

AUSTRALIAN CAPITAL TERRITORY

SALE OF MOTOR VEHICLES BILL 1976

EXPLANATORY MEMORANDUM

The purpose of the Bill is to regulate the sale of new and second-hand motor vehicles to the public.

Details of certain clauses of the Bill are briefly commented upon in the following outline which makes reference as necessary to the Bill of 1975.

Clause 2

provides for a staggered commencement of the proposed Ordinance commensurate with available staff resources.

Sub-clause 3(1)

interprets terms used in the Bill; the definition of 'demonstrator vehicle' has been drafted slightly differently from the definition suggested by the Assembly but to the same effect; a definition of 'exempt trader' has been introduced; the definition of 'second-hand motor vehicle' has been omitted as this expression has a sufficiently explicit commonplace meaning; the definition of 'tribunal' has been introduced in consequence of the change to Part VIII.

Sub-clauses 3(2) and (3)

apply the proposed Ordinance to the leasing of new motor vehicles.

Sub-clause 3(4)

has the same function as clause 2.

Clause 5

provides for a Deputy Registrar of Motor Vehicle Dealers.

Sub-paragraph 10(1)(g)(i)
and sub-clause 10(2)

have been redrafted in the light of recent consideration by the Supreme Court of similar provisions.

Sub-paragraph 11(1)(h)(i)
and sub-clause 11(2)

The preceding comment also applies to these provisions.

Clause 13

The Assembly's amendment has not been accepted as the granting of licences by default to persons without the appropriate background is not considered desirable.

The Administrative Appeals Tribunal Act 1975 came into force on 1 July 1976 and

makes provision for the failure of a statutory officeholder to make a determination within a period specified in the enactment under which an application is made.

Sub-clause 14(2)

The Assembly's amendment has not been accepted as it would have created problems principal amongst which would have been the triennial collection of licence fees and contributions to the Motor Vehicle Dealers Compensation Fund from smaller scale dealers. In addition an annual review of licences would help ensure compliance with the Ordinance by enabling the Registrar to exercise greater control over dealers who may be failing to meet their statutory obligations.

Clause 17

provides that incorrect information should not be given to a dealer.

Sub-clause 20(4)

relates to the sale of a demonstrator vehicle.

Sub-clause 20(6)

exempts certain vehicles from the other provisions of clause 20.

Clause 21

requires dealers to do certain things upon the sale of a second-hand motor vehicle.

Part VIII

provides for a review of decisions of the Registrar by the Administrative Appeals Tribunal.

Clause 69

is consequential upon the Remuneration Ordinance 1976.

Clause 76

The Assembly's amendment has not been accepted as the expression 'during normal business hours' recommended by the Assembly appears to be unsatisfactory for example does it mean the hours during which a particular dealer is open for business; if so a dealer could close for business to prevent an inspector from entering his premises for the purposes of the Ordinance.

Clause 83

The Assembly's amendment has not been accepted. This provision does not remove the protection of the Ordinance from a purchaser that is a corporation. It merely makes it possible for a dealer and a corporation to negotiate a sale whereby the corporation forgoes rights in return for some benefit to be given by the dealer, for example, a price reduction.

Clause 89

The Assembly's amendment has not been accepted, as the administration of the Ordinance could become very cumbersome indeed if every requirement of the Registrar or an inspector had to be made in writing.

Sub-clause 91(3)

has the same function as clause 2 and sub-clause 3(4).