitting the words “occupation, and date of birth”, and substituting the words “and occupation”.

(2) Section 9 (2) (b) of the principal Act is hereby amended—

(a) By omitting the words “occupation, and date of birth”, and substituting the words “and occupation”:

(b) By inserting, after the words “of the company”, the words “, and of the person who will be the company’s chief executive officer,”.

(3) Section 9 (2) (c) of the principal Act is hereby amended by omitting the words “occupation, and date of birth”, and substituting the words “and occupation”.

9. Public notice to be given—(1) Section 11 (3) of the principal Act is hereby amended by omitting from paragraph (d) the words “by reason of his personal character or fitness”, and substituting the words “having regard to the provisions of section 14 (2) of this Act”.

(2) The said section 11 (3) is hereby further amended by inserting, after paragraph (d), the following paragraph:

“(da) Where the applicant is a company, that the person who will be the company’s chief executive officer if the application is granted is not, having regard to section 14 (2) of this Act, a proper person to be the chief executive officer of a licensee company.”.

(3) The said section 11 (3) is hereby further amended—

(a) By inserting in paragraph (e), after the word “that”, the word “the”:

(b) By inserting in that paragraph, after the words “is not”, the words “, having regard to the provisions of section 14 (3) of this Act,”.

10. Suitability of officers and branch managers—(1) Section 14 (2) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraphs:

“(a) No person who will be an officer of the company if the application is granted is disqualified, under any of the provisions of section 8 of this Act, from applying for or obtaining a licence under this Act in his own right; and

“(aa) Every such person is, by reason of his relevant business experience, judgment, and general knowledge, a proper person to be an officer of a licensee company; and

“(ab) The person who will be the company’s chief executive officer if the application is granted—

5 “(i) Is not disqualified, under any of the provisions of section 8 of this Act, from applying for or obtaining a licence under this Act in his own right; and

“(ii) Is, by reason of his personal character and fitness, a proper person to be the company’s chief executive officer; and”.

10 (2) Section 14 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection:

15 “(3) The Magistrate hearing an application for the issue of a licence in respect of a branch office shall not grant the application unless he is satisfied that the person who will be responsible for the conduct of the licensee’s business as a motor vehicle dealer at the branch office if the application is granted—

20 “(a) Is not disqualified, under any of the provisions of section 8 of this Act, from applying for or obtaining a licence under this Act in his own right; and

“(b) Is, by reason of his personal character and fitness, a proper person to be the branch manager of the branch office.”

25 **11. Removal of licence**—The principal Act is hereby amended by inserting, after section 18, the following section:

30 “18A. (1) Where a licensee intends to remove his business as a motor vehicle dealer from his principal place of business or any of his branch offices to any other premises he may apply to the Court for permission to remove his licence to those other premises.

“(2) Every licensee who desires to remove a licence under subsection (1) of this section shall make application to the Court in the prescribed form.

35 “(3) The provisions of sections 9 to 14 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to an application under this section as if it were an application for the issue of a licence.

40 “(4) If, after hearing an application for the removal of a licence and considering all objections (if any) to the removal of the licence made in accordance with this Part of this Act, the Magistrate is satisfied that the provisions

of this Act in relation to the application have been complied with, and that the applicant or, in the case of a branch office, the person who will be responsible for the conduct of the applicant's business as a motor vehicle dealer if the application is granted is a proper person to carry on or to conduct the business of a motor vehicle dealer, he shall grant the application and shall notify the applicant in writing that the licence will be removed when the Registrar has given his approval to the new premises under subsection (5) of this section. 5 10

“(5) In any case to which subsection (4) of this section applies, the Registrar, if he is satisfied that the applicant is entitled, by virtue of any right, permission, authority, consent, approval, or dispensation enjoyed by or granted to him under the provisions of the Town and Country Planning Act 1953 to carry on the business of a motor vehicle dealer from the premises to which the application relates, shall— 15

“(a) Approve that place of business; and

“(b) On payment to him of the prescribed fee, endorse on the licence the address of the principal place of business or, as the case may require, the branch office to which the licence now relates, and each subsidiary place of business approved by the Court under subsection (5) of section 7 of this Act. 20 25

“(6) On the approval of the removal of a licence under this section the approval under section 7 (5) of this Act of any subsidiary place of business to which that licence relates shall be deemed to be revoked; and the Registrar of the Court by which the approval of the removal of the licence was given shall notify the Court by which the approval of any such subsidiary place of business was given accordingly. 30

“(7) Notwithstanding any of the foregoing provisions of this section, where the Court considering the application for the removal of the licence is the same Court that issued the licence the Magistrate may exempt the applicant from compliance in whole or in part with any of the provisions of this Act referred to in subsection (3) of this section.” 35

12. Applications for approval as officer or chief executive officer of licensee company—(1) Section 20 (1) of the principal Act is hereby amended by inserting, after the 40

words “an officer”, the words “or as the chief executive officer”.

