

## MOTOR DEALER ACT

### CHAPTER 287

#### PART 1

##### Interpretation

**1.** In this Act

“business premises” does not include premises or part of premises occupied as a residence;

“commission” means the Corporate and Financial Services Commission appointed under the *Securities Act*;

“court” means County Court;

“mobile home” means a mobile home as defined in the *Mobile Home Act*;

“motor dealer” means a person who, in the course of business,

(a) engages in the sale of motor vehicles, whether for his own account or for the account of another person, or who holds himself out as engaging in the sale of motor vehicles; or

(b) with or without remuneration, acts as a motor vehicle broker or, as an agent, sells motor vehicles on commission; and

(c) includes a person who carries on any of the activities described above in respect of at least 5 motor vehicles within a 12 month period,

but does not include a person exempted by regulation;

“motor vehicle” means a motor vehicle as defined in the *Motor Vehicle Act*, and includes a trailer or a mobile home, but does not include a motorized snow vehicle, electric trolley bus, farm tractor or other self propelled machinery primarily intended for farming, construction, mining or logging purposes, or a motor vehicle exempted by the regulations;

“registered” means registered under this Act;

“registrar” means the Registrar of Motor Dealers appointed under section 2, and includes a person authorized in writing by the registrar to perform any of his duties;

“sale” means a lease, exchange or other disposition or supply of a motor vehicle to an individual primarily for his personal or family use.

1977-56-1.

##### Appointment and function of registrar

**2.** (1) There may be appointed, under the *Public Service Act*, a Registrar of Motor Dealers and other employees required to administer this Act.

(2) The registrar shall

(a) establish a registry system;

(b) under the direction of the minister, exercise the powers and perform the duties conferred or imposed on him under this Act and the regulations;

(c) publish, on direction of the minister, reports respecting the administration and enforcement of this Act and the regulations; and

(d) maintain public records of terms or conditions imposed on a registered dealer under section 4 (4).

(3) The registrar, on direction of the minister, may conduct research, hold public hearings, make inquiries, conduct tests, publish studies and inform consumers and motor dealers respecting any aspect of the motor vehicle industry.

1977-56-2.

### **Registration required for motor dealer**

**3.** No person shall carry on business as a motor dealer

(a) unless he

- (i) is registered;
  - (ii) has furnished the prescribed security satisfactory to the registrar;
  - (iii) has paid the prescribed annual renewal fee;
  - (iv) maintains motor vehicle repair facilities or files with the registrar a service contract providing for motor vehicle repair facilities satisfactory to the registrar;
  - (v) maintains a sign on the business premises identifying the registrant and the premises in the prescribed manner; and
  - (vi) maintains business premises that are, in the opinion of the registrar, sufficient for the purpose of displaying motor vehicles;
- and

(b) other than in his registered name or elsewhere than at or from his business premises,

and, except as provided in section 13, no person shall advertise or in any way indicate that he is registered or licensed under this Act.

1977-56-3.

### **Application for registration**

**4.** (1) Every application for registration shall be made in the prescribed form to the registrar and be accompanied by the prescribed fee.

(2) Where an applicant carries on business at more than one location in the Province, he shall apply for registration for each location.

(3) A registration or renewal of registration expires at midnight on the day before the anniversary of the day in the previous year that it came into effect.

(4) The registrar may register or renew registration on terms, conditions or restrictions he considers necessary.

(5) The registrar may grant or renew a registration to be effective on a date subsequent to the date his decision is made.

1977-56-4.

### **Refusal, suspension or termination**

**5.** Where the financial responsibility or past conduct of an applicant or person registered, or its officers or directors, if the applicant or person registered is a corporation, is, in the opinion of the registrar, such that it would not be in the public interest for the applicant or person to be registered or continue to be registered, the registrar may,

- (a) where the application is made under section 4, refuse to register, or refuse to renew registration; or
- (b) where a person is registered,
  - (i) cancel the registration; or

- (ii) suspend the registration for a period of time and subject to conditions the registrar considers necessary.

