



Queensland

Motor Dealers and Chattel Auctioneers Act 2014

Motor Dealers and Chattel Auctioneers Regulation 2014

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Motor Dealers and Chattel Auctioneers Regulation 2014

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Motor Dealers and Chattel Auctioneers Regulation 2014*.

2 Commencement

This regulation commences on 1 December 2014.

Part 2 Limited motor dealer licences and limited registration certificates

3 Limited motor dealer licences and limited registration certificates—Act, ss 15(1) and 151(1)(b)

A limited motor dealer licence or limited registration certificate authorises the holder of the licence or certificate to perform only the activities mentioned in section 76(1)(e), (f) or (g) of the Act.

Part 3

General provisions about licensees or motor salespersons

4 Prescribed changes in licensee's circumstances to be notified to chief executive

For section 69 of the Act, each of the following is a prescribed change for a licensee—

- (a) a change in the licensee's—
 - (i) name; or
 - (ii) business name; or
 - (iii) business address; or
 - (iv) email address; or
 - (v) postal address; or
 - (vi) business facsimile number; or
 - (vii) telephone number;
- (b) a change of the person who is in charge of a licensee's place of business;
- (c) if the licensee is an individual, a change in the licensee's residential address;
- (d) if the licensee is a corporation, a change of an executive officer of the corporation;
- (e) the coming into existence of circumstances for the licensee that would, under section 21(1) or 22(1) or (2) of the Act, affect the licensee's suitability to hold a licence if the licensee were applying for the licence.

5 Prescribed changes in motor salesperson's circumstances to be notified to chief executive

For section 188 of the Act, each of the following is a prescribed change for a motor salesperson—

- (a) a change in the salesperson's—
 - (i) name; or
 - (ii) email address; or
 - (iii) residential address; or
 - (iv) postal address; or
 - (v) telephone number;
- (b) the coming into existence of circumstances for the salesperson that would, under section 157(1) of the Act, affect the salesperson's suitability to hold a registration certificate if the salesperson were applying for registration.

6 Buyer's premium

- (1) For section 130(2)(a)(ii) of the Act, the chattel auctioneer must disclose that a buyer's premium is payable on the purchase of goods at auction by—
 - (a) including the required statement for the goods in each written advertisement for the auction; and
 - (b) displaying the required statement for the goods in a way likely to be seen by each prospective bidder for the auction; and
 - (c) at the start of the auction—
 - (i) if bids may be made in person—announcing the required statement for the goods at the place where bidders may be present at the auction; and
 - (ii) if bids may be made online—displaying the required statement for the goods to each person who may bid online during the auction.
- (2) In this section—

required statement, for goods, means a statement that a buyer's premium of a stated percentage of the purchase price of the goods is payable on a successful bid for the purchase of the goods.

7 Prescribed particulars for statement licensee must obtain from seller of vehicle

For section 73(1) of the Act, the prescribed particulars are as follows—

- (a) the seller's name;
- (b) the seller's address;
- (c) if the seller is not a motor dealer—the seller's driver licence number;
- (d) the vehicle's make;
- (e) the vehicle's body model;
- (f) the vehicle's colour;
- (g) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
- (h) the vehicle's identification number;
- (i) the vehicle's registration number;
- (j) the vehicle's built date, within the meaning of schedule 1, section 3(3) of the Act;
- (k) the vehicle's odometer reading, in words and figures;
- (l) if known to the seller—whether the vehicle's odometer has been replaced;
- (m) whether the vehicle's engine has been replaced by, or for, the seller and, if so, the approximate date of replacement;
- (n) whether the vehicle is subject to a mortgage or other encumbrance and, if so, the amount owing and to whom it is owing;
- (o) if the vehicle is to be sold at auction—the reserve price, if any, for the auction;
- (p) the date the seller gives the statement to the licensee.

8 Prescribed particulars for statement licensee must give to buyer of vehicle

For section 74(1) of the Act, the prescribed particulars are as follows—

- (a) the name of the person who owned the vehicle immediately before the sale;

Examples—

- If the vehicle was owned by a motor dealer immediately before the sale, the statement must include the name of the motor dealer.
 - If the vehicle is being sold on consignment by a motor dealer, the statement must include the name of the owner of the vehicle for whom the vehicle is being sold as agent.
- (b) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
- (c) the vehicle's identification number;
- (d) the vehicle's registration number;
- (e) the vehicle's built date, within the meaning of schedule 1, section 3(3) of the Act;
- (f) the vehicle's odometer reading, in words and figures;
- (g) if known to the licensee—whether the odometer has been replaced;
- (h) if known to the licensee—whether the vehicle's engine has been replaced and, if so, the approximate date of replacement;
- (i) the date the licensee gives the statement to the buyer;
- (j) the price paid by the vehicle's buyer.

