



1980

c 299 Motor Vehicle Dealers Act

Ontario

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CHAPTER 299

Motor Vehicle Dealers Act

1. In this Act,

Inter-
pretation

- (a) "business premises" does not include a dwelling;
- (b) "Director" means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;
- (c) "dwelling" means any premises or any part thereof occupied as living accommodation;
- (d) "Minister" means the Minister of Consumer and Commercial Relations;
- (e) "motor vehicle" means an automobile, truck or other vehicle propelled or driven otherwise than by muscular power, including a motorcycle, but not including a motorized snow vehicle or a farm tractor or other self-propelled machinery primarily intended for farming or construction purposes;
- (f) "motor vehicle dealer" means a person who carries on the business of buying or selling motor vehicles, whether for his own account or the account of any other person, or who holds himself out as carrying on the business of buying or selling motor vehicles;
- (g) "prescribed" means prescribed by this Act or the regulations;
- (h) "registered" means registered under this Act;
- (i) "Registrar" means the Registrar of Motor Vehicle Dealers and Salesmen;
- (j) "regulations" means the regulations made under this Act;
- (k) "salesman" means a person employed, appointed or authorized by a dealer to buy or sell motor vehicles on the dealer's behalf;

- R.S.O. 1980,
c. 274
- (l) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. R.S.O. 1970, c. 475, s. 1; 1971, c. 21, s. 2; 1971, c. 50, s. 85 (1); 1972, c. 1, ss. 23 (5), 47 (1, 2).
- Registrar **2.**—(1) There shall be a Registrar of Motor Vehicle Dealers and Salesmen who shall be appointed by the Lieutenant Governor in Council. 1971, c. 21, s. 3.
- Duties of Registrar (2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. R.S.O. 1970, c. 475, s. 2 (2).
- Registration required **3.**—(1) No person shall,
- (a) carry on business as a motor vehicle dealer unless he is registered under this Act; or
- (b) act as a salesman of or on behalf of a motor vehicle dealer unless he is registered as a salesman of such dealer and such dealer is registered as a motor vehicle dealer under this Act. R.S.O. 1970, c. 475, s. 3 (1); 1971, c. 21, s. 4.
- Representa-
tion (2) No person shall publish or cause to be published any representation that he is registered under this Act. R.S.O. 1970, c. 475, s. 3 (2).
- Name and
place of
business (3) A registered motor vehicle dealer shall not carry on business in a name other than the name in which it is registered or invite the public to deal at a place other than that authorized by the registration. R.S.O. 1970, c. 475, s. 3 (3); 1971, c. 21, s. 4.
- Dealer to
ensure
salesmen
registered **4.** A motor vehicle dealer shall not retain the services of a salesman who is not registered under this Act. R.S.O. 1970, c. 475, s. 4; 1971, c. 21, s. 4.
- Registration **5.**—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,
- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or

(c) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or

(d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1971, c. 50, s. 85 (2), *part*. Conditions of registration

6.—(1) Subject to section 7, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5. Refusal to register

(2) Subject to section 7, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration. 1971, c. 50, s. 85 (2), *part*. Suspension or revocation

7.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant. Notice of proposal to refuse or revoke

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing. Notice requiring hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1). Powers of Registrar where no hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, Powers of Tribunal where hearing

on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions
of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary
cancellation

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation
of registra-
tion pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order
effective, stay
R.S.O. 1980,
c. 274

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. 1971, c. 50, s. 85 (2), *part*; 1972, c. 1, s. 23 (5).

Further
applications

8. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 475, s. 21.

Investiga-
tion of
complaints

9.—(1) Where the Registrar receives a complaint in respect of a motor vehicle dealer and so requests in writing, the motor vehicle dealer shall furnish the Registrar with

such information respecting the matter complained of as the Registrar requires. R.S.O. 1970, c. 475, s. 22 (1); 1971, c. 21, s. 4.

(2) The request under subsection (1) shall indicate the ^{Idem} nature of the inquiry involved. R.S.O. 1970, c. 475, s. 22 (2).

(3) For the purposes of subsection (1), the Registrar or any ^{Idem} person designated in writing by him may at any reasonable time enter upon the business premises of the motor vehicle dealer to make an inspection in relation to the complaint. R.S.O. 1970, c. 475, s. 22 (3); 1971, c. 21, s. 4.

10.—(1) The Registrar or any person designated by him ^{Inspection} in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with. R.S.O. 1970, c. 475, s. 23 (1).

(2) Where the Registrar has reasonable and probable ^{Idem} grounds to believe that any person is acting as a motor vehicle dealer or salesman while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3. R.S.O. 1970, c. 475, s. 23 (2); 1971, c. 21, s. 4.

11.—(1) Upon an inspection under section 9 or 10, the ^{Powers on inspection} person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 475, s. 24 (1); 1971, c. 50, s. 85 (3).

Admissibility
of copies

(2) Any copy made as provided in subsection (1) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. R.S.O. 1970, c. 475, s. 24 (2).

