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Motor Dealer Act

MOTOR DEALER ACT REGULATION

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[includes amendments up to B.C. Reg. 188/2006]

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Definitions

Interpretation

1 In this regulation:

"Act" means Motor Dealer Act;

"demonstration licence" means a licence issued under section 38 of the Motor Vehicle Act, R.S.B.C. 1996, c. 318;

"moped" has the same meaning as in the Motor Vehicle Act Regulations;

"registrant" means a person who holds a valid and subsisting certificate of registration issued under the Act.

[am. B.C. Reg. 236/81; 232/97, s. 1.]

Registration

REPEALED

2 Repealed. [B.C. Reg. 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

[am. B.C. Reg. 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

3 and 4 Repealed [B.C. Reg. 143/98, s. (a).]

4.1 Repealed [B.C. Reg. 397/97.]

Certificate to be displayed

5 A registrant shall display his certificate of registration in a conspicuous location at his usual place of business.

Exemption from use of registered name

6 On application to the registrar a registrant may be exempted from section 3 (1) (b) of the Act for the purpose of selling or offering for sale motor vehicles at a place other than the registrant's usual business premises for the purposes of

- (a) a motor show, recreational vehicle show or exhibition, or
- (b) an auction sale at which members of the public other than motor dealers may purchase motor vehicles, or
- (c) for a purpose acceptable to the registrar.

Review by registrar

7 The registrar may, for the purpose of the Act, review a motor dealer's registration and for the purpose of the review may require any information or material concerning the organization, operating practices and procedures and financial status of the registrant.

Voluntary cancellation

8 A motor dealer may cancel his certificate of registration at any time by filing an application for voluntary cancellation and returning to the registrar the certificate of registration.

Return and surrender of certificate and demonstrator plates

9 Where the certificate of registration of a motor dealer is suspended or cancelled he shall forthwith return his certificate of registration to the registrar and shall surrender to the Insurance Corporation of British Columbia any demonstration licences and corresponding number plates issued to him.

[am. B.C. Reg. 313/96.]

Staggering of renewals

10 For the purpose of distributing renewals throughout the year the registrar may request a motor dealer to apply for a renewal of registration before its expiry and where such a request is made the motor dealer shall comply with all the requirements of the Act and the regulation respecting registration.

Fee prorated and credited

11 When registration is renewed pursuant to section 10 there shall be credited to the fee payable for the registration an amount equal to the unexpired balance of the previous registration fee with no reduction.

Fees

REPEALED

12 Repealed. [B.C. Reg. 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

[am. B.C. Reg. 21/88, s. (a); 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

Change in category

13 Where a registrant whose business is limited to selling motorcycles or mopeds commences dealing in other motor vehicles, he shall so advise the registrar and shall remit the appropriate fee prorated to the nearest full month and reduced by the unexpired portion already paid.

Exemptions

14 The following classes of persons are exempt from the Act:

- (a) a person who purchases or otherwise acquires motor vehicles for the purpose of wrecking or dismantling them for parts or scrap metal and does not otherwise engage in the resale of such motor vehicles;
- (b) a person who conducts a sale by auction on behalf of a registrant as long as the person has no property interest in a motor vehicle offered for sale;
- (c) the Insurance Corporation of British Columbia or an insurer licensed under the Insurance Act;
- (d) a person whose dealings with motor vehicles are incidental to his business of buying, selling, dealing in or lending money on the security of conditional sale contracts, chattel mortgages, bills of lading, warehouse receipts, bills of exchange, choses in action or other commercial paper including, without limiting the generality of the foregoing, chartered banks, trust companies, sales finance companies, consumer loan companies and credit unions;
- (e) a person whose regular business is not renting or leasing motor vehicles and who having come into the possession of a motor vehicle only as an incident to his regular business, sells the motor vehicle;
- (f) a person whose business is the provision of taxi, limousine or chauffeur services;
- (g) a liquidator, receiver, trustee in bankruptcy, person acting under an order of a court or an executor or trustee who sells a motor vehicle in the course of his duties as such;
- (h) a manufacturer, exporter, importer or distributor of motor vehicles who does not offer the vehicles for sale to the general public;
- (i) a person who deals only in boat trailers, tent trailers, utility trailers or golf carts;
- (j) a person regularly employed by a registrant while acting as a salesman or sales representative;
- (k) a sheriff or sheriff's officer;
- (l) Repealed. [B.C. Reg. 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

- (m) a person licensed under the Business Practices and Consumer Protection Act, when he is acting as a bailiff or collection agent;
- (n) a person who acts as agent only, for the purchaser in a transaction for the purchase of a new motor vehicle where the purchaser takes title not from that person but from a registered motor dealer;
- (o) a person licensed under the Real Estate Services Act, in respect of the sale or exchange of a manufactured home if the transaction includes, or is accompanied by, a transfer of an interest in land on which the manufactured home is situated.