1977-56-5.

#### **Hearing if requested**

- 6.** Where the registrar proposes to
- (a) refuse to register or refuse to renew registration;
  - (b) cancel the registration; or
  - (c) suspend the registration,

he shall notify the applicant, or the holder of a certificate of registration, by registered mail that

- (d) he has the right to be heard at a date and place specified in the notice; and
- (e) if the applicant or holder does not attend at that time and place, the matter may be disposed of in his absence.

1977-56-6.

#### **Inquiries**

**7.** (1) The registrar, in the exercise of his powers and duties under sections 4 and 5, may make inquiries and require information

- (a) he considers appropriate or necessary to decide whether or not to grant, renew, cancel or suspend registration; or
- (b) respecting the business or proposed business of the applicant as authorized by the regulations.

(2) It is a condition of registration or renewal of registration that the applicant, or the holder of a certificate of registration or renewal, provide information and documents respecting the business of a motor dealer the registrar or another person conducting an inquiry under this Act requires.

1977-56-7.

#### **Appeal and review by commission**

**8.** (1) A person affected by a direction, decision, order or ruling of the registrar may, within 30 days after the date it was mailed to him, appeal to the commission by notice in writing sent by registered mail to the registrar.

(2) For subsection (1), the commission has jurisdiction to hear and review the matter, and section 5 and Part 4 of the *Securities Act* apply to an appeal under this section.

(3) In an appeal under this section, the registrar is a party and is entitled to be represented.

(4) A party to the appeal may further appeal the direction, decision, order or ruling of the commission to the Court of Appeal as provided in Part 4 of the *Securities Act* and that Part applies to an appeal under this section.

1977-56-8.

#### **Fees**

**9.** The fee for registration and for renewal of registration shall be prescribed by regulation, and the regulations may prescribe different fees for different classes or sizes of motor dealers' businesses and may prescribe additional fees for each place where the dealer carries on business.

1977-56-9.

**Voluntary cancellation of registration**

**10.** A person registered under this Act who ceases to carry on business as a motor dealer shall at once surrender his certificate of registration to the registrar and request cancellation of his registration.

1977-56-10.

**Registered name**

**11.** A motor dealer shall, subject to the applicable zoning and other bylaws of the municipality or regional district having jurisdiction, maintain and occupy an established business premises identified by a sign naming the dealer as set out in the dealer's licence, where he shall keep and maintain records of the business.

1977-56-11.

**Additional information of changes**

**12.** A motor dealer shall, within 14 days after the event, notify the registrar in writing of a change

- (a) in the registered name or address;
- (b) in the officers or directors in the case of a corporation, or of its members in the case of a partnership; and
- (c) in the case of a corporation, in the beneficial ownership of its shares.

1977-56-12.

**Advertising**

**13.** A motor dealer shall, in every advertisement or written representation, include

- (a) the name of the motor dealer and the word "dealer" followed by the registration number issued to him under this Act; and
- (b) other information prescribed.

1977-56-13.

**PART 2****Complaints**

**14.** (1) Where the registrar receives a complaint in respect of a motor dealer, the motor dealer shall furnish to the registrar information respecting the matter complained of the registrar requests in writing.

(2) The request under subsection (1) shall indicate the nature of the complaint.

(3) For subsection (1), the registrar or a person designated in writing by him may, at any reasonable time during normal business hours, enter the business premises of the motor dealer to make an inspection with respect to the complaint.

1977-56-14.

**Inspection**

**15.** A motor dealer shall, at a reasonable time during normal business hours, on request of the registrar or a person authorized in writing by the registrar, permit the registrar or authorized person to

- (a) enter the motor dealer's place of business;

- (b) inspect the records of the business;
- (c) enter premises in which any motor vehicle owned, possessed or controlled by the motor dealer for his business is kept or stored; and
- (d) inspect all vehicles on the premises.

1977-56-15.