Investiga-
tions by
order of
Minister

12. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. 1971, c. 50, s. 85 (4), *part*.

R.S.O. 1980,
c. 411

Investigation
by Director

13.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Obstruction
of
investigator

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

Search
warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Removal of
books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Admissibility
of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (a) or under subsection (4). 1971, c. 50, s. 85 (4), *part*.

Appointment
of experts

Matters
confidential

14.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 9, 10, 11, 12 or 13, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony
in civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1971, c. 50, s. 85 (4), *part.*

Report

15. Where, upon the report of an investigation made under subsection 13 (1), it appears to the Director that a person may have,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act,

R.S.C. 1970,
c. C-34

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. R.S.O. 1970, c. 475, s. 26; 1971, c. 50, s. 85 (5).

Order to
refrain from
dealing with
assets

16.—(1) Where,

- (a) an investigation of any person has been ordered under section 13; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are

connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause (a) or (b) may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause (a) or (b) to hold such assets or trust funds or direct the person referred to in clause (a) or (b) to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction. 1971, c. 50, s. 85 (6).

R.S.O. 1980,
cc. 223, 95, 54
R.S.C. 1970,
cc. B-3, W-10

(2) Subsection (1) does not apply where the person referred to in clause (1) (a) or (b) files with the Director, ^{Bond in lieu}

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1980,
c. 192

in such form, terms and amount as the Director may determine.

(3) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just. ^{Application for direction}

(4) In any of the circumstances mentioned in clause (1) (a) or (b), the Director may in writing or by telegram notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, ^{Notice to land registrar}

and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice. R.S.O. 1970, c. 475, s. 27 (2-4).

Cancellation
of direction
or
registration

(5) Any person referred to in clause (1) (a) or (b) in respect of whom a direction has been given by the Director under subsection (1) or any person having an interest in land in respect of which a notice has been registered under subsection (4) may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal. 1971, c. 50, s. 85 (7).

Notice of
changes

17.—(1) Every motor vehicle dealer shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in his address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership;
- (c) any commencement or termination of the employment, appointment or authorization of a salesman;
- (d) in the case of a corporation, any change in the ownership of its shares. R.S.O. 1970, c. 475, s. 28 (1); 1971, c. 21, s. 4.

Idem

(2) Every motor vehicle salesman shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in his address for service; and
- (b) any commencement or termination of his employment. R.S.O. 1970, c. 475, s. 28 (2); 1971, c. 21, s. 4.

Financial
statements

18.—(1) Every motor vehicle dealer shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the motor vehicle dealer and certified

by a person licensed under the *Public Accountancy Act*. R.S.O. 1980, c. 405
R.S.O. 1970, c. 475, s. 29 (1); 1971, c. 21, s. 4.

(2) The information contained in a financial statement filed under subsection (1) is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. R.S.O. 1970, c. 475, s. 29 (2). Statement
confidential

19. Where the Registrar believes on reasonable and probable grounds that a motor vehicle dealer is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies with necessary modifications to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1971, c. 50, s. 85 (8); 1971, c. 21, s. 4. False
advertising

20.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given 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 the latest address for service appearing on the records of the Ministry of Consumer and Commercial Relations. R.S.O. 1970, c. 475, s. 31 (1); 1972, c. 1, s. 47 (3). Service

(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. 1971, c. 50, s. 85 (9). When
service
deemed to
be made

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. R.S.O. 1970, c. 475, s. 31 (3). Exception

21.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining
orders

Appeal (2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 475, s. 32.

Offences **22.**—(1) Every person who, knowingly,

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations (2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Consent of Minister (3) No proceedings under this section shall be instituted except with the consent of the Minister.

Limitation (4) No proceeding under clause (1)(a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem (5) No proceeding under clause (1)(b) or (c) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. R.S.O. 1970, c. 475, s. 33.

Certificate as evidence **23.** A statement as to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 475, s. 34; 1971, c. 50, s. 85 (10).

24. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) exempting any class of person from this Act or the regulations or any provision thereof;
- (b) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (c) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;
- (d) requiring registered motor vehicle dealers or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (e) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (f) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;
- (g) requiring and governing the maintenance of trust accounts by motor vehicle dealers or any class thereof, and prescribing the moneys that shall be held in trust and the terms and conditions therefor;
- (h) requiring and governing the books, accounts and records that shall be kept by motor vehicle dealers;
- (i) requiring motor vehicle dealers and salesmen to make returns and furnish information to the Registrar;
- (j) prescribing the information that motor vehicle dealers and salesmen shall disclose respecting the history of any class or classes of motor vehicles;

- (*k*) prohibiting prescribed alterations of motor vehicles or any part thereof and requiring disclosure of prescribed alterations not prohibited;
- (*l*) governing contracts for the sale and purchase of motor vehicles;
- (*m*) prescribing forms for the purposes of this Act and providing for their use;
- (*n*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit. R.S.O. 1970, c. 475, s. 35; 1971, c. 21, s. 4.