[am. B.C. Reg. 187/88; 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004); 274/2004, Sched. 3, s. 8, effective July 4, 2004 (B.C. Gaz. June 29, 2004); 518/2004, Sched., s. 14, effective January 1, 2005 (B.C. Gaz. December 14, 2004).]

Exemption re business premises

15 A motor dealer who orders or enters into contracts for the supply of new motor vehicles but does not maintain an inventory of motor vehicles and does not deal in used motor vehicles is exempt from the requirements of section 3 (1) (a) (vi) of the Act.

Bonding

16 to 19 Repealed. [B.C. Reg. 222/95.]

Records

20 Every motor dealer shall maintain for a period of 2 years from the date of the original transaction, purchase orders, sales orders and written records of all transactions resulting in the purchase or sale of a motor vehicle and, in the case of a used motor vehicle, a record of material reconditioning or other substantial work performed on the motor vehicle, including the date and the particulars of substantial work done, supported by repair orders, the cost of such work and details of any inspection conducted under the Motor Vehicle Act.

*Contents of sale or purchase agreement
(new vehicles)*

21 (1) Where a motor dealer makes a written representation in the form of a sales or purchase agreement respecting the sale by him of a new motor vehicle he shall include the following information:

- (a) the name and address of the purchaser and vendor;
- (b) the date of the sale;
- (c) the make of the motor vehicle;
- (d) the model year;
- (e) the manufacturer's vehicle identification number;
- (f) the body type;

- (g) particulars, including price, of extra equipment or accessories added to or removed from the motor vehicle by the motor dealer according to the agreement made at the time of the sale;
- (h) the actual selling price of the motor vehicle;
- (i) the tax payable pursuant to the Social Service Tax Act;
- (j) the down payment or deposit, including the value ascribed to any trade-in, and the terms and conditions governing the refund of the deposit;
- (k) the balance to be paid by the purchaser;
- (l) an itemized list of the cost of any other charges for which the purchaser is responsible, including insurance and licence fees if they are to be added to the contract price;
- (m) Repealed. [B.C. Reg. 188/2006, effective July 1, 2006 (B.C. Gaz. July 4, 2006).]
 - (i) the total cost of borrowing expressed in dollars and cents,
 - (ii) the cost of borrowing expressed as a true annual percentage rate,
 - (iii) the monthly payment and the number of such payments, and
 - (iv) the total of the actual selling price of the motor vehicle, the tax payable under the Social Service Tax Act and the cost of borrowing.

*Content of sale or purchase agreement
(used vehicles)*

(2) Where a motor dealer makes a written representation in the form of a sales or purchase agreement respecting the sale by him of a used motor vehicle, he shall include the particulars required for a new motor vehicle under subsection (1) and

- (a) any documentation or transfer fee,
- (b) the recorded odometer reading at the time of sale,
- (c) the name of any jurisdiction known to the motor dealer other than British Columbia in which the motor vehicle has previously been registered,
- (d) an itemized list of any repairs to be effected and the additional cost, if any,
- (e) a statement that the motor vehicle complies with the requirements of the Motor Vehicle Act, and
- (f) in the case of a motor vehicle not suitable for transportation a statement to that effect.

(2.1) Repealed. [B.C. Reg. 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

(3) A motor dealer shall give a duplicate copy of the sales or purchase agreement to the purchaser or seller, as the case may be, at the time it is accepted by the motor dealer.

[am. B.C. Reg. 197/92, s. 1; 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004); 188/2006, effective July 1, 2006 (B.C. Gaz. July 4, 2006).]

Motor vehicles not suitable for transportation

22 A motor dealer shall ensure that any written representation including every purchase order, sales agreement or form of contract used in a consumer transaction for the purchase of a motor vehicle not intended for transportation contains a statement that the motor vehicle is not suitable for transportation and is sold for parts only or purposes other than transportation.

Disclosures

Material facts

23 A motor dealer shall ensure that in every written representation in the form of a sale or purchase agreement respecting his offering to sell or selling a motor vehicle he discloses, to the best of his knowledge and belief:

- (a) whether the motor vehicle has been used as a taxi, police or emergency vehicle or in organized racing;
- (b) whether the motor vehicle has
 - (i) in the case of a new motor vehicle, sustained damage requiring repairs costing more than 20% of the asking price of the motor vehicle, or
 - (ii) in the case of a used motor vehicle, sustained damages requiring repairs costing more than \$2 000;
- (c) whether the motor vehicle has been used as a lease or rental vehicle;
- (d) whether a used motor vehicle has been brought into the Province specifically for the purpose of sale;
- (e) whether the odometer of the motor vehicle accurately records the true distance travelled by the motor vehicle.