#### **Order to refrain from dealing with assets**

**16.** (1) Where the registrar has commenced an investigation of a person under this Act and he believes that it is necessary to protect individuals dealing with that person, he may order, in writing or by telegram,

- (a) a person having on deposit, or under his control, or for safekeeping, assets, trust funds or other property of the person being investigated, or a debtor of the person being investigated to hold the assets, trust funds or other property of, or money owing to, that person, in trust for a receiver, liquidator or trustee to be appointed under this Act or another enactment; or
- (b) the person being investigated to refrain from withdrawing assets, trust funds or other property which are on deposit with, or under the control of, or in the safekeeping of, another person, unless the registrar consents in writing to the release of all or part of them.

(2) The registrar may revoke in writing an order made under this section.

(3) Instead of making an order under this section, the registrar may accept from the person being investigated

- (a) a personal bond, together with collateral security;
- (b) a bond of a guarantee company approved by the registrar; or
- (c) a bond of a guarantor, other than a guarantee company, together with collateral security,

in a form and with terms the registrar determines under the *Bonding Act*.

(4) A person who receives an order from the registrar under this section may,

- (a) if in doubt as to the application of the order to assets, trust funds or other property on deposit with him or under his control or in his safekeeping; or

- (b) if a person not named in the order claims a right, title or interest in the assets, trust funds or other property,

pay or deliver those assets, trust funds or other property into a court and, on so doing, is discharged from liability to the extent of that payment or delivery.

1977-56-16.

#### **Appointment of receiver**

**17.** (1) Where an investigation of a person has been commenced under this Act, the registrar may apply to the court for the appointment of a receiver, receiver manager or trustee of the property of that person.

(2) On an application under subsection (1), the court may appoint a receiver, receiver manager or trustee of the property of the person where it is satisfied that the appointment is in the best interests of

- (a) the creditors of that person;
- (b) persons whose property is in the possession of or under the control of that person; or
- (c) consumers.

(3) A receiver, receiver manager or trustee appointed under this section is the receiver, receiver manager or trustee of all the property belonging to, held by, or on behalf of or in trust for the person named in the investigation order, and the receiver, receiver manager or trustee has authority, if directed by the court, to wind up or manage the business and affairs of the person so named and all necessary or incidental powers.

(4) An application under this section may be made either ex parte or on notice but, where the application is made ex parte the receiver, receiver manager or trustee

(a) shall be appointed for a period not exceeding 8 days; and

(b) shall not be authorized to wind up the business or affairs of the person named in the investigation order

unless the court, after a hearing, otherwise orders.

1977-56-17.

### **Confidentiality of information**

**18.** (1) A person employed in the administration of this Act, including a person making an inquiry, inspection, examination, test or investigation under section 15, shall maintain secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection, examination, test or investigation, and shall not communicate information obtained under this Act to another person not legally entitled to it except

(a) as may be required or permitted in the administration of this Act or the regulations or proceedings under this Act or the regulations;

(b) to the employee's counsel or to the court in a proceeding under this Act or the regulations;

(c) to a department or agency of a government engaged in the administration of laws, measures or rulings similar to this Act or Acts for the general protection of consumers;

(d) with the consent of the person to whom the information relates; or

(e) to a law enforcement agency where the employee suspects that a criminal offence has been committed.

(2) Except in respect of a proceeding under this Act or the regulations, no person to whom subsection (1) applies shall, in a civil proceeding, be compelled to give evidence respecting information obtained by him in the course of his duties, employment, inquiry, inspection, examination, test or investigation.

1977-56-18.

### **Service of notices**

**19.** (1) A notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last known address.

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing, unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice or order until a later date.

1977-56-19.

**Court order to comply**

**20.** Where it appears to the registrar that a person is not complying with this Act, the regulations or an order made under this Act, notwithstanding that a penalty may have been or could be imposed in respect of noncompliance, the registrar, in addition to any other rights he may have, may apply to the court for an order directing that person to comply, and the court may make an order it considers proper.

1977-56-20.

