

TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) BILL 2003

AMENDMENT TO THE *PROPERTY AGENTS AND MOTOR DEALERS ACT 2000* AND *SECOND-HAND DEALERS AND PAWNBROKERS ACT 2003*

AMENDMENTS IN COMMITTEE

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the legislation

The objective of the amendments in Committee is to make two amendments to the *Tourism, Racing and Fair Trading (Miscellaneous Provisions) Bill 2003*. ('the Bill'). The Bill was endorsed by Cabinet on 29 September 2003 and introduced to the Legislative Assembly 7 October 2003.

The first amendment in Committee is to include an important amendment to the *Property Agents and Motor Dealers Act 2000* (PAMDA) which will give the Commercial and Consumer Tribunal (previously the Auctioneers and Agents Committee) the discretion to extend time to make a claim, where the claimant purchased a stolen vehicle during the operation of the repealed *Auctioneers and Agents Act 1971*.

At present consumers who, unbeknownst to them, purchased stolen motor vehicles before the commencement of PAMDA cannot apply for an extension of time to make a claim under the *Commercial and Consumer Tribunal Act 2003*. In rare cases the consumer does not become aware that the vehicle is stolen until after the time limit to make a claim has expired.

It does not seem fair that those who bought before the commencement of PAMDA and have had their vehicle confiscated since PAMDA commenced have no avenue for redress. The Government is presently aware of only three cases where this has occurred.

The period of retrospectivity only dates back to the commencement date of PAMDA, being 1 July 2001. Accordingly, potential claimants will be those who purchased the vehicle from a licensed dealer under the operation of the *Auctioneers and Agents Act 1971*, and who have had their vehicles confiscated after 1 July 2001 but more than three years after they purchased the vehicle, which is when the breach was committed.

The second amendment in Committee makes minor technical amendments to the *Second-hand Dealers and Pawnbrokers Act 2003* to correctly reference a section number and insert a part number into the relevant part heading.

Administrative cost

Any administrative costs associated with processing claims resulting from the amendments in Committee will be absorbed by the Department of Tourism, Racing and Fair Trading.

Fundamental legislative principles

As the amendment to PAMDA will have retrospective effect dating back to 1 July 2001, this raises the fundamental legislative principle contained in section 4(g) of the *Legislative Standards Act 1992*, that the amendment should not adversely affect rights and liberties, or impose obligations, retrospectively.

The amendment is, in effect, expanding the circumstances in which an individual can claim against the Fund. This is beneficial to consumers and is not adversely affecting their rights and liberties, nor imposing further obligation upon them. The legislative principle contained in section 4(g) is therefore not impacted upon.

Consultation

Queensland Treasury and the Department of the Premier and Cabinet indicated support for the proposed amendment to PAMDA.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 inserts into Clause 2 of the Bill that Part 14A commences or is taken to have commenced on 30 November 2003.

Clause 2 inserts clause 72A into the Bill which inserts a new section 630A. The new section will give the Commercial and Consumer Tribunal the discretion to extend time to make a claim, where the claimant purchased a stolen second-hand vehicle from a motor dealer licensed under the repealed *Auctioneers and Agents Act 1971*, and where the claimant found out the vehicle was stolen more than 3 years after its purchase.

Clause 3 corrects the *Second-hand Dealers and Pawnbrokers Act 2003* by correctly referencing a section number and inserting the part number into the new part 4 heading.