[am. B.C. Reg. 363/84.]

Demonstrator, executive car, etc.

24 No motor dealer shall refer in an advertisement or representation to or offer for sale, a motor vehicle as being a company car, an executive car, or a demonstrator or any similar description, unless the motor vehicle was used by the manufacturer or motor dealer in the course of his normal business operation and had been acquired by him as a new automobile.

Replacement of odometer

25 Where it is necessary for a motor dealer to exchange or repair the odometer of the motor vehicle or any part of a motor vehicle that is directly related to the odometer, and the replacement or repair results in the odometer reading for the motor vehicle being changed, he shall record the reading that was on the odometer before the exchange or repair and the reading at the time of the sale on the sales order or purchase agreement as well as in his permanent written records.

Advertising new motor vehicle

26 A motor dealer exhibiting or offering for sale a new motor vehicle shall affix to it in a clear and legible manner information concerning it as follows:

- (a) the serial number or vehicle identification number or numbers, make and model;
- (b) the price at which it is offered for sale, inclusive of accessories and items of optional equipment that are physically attached to it, transportation charges for its delivery to the dealer and any pre-delivery and inspection service charged by the dealer;
- (c) an itemized list describing each accessory and item of optional equipment that is physically attached to it.

[en. B.C. Reg. 236/81.]

Advertising new motor vehicle

26.1 A motor dealer must not refer in an advertisement to the price at which a new motor vehicle is offered for sale, unless the price is the total asking price and includes all elements provided for in section 26 (b).

[en. B.C. Reg. 493/92.]

Advertising used motor vehicles

27 A motor dealer exhibiting or offering for sale a used motor vehicle shall affix to it in a clear and legible manner information concerning it as follows:

- (a) the price at which it is offered for sale;
- (b) where it is a vehicle that is not suitable for transportation, the statement "Not Suitable for Transportation".

[en. B.C. Reg. 236/81.]

*Exemption for vehicles in storage area
or part of new inventory*

28 Sections 26 and 27 do not apply to

- (a) a motor vehicle which is in a storage area, or
- (b) a motor dealer's inventory which has not yet been prepared for sale.

[en. B.C. Reg. 236/81.]

*Business Practices and Consumer
Protection Act powers*

29 (1) For the purposes of section 8.1 of the Act, the following provisions of the Business Practices and Consumer Protection Act are prescribed:

- (a) sections 4 to 6 [deceptive acts or practices];
- (b) sections 7 to 10 [unconscionable acts or practices].
- (c) sections 59, 60 and 62 to 64 [advertising], except sections 62 (3) (b) and 63 (3) (g);
- (d) sections 66 (2) and 67 to 70 [disclosure requirements applicable to all credit agreements];
- (e) sections 71 and 73 to 77 [rights and obligations of borrowers and credit grantors];
- (f) sections 79 and 80 [credit arranged by loan brokers];
- (g) sections 83 to 88 [disclosure required in relation to fixed credit], except sections 84 (m) and 88 (2) (a);
- (h) section 101 [disclosure required in relation to leases];
- (i) sections 104 and 105 [general].

(2) Without limiting any other rights and powers of the registrar under the Act, the registrar may, in relation to the provisions prescribed in subsection (1), exercise

- (a) the rights and powers under the following sections of the Act:
 - (i) section 4 (5) [impose condition on registration];
 - (ii) section 5 [refusal, suspension or termination of registration];
 - (iii) section 7 (1) [inquiries];
 - (iv) section 25 (3) [complaints];
 - (v) section 27 (1) to (3) [order to refrain from dealing with assets];
 - (vi) section 28 (1) [appointment of receiver];
 - (vii) section 31 [court order to comply];
 - (viii) section 32 (1) [financial statements], and

(b) the rights and powers of the director under the following provisions of Part 10 of the Business Practices and Consumer Protection Act:

- (i) sections 149 to 153 [inspections], except section 151 (2) and (3);
- (ii) sections 154, 155 and 157 (1) [undertakings and orders];
- (iii) sections 158 (2), 159, 161 (1), and 163 (1) [appointment of receivers and property freezing orders];
- (iv) sections 164 (1), 166 and 168 (2) [administrative penalties];
- (v) sections 172 and 173 (2) [court proceedings].

(3) The following provisions of the Act apply to the exercise by the registrar of any of the rights or powers referred to in subsection (2):

- (a) section 6 [hearing if requested];
- (b) section 7 (2) [providing information and documents];
- (c) section 25 (1) and (2) [complaints];
- (d) section 26 [inspection];
- (e) section 27 (4) and (5) [order to refrain from dealing with assets];
- (f) section 28 (2) to (4) [appointment of receiver];
- (g) section 29 [confidentiality of information];
- (h) section 30 [service of notices];
- (i) section 32 (2) [financial statements];
- (j) section 33 [admissibility of registrar's certificates];
- (k) section 35 [offences];
- (l) section 35.1 [penalties];
- (m) section 36 [limitation period];
- (n) section 37 [liability of registrar and others].