**Financial statements**

**21.** (1) A motor dealer shall, where requested by the registrar, file a financial statement signed by the motor dealer in the form and containing the information required by the registrar and certified by a person licensed as an accountant under an Act.

(2) The information contained in a financial statement filed under subsection (1) is confidential and no person shall communicate that information to or allow access to or inspection of that information by another person not legally entitled to it under this Act.

1977-56-21.

**Admissibility of registrar's certificates**

**22.** (1) A statement as to

- (a) the registration or nonregistration;
- (b) the filing or nonfiling of a document required or permitted to be filed with the registrar;
- (c) the date on which the facts on which proceedings are based first came to the knowledge of the registrar; or
- (d) any other matter respecting registration, nonregistration, filing or nonfiling,

under this Act or the regulations, purporting to be certified by the registrar, is, without proof of the office or signature of the registrar, receivable in evidence as proof of the facts stated in it for all purposes in a proceeding or prosecution.

(2) A document under this Act purporting to be signed by the minister, or a copy certified by him, is receivable in evidence in a prosecution or other proceeding as proof that the document is signed by the minister, without proof of the office or signature of the minister.

1977-56-22.

**Odometers**

**23.** (1) Except as permitted by the regulations, no person shall

- (a) disconnect or tamper with the odometer of a vehicle operated under section 34 (3) of the *Motor Vehicle Act*; or
- (b) drive or operate a vehicle operated under section 34 (3) of that Act unless the odometer of the vehicle is in effective working order.

(2) Except as permitted by the regulations, no person shall alter, or cause to be altered, the odometer with which a motor vehicle is equipped, for misleading, or with the intent to mislead, a prospective purchaser of the motor vehicle as to the registered mileage of the motor vehicle on that odometer.

(3) A conviction of a motor dealer of an offence under subsection (1) or (2) is deemed to be cause for the suspension or cancellation of registration.

(4) Where an offence under subsection (1) is committed by

(a) an employee or agent of the owner or motor dealer; or

(b) any other person entrusted by the owner or motor dealer with the possession of the motor vehicle,

the owner or motor dealer is deemed to be a party to the offence, and is personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this subsection relieves from liability the person who actually committed the offence.

1977-56-23.

### **Offences and penalties**

**24.** (1) A person who

(a) acts or carries on business as a motor dealer without a valid and subsisting certificate of registration;

(b) knowingly furnishes false information in an application under this Act, or in a statement or return required to be furnished under this Act or the regulations;

(c) fails to comply with an order, direction, condition of registration or other requirement made under this Act; or

(d) contravenes section 3, 11, 12, 13, 14, 15, 18 (1), 21 or 23,

and every director or officer of a corporation who knowingly authorizes, permits or acquiesces in an act or omission referred to in this subsection, commits an offence and is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than 6 months, or both.

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under subsection (1), the corporation is liable to a fine of not more than \$4,000.

(3) Where there is a continuing offence under subsection (1), the person convicted is liable to a fine of not more than \$2,000 for each day that the offence continues.

(4) Where a corporation is convicted of a continuing offence under subsection (1), the corporation is liable to a fine of not more than \$4,000 for each day that the offence continues.

1977-56-24.

### **Limitation period**

**25.** No prosecution under this Act shall be commenced more than 2 years after the facts on which the proceeding is based first came to the attention of the registrar.

1977-56-25.

### **Liability of registrar, etc.**

**26.** (1) The minister, the registrar, their agents, officers, employees, representatives and persons acting on their behalf are not liable in their personal or official capacities for any loss or damage suffered by a person by reason of anything done or omitted to be done in good faith in the exercise or purported exercise of any powers given by this Act.

(2) Notwithstanding another law, subsection (1) does not relieve the Crown in right of the Province from any liability it may have at law for loss or damage suffered by any person in respect of the acts of the persons referred to in subsection (1).

1977-56-26.



**Regulations**

**27.** The Lieutenant Governor in Council may make regulations, including regulations exempting a person or motor vehicle from this Act or the regulations.

1977-56-27.