(2) Section 20 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) The Institute may object to or be heard in respect of an application under subsection (2) of this section; and for that purpose the provisions of sections 10, 12, and 13 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to an application under that subsection as if it were an application for a licence.”

(3) Section 20 (5) of the principal Act is hereby amended by inserting, after the words “an officer”, the words “or as the chief executive officer”.

(4) Section 20 (6) of the principal Act is hereby amended by inserting, after the words “an officer”, the words “or, as the case may require, the chief executive officer”.

13. Applications for approval as branch manager—

(1) Section 21 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) The Institute may object to or be heard in respect of an application under subsection (2) of this section; and for that purpose the provisions of sections 10, 12, and 13 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to an application under that subsection as if it were an application for a licence.”

(2) The said section 21 is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) A Magistrate shall not approve of any person for the purposes of subsection (1) of this section unless he is satisfied that, having regard to the provisions of section 14 (3) of this Act, the person is a proper person to be the branch manager of the branch office.”

14. Temporary licence—(1) Section 23 (1) (a) of the principal Act is hereby amended by inserting, after the words “case of”, the words “a licensee who is”.

(2) Section 23 of the principal Act is hereby further amended by adding the following subsection:

“(9) While any person is carrying on any business pursuant to an order made under subsection (1) of this section, or pursuant to an authority granted under subsection (7) of this section, he shall, for the purposes of this Act, be deemed to be the holder of the licence.” 5

(3) Section 23 (2) of the principal Act is hereby consequentially repealed.

15. Contributions to Fund—Section 35 (4) of the principal Act is hereby repealed.

16. Application of Fund—(1) Section 39 of the principal 10 Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) The breach implied in contracts of sale of category D motor vehicles by section 93 (2) of this Act:”.

(2) Section 39 of the principal Act is hereby amended by 15 adding the following paragraph:

“(f) The breach by the licensee of any warranty implied in contracts for sale of motor vehicles by sections 14 to 16 of the Sale of Goods Act 1908.”

17. Claims against Fund—(1) Section 40 (2) (b) (iii) of 20 the principal Act is hereby amended—

(a) By omitting the expression “(e)”, and substituting the expression “(f)”:

(b) By omitting the words “the Disputes Tribunal”, and substituting the words “a Disputes Tribunal or 25 Court”.

(2) Section 40 (3) of the principal Act is hereby amended—

(a) By omitting from the proviso the expression “(e)”, and substituting the expression “(f)”:

(b) By omitting from the proviso all the words occurring after the words “a Disputes Tribunal”, and substituting the words “or Court”. 30

(3) Section 40 (4) of the principal Act is hereby amended by omitting the words “paragraph (d) or paragraph (e)”, 35 and substituting the words “any of paragraphs (ca) to (f)”.

18. Power to take possession of and inspect licensee’s books in emergency without prior approval of Court—(1) The principal Act is hereby amended by inserting, after section 47, the following section: 40

“47A. (1) Notwithstanding anything in sections 46 and 47 of this Act, if in any case to which either of those sections applies the Council is satisfied, in respect of any licensee, that it is necessary, in order to avoid loss or further loss to any
5 person or to the Fund, immediately to take possession of or inspect any ledgers, books of account, records, deeds, or other documents belonging to the licensee, or held in the course of his business as a motor vehicle dealer in his possession or under his control, or, in the case of a licensee company, in
10 the possession or control of any officer or employee of the company, the Council may do so without first applying to the Court under either of those sections.

“(2) Within 7 days after it has exercised its powers under subsection (1) of this section the Council shall apply to the
15 Court for an order authorising it to retain possession of any document concerned, and the provisions of section 46 or, as the case may require, section 47 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to every such application.”