(4) The following provisions of Part 10 of the Business Practices and Consumer Protection Act apply to the exercise by the registrar of any of the rights or powers referred to in subsection (2):

- (a) section 151 (2) and (3) [inspections];
- (b) section 157 (2) [undertakings and orders];
- (c) sections 160, 161 (2) and (3), 162 and 163 (2) to (4) [appointment of receivers and property freezing orders];

- (d) sections 164 (2) to (5), 165, 167, 168 (1) and 170 [administrative penalties];
- (e) section 173 (1) and (3) [court proceedings].

[en. B.C. Reg. 586/2004, Sched., s. 1, effective January 1, 2005 (B.C. Gaz. December 14, 2004); am. B.C. Reg. 124/2006, Sched., s. 1, effective July 1, 2006 (B.C. Gaz. May 9, 2006).]

Leases

Disclosure in relation to leases

30 (1) In this section, "consumer" means an individual who leases or agrees to lease a motor vehicle from a motor dealer for purposes that are primarily personal, family or household.

(2) A motor dealer must disclose in writing the following information to the consumer before the consumer enters into an agreement to lease a motor vehicle from the motor dealer:

- (a) a summary of costs and credits relating to any extended warranty and that is due upon signing the lease;
- (b) all express warranties and guarantees made by the manufacturer or motor dealer with respect to the motor vehicle;
- (c) who is responsible for the maintenance and servicing of the motor vehicle;
- (d) a description of any insurance, including types and amounts of coverage, required to be provided and paid for by the consumer;
- (e) any limitations on the consumer's use and enjoyment of the motor vehicle, including, without limitation, any restriction respecting authorized drivers or requirements for permission to take the motor vehicle outside of British Columbia;
- (f) the amount of tax in each periodic payment to be made by the consumer under the agreement, based on the applicable tax rate at the time of disclosure;
- (g) the requirement under section 31 (3) that the motor vehicle remain in the possession of the motor dealer and the consumer's rights and the motor dealer's obligations under section 31 (4) to (6).

(3) Prescribed provisions that a motor dealer must include in each lease contract that the motor dealer enters into with a consumer are provisions that incorporate the information required to be disclosed under subsection (2) (a) to (f).

[en. B.C. Reg. 124/2006, Sched., s. 2, effective July 1, 2006 (B.C. Gaz. May 9, 2006).]

Deemed provisions in a lease

31 (1) In this section, "consumer" has the same meaning as in section 30.

(2) This section is deemed to be included in a lease of a motor vehicle by a motor dealer.

(3) Subject to a waiver under subsection (6), after the motor dealer and the consumer enter into the lease, the motor vehicle leased to the consumer must remain in the possession of the motor dealer for a period of one clear day.

(4) The consumer may cancel the lease during the period in which the motor vehicle must remain in the possession of the motor dealer under subsection (3).

(5) If the consumer cancels the lease under subsection (4),

(a) the motor dealer must reimburse to the consumer any deposit or other money paid to the motor dealer in respect of the lease, and

(b) the consumer is not liable to pay any charge, fee or penalty for cancelling the lease contract.

(6) A consumer may waive, in writing, the requirements of subsection (3).

(7) All warranties and guarantees with respect to a motor vehicle and the equipment on the motor vehicle made by the manufacturer to the motor dealer are assigned to the consumer.

[en. B.C. Reg. 124/2006, Sched., s. 2, effective July 1, 2006 (B.C. Gaz. May 9, 2006).]

Schedule A

Form 1

Repealed. [B.C. Reg. 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

Forms 2 and 3

Repealed. [B.C. Reg. 143/98, s. (b).]

Form 4

Repealed. [B.C. Reg. 397/97.]

[am. B.C. Reg. 397/97; 143/98; 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

Schedule B

Repealed. [B.C. Reg. 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

[en. B.C. Reg. 232/97, s. 2; am. B.C. Reg. 232/97, s. 3; 400/ 2000; 241/2004, Sched. 1, s. 1, effective May 26, 2004 (B.C. Gaz. June 1, 2004).]

Schedule B1

Repealed. [B.C. Reg. 21/88, s. (c).]

[am. B.C. Reg. 21/88, s. (c).]

[Provisions of the Motor Dealer Act, R.S.B.C. 1996, c. 316, relevant to the enactment of this regulation:
sections 3 (1) (a), 4, 9, 34 and 38]