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BILLS DIGEST

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Motor Vehicle Sales Amendment Bill 2009

Date of Introduction:	26 May 2009
Portfolio:	Consumer Affairs
Select Committee:	As at 18 June, 1st Reading not held.
Published: 18 June 2009 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of the Bill is to amend the Motor Vehicle Sales Act 2003 (the Act) " ... to improve its effective operation"¹.

Background

"As required by section 163 of the Act, the Ministry of Consumer Affairs conducted a review of the Act following 2 years of its operation. The review report was tabled in the House [of Representatives] on 22 March 2006"².

¹ Motor Vehicle Sales Amendment Bill, 2009 No 39-1, Explanatory note, General policy statement, p. 1.

² Ibid.

Main Provisions

Car market operators excluded from definition of "motor vehicle trader"

The Bill removes the term "car market operator" from the definition of "motor vehicle trader" (*Part 1, Clause 5, amending Section 7 of the Act by deleting paragraph (b) (i); Clause 6(1) and (3), amending Section 9 of the Act*).

Comment

"Unless selling vehicles, as compared to providing a venue for sales to occur, car market operators are not motor vehicle traders"³.

Licensed car wreckers not to be treated as motor vehicle traders

The Bill provides that a "licensed car wrecker" is not a motor vehicle trader and defines the former term as "... a person who is a licensed secondhand dealer (under the Secondhand Dealers and Pawnbrokers Act 2004) who buys, in the course of that person's business as a secondhand dealer, any motor vehicle for wrecking or dismantling by that person" (*Part 1, Clause 6(2), amending Section 9(1) of the Act by repealing paragraph (f); Clause 4, amending Section 6(1) of the Act by inserting a new definition, that of "licensed car wrecker"*).

Duty to inform of personnel changes

The Act imposes an obligation on motor vehicle traders that are companies to notify the Registrar of motor vehicle traders if a new person becomes concerned in the management of the company (*Part 1, Clause 12, inserting New Section 40A into the Act*).

Persons banned from participating in the business of motor vehicle trading

The Bill extends the list of persons banned from participating in the business of motor vehicle trading to include persons making false declarations, completing false certificates, or providing false or misleading information when registering or advising the Registrar of motor vehicle trading of changes, and failing to notify the Registrar of new people concerned in the management of a motor trading company. The list of persons registered as a motor vehicle traders who, on the occurrence of specified events, become banned persons (such as being convicted of specified crimes, being adjudged bankrupt or being prohibited from being a director of a company) is extended to include not just people who are registered, but also people who are motor vehicle traders (whether registered or not) or who, at any time within the previous five years, have been motor vehicle traders (*Part 1, Clause 14 amending Section 68(1) of the Act*).

Jurisdiction of Motor Vehicle Disputes Tribunals extended

The Bill increases the jurisdiction of Motor Vehicle Disputes Tribunals from \$50,000 to \$100,000. In relation to costs that the Motor Vehicle Disputes Tribunal may award, the Bill extends the current provision (that enables the Tribunal to award costs if the applicant fails to attend the hearing) so that costs can be awarded if any party, not just the applicant, fails to attend the hearing (*Part 1, Clause 16, amending Section 90(1)(b) of the Act; Clause 23, amending clause 14(1)(b) of Schedule 1 of the Act*).

³ Ibid., p. 2.

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