20 (2) Section 48 (1) of the principal Act is hereby amended by omitting the words “section 46 or section 47”, and substituting the words “any of sections 46 to 47A”.

(3) Section 49 of the principal Act is hereby amended by omitting the words “and 47”, and substituting the words
25 “to 47A”.

(4) Section 50 (3) of the principal Act is hereby amended by omitting the words “and 47”, and substituting the words
“to 47A”.

(5) Section 51 of the principal Act is hereby amended by
30 inserting, after the expression “47,”, the expression “47A”.

19. Licensee may purchase motor vehicles elsewhere than at places of business—Section 54 (1) of the principal Act is hereby amended by adding the following proviso:

35 “Provided that this subsection shall not prohibit a licensee from purchasing or carrying on negotiations to purchase any motor vehicle at any other place.”

20. Supervision of licensee’s business at principal place of business—(1) Section 57 of the principal Act is hereby amended by inserting, after the words “Every licensee”, the
40 words “(other than a licensee company)”.

(2) The said section 57 is hereby further amended by adding, as subsections (2) to (7), the following subsections:

45 “(2) Every licensee company shall supervise, manage, and control the conduct of its business as a motor vehicle dealer at its principal place of business and at each subsidiary place of business named in the licence relating to its principal place of business through its chief executive officer or through such other person as may be approved for the time being by the Court.

“(3) A licensee company may at any time apply to the Court in the prescribed form for approval of any person for the purposes of subsection (2) of this section.

“(4) The Institute may object to or be heard in respect of an application under subsection (3) of this section; and for that purpose the provisions of sections 10, 12, and 13 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to an application under that subsection as if it were an application for a licence.

“(5) A Magistrate shall not approve of any person for the purposes of subsection (2) of this section unless he is satisfied that, having regard to the provisions of section 14 (3) of this Act, the person would, if the principal place of business were a branch office, be a proper person to be the branch manager of the branch office.

“(6) Notwithstanding the foregoing provisions of this section, the provisions of subsections (6) and (7) of section 20 of this Act, so far as they are applicable and with the necessary modifications, shall apply in respect of applications made under subsection (3) of this section.

“(7) Every licensee who fails to comply with subsection (1) or subsection (2) of this section commits an offence against this Act.”

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21. Employment of salesmen—Section 58 (2) of the principal Act is hereby amended by adding the following proviso:

“Provided that, where two or more licensees are in partnership with one another, it shall be sufficient compliance with this subsection by each licensee if any one of the licensees keeps such a list.”

22. Eligibility for registration as salesman—Section 66 (2) (c) of the principal Act is hereby amended by omitting the words “after the commencement of this Part of this Act”, and substituting the words “after the date of the first meeting of the Board”.

23. Form of public notice of application for registration as salesman—Section 68 (1) of the principal Act is hereby amended by omitting the words “the prescribed form”, and substituting the words “a form approved for the purpose by the Secretary”.

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24. Certificate of approval—(1) Section 82 (1) of the principal Act is hereby amended by inserting, after the words “the applicant”, the words “(and any partner of the applicant)”.

5 (2) Section 84 (3) of the principal Act is hereby amended by adding the words “, and a copy of the certificate to the applicant”.

(3) Section 85 (1) of the principal Act is hereby amended by inserting, after the word “applicant”, the words “(and
10 any partner of the applicant)”.

(4) Section 87 (1) of the principal Act is hereby amended by inserting, after the words “is employed”, the words “or, where the salesman is employed by 2 or more licensees in partnership with one another, by any of the licensees by
15 whom he is employed”.

25. Particulars to be displayed in respect of secondhand motor vehicles—Section 90 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

20 “(6) A copy of every notice attached to a motor vehicle under this subsection shall be retained by the licensee, and, in the event of the vehicle being sold to any person other than a trade owner, a further copy shall be given to the purchaser.”

25 **26. Category B motor vehicles**—Section 92 of the principal Act is hereby amended by repealing the definition of the term “category B motor vehicle”, and substituting the following definition:

30 “‘Category B motor vehicle’ means a secondhand motor vehicle, not being a category A motor vehicle, that was first registered not more than 6 years ago and that has been driven not more than 75,000 kilometres:”.

27. Obligations of licensee in respect of sale of secondhand motor vehicles—(1) Section 93 (2) of the principal Act is hereby amended by omitting the words “in the prescribed form”.

(2) Section 93 (3) of the principal Act is hereby amended by omitting the word “car”, and substituting the words
40 “motor vehicle”.

(3) Section 93 (4) of the principal Act is hereby amended by omitting the words “in the prescribed form”.

(4) Section 93 of the principal Act is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) In any case to which subsection (3) of this section applies the provisions of subsection (4) of this section shall also apply; but nothing in subsection (5) of this section shall apply to any such case.”

28. Complaints to Institute—(1) Section 96 (1) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) The licensee is in breach of the term implied in the contract of sale by section 93 (2) of this Act; or”.

(2) Section 96 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) A complaint may be addressed to the nearest branch of the Institute or to the Institute’s Head Office.”

(3) Section 96 (4) of the principal Act is hereby amended by inserting, after the words “the Institute shall”, the words “, on payment to it of the prescribed fee by the purchaser,”.

29. Fees for members of Disputes Tribunals—Section 97 (5) of the principal Act is hereby amended—

(a) By omitting the word “Chairman” where it first occurs, and substituting the word “members”:

(b) By omitting the words “Chairman were a member”, and substituting the words “members were members”.

30. Determination of disputes alleging breach of implied term in respect of category D motor vehicle—The principal Act is hereby amended by inserting, after section 102, the following section:

“102A. Where any dispute referred to a Disputes Tribunal under section 96 of this Act involves an allegation that the licensee is in breach of the term implied in a contract of sale of a category D motor vehicle by section 93 (2) of this Act, the Tribunal may, if it is satisfied that the licensee is in breach, make an order—

- 5 “(a) Requiring the licensee, within such period as the Tribunal may specify in the order, to carry out any work, and to do any other thing, as may be necessary to procure the issue in respect of the motor vehicle of a warrant of fitness under the Transport Act 1962; or
- 10 “(b) Requiring the licensee to pay to the purchaser, or to anyone claiming through the purchaser, such sum by way of compensation for the breach as the Tribunal thinks fit; or
- “(c) Rescinding the contract, in which case section 101 of this Act, with any necessary modifications, shall apply accordingly.”

15 **31. Enforcement of Disputes Tribunals decisions**—The principal Act is hereby amended by repealing section 104, and substituting the following section:

20 “104. (1) For the purpose of enforcing any decision of a Disputes Tribunal either party to the dispute may file a duplicate of the decision in the office of the Court, and the decision shall thereupon be enforceable in all respects as a final judgment of the Court in its civil jurisdiction.

25 “(2) Notwithstanding subsection (1) of this section, no decision of a Disputes Tribunal may be registered unless the time allowed for an appeal against the decision has expired and no appeal has been brought.”

32. Form of agreements for sale of motor vehicles—
(1) Section 110 (1) (d) of the principal Act is hereby amended by omitting the words “In the case of an agreement to sell a secondhand motor vehicle,”.

30 (2) Section 110 (5) of the principal Act is hereby amended by omitting the expression “(3)”, and substituting the expression “(4)”.

33. Disciplining of officers and branch managers—The principal Act is hereby amended by inserting, after section 35 118, the following section:

40 “118A. The provisions of sections 117 and 118 of this Act, so far as they are applicable and with the necessary modifications, shall apply to an officer of a licensee company, the chief executive officer of a licensee company, and to a branch manager, as if—

“(a) The officer, chief executive officer, or branch manager were a salesman; and

“(b) For the words ‘a certificate of approval’ where they first occur in section 117 (1) of this Act there were substituted the words ‘the approval of the Court given under section 20 or, as the case may require, section 21 of this Act’; and 5

“(c) For the words ‘certificate of approval’ where they occur in paragraphs (b) and (c) of section 117 (1), and where they occur in section 118 (1), of the principal Act there were substituted in each case the words ‘approval of the Court’.” 10

34. Appeals to Supreme Court—(1) Section 130 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection: 15

“(4) Every appeal under this section shall be heard and determined by the Administrative Division of the Supreme Court.”

(2) Section 130 (8) of the principal Act is hereby amended by omitting the word “ordinary”. 20

35. Licensee not entitled to indemnity from previous owner—Section 136 of the principal Act is hereby amended by omitting the word “nature”, and substituting the word “virtue”.

36. Service of documents—Section 144 (3) of the principal Act is hereby amended by omitting the word “Any”, and substituting the words “Subject to section 96 (1A) of this Act, any”. 25