9 Advertising or displaying motor vehicle for sale on consignment

- (1) For section 101(1) of the Act, a motor dealer must, for a motor vehicle for sale on consignment—

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- (a) include the words ‘no cooling-off period applies’ in each advertisement for the sale of the motor vehicle; and
 - (b) ensure a sign stating ‘no cooling-off period—sale on consignment’ in letters at least 5cm high is displayed—
 - (i) in a prominent position on the motor vehicle in close proximity to the price or description of the vehicle; or
 - (ii) if the vehicle does not have a price or description displayed—on the front windscreen of the vehicle.
- (2) However, if a motor dealer sells only motor vehicles not subject to a cooling-off period from particular premises, it is sufficient for the motor dealer to display, in a prominent position at the main entrance to the premises, a sign stating in letters at least 10cm high that vehicles sold from the premises are not subject to a cooling-off period.

10 Consideration for cooling-off period or option—Act, ss 106(1) and 107(1)

The amount prescribed for a non-refundable deposit for sections 106(1) and 107(1) of the Act is \$100.

11 Advertising or displaying unwarranted motor vehicle

- (1) For sections 116(1) and 146(1) of the Act, a motor dealer or chattel auctioneer must, for an unwarranted vehicle—
- (a) state in each advertisement for the sale of the vehicle that the vehicle does not have a statutory warranty; and
 - (b) ensure a sign stating ‘no statutory warranty’ in letters at least 5cm high is displayed—
 - (i) in a prominent position on the vehicle in close proximity to the display of the price or description; or
 - (ii) if the vehicle does not have a price or description displayed—on the front windscreen of the vehicle.

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- (2) However, if a motor dealer or chattel auctioneer sells only unwarranted vehicles from particular premises, it is sufficient for the dealer or auctioneer to display, in a prominent position at the main entrance to the premises, a sign stating in letters at least 10cm high that vehicles sold from the premises do not have a statutory warranty.

12 Display and announcement of chattel auctioneer's name

- (1) For section 148 of the Act, a chattel auctioneer who conducts an auction must display at the auction the auctioneer's name—
- (a) in a conspicuous position so it is clearly visible; and
 - (b) for the entire period of the auction.
- (2) However, subsection (1) does not apply if the display of the auctioneer's name in the way stated in subsection (1) would be ineffective because—
- (a) the exposure of the place where the auction is held to the elements prevents the effective display; or
- Example—*
- a livestock auction conducted outdoors
- (b) the auctioneer needs to change location to conduct the auction, to the extent the display of the auctioneer's name would be ineffective without repositioning the name.
- Example—*
- an auction where it is necessary for the auctioneer to move from item to item, for example, an auction of large machinery items
- (3) If subsection (2) applies, the chattel auctioneer must announce the auctioneer's name at the start of the auction.

13 Prescribed particulars for motor dealer's transactions register

- (1) For section 117(2) of the Act, each of the following is a prescribed particular—

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- (a) the date of receipt of the vehicle by the motor dealer;
- (b) a brief description of the transaction;
Examples for paragraph (b)—
 - sale on consignment for a motor dealer
 - sale on consignment for a private seller
 - sale by a motor dealer for the motor dealer
- (c) the vehicle's odometer reading as at the date of receipt by the motor dealer, in words and figures;
- (d) the vehicle's make;
- (e) the vehicle's body model;
- (f) the vehicle's colour;
- (g) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
- (h) the vehicle's identification number;
- (i) the vehicle's registration number;
- (j) the vehicle's built date, within the meaning of schedule 1, section 3(3) of the Act;
- (k) the date of the vehicle's sale;
- (l) the following details of the vehicle's disposal—
 - (i) if the vehicle is sold—the sale price and the name and address of the buyer;
 - (ii) if the vehicle is accepted for sale on consignment and is returned to its owner—the date the vehicle is returned;
 - (iii) if the vehicle is offered for sale at auction and not sold—the date of the auction, the amount of the highest bid and, if known, the name and address of the highest bidder;
- (m) the name and address of the vehicle's seller;
- (n) if the vehicle is moved from 1 place of business to another—

-
- (i) the date of the move; and
 - (ii) the place the vehicle is located;
 - (o) if the motor dealer operates from a number of places of business—the vehicle’s exact location.
- (2) However, only the particulars mentioned in subsection (1)(a), (d) to (g) or (m) are prescribed for section 117(2) of the Act if the transaction was the acquisition by the dealer of a used motor vehicle (whether or not as a complete unit) primarily for—
- (a) breaking up for sale as parts; or
 - (b) use in the assembly of vehicles for sale as complete units or as parts.

14 Sale of goods, other than livestock, by chattel auctioneers—Act, s 236(2)(a)(ii)

- (1) This section applies if—
- (a) a person places goods with a chattel auctioneer for sale; or
 - (b) a chattel auctioneer sells goods belonging to the auctioneer.
- (2) When the person places the goods with the chattel auctioneer for sale, the auctioneer must enter in the auctioneer’s auction store book—
- (a) a description of the goods; and
 - (b) the details of any mark, number or other particular relied upon for the identification of the goods; and
 - (c) the reserve price, if any, for the goods for the auction; and
 - (d) for goods other than goods belonging to the auctioneer—
 - (i) the name and address of the seller or person who delivered the goods to the auctioneer; and

(ii) the date the goods were delivered to the auctioneer.

Maximum penalty—10 penalty units.

- (3) For subsection (2), the chattel auctioneer may group the goods and enter them in the auctioneer's auction store book as 1 item if—
- (a) the goods consist of articles; and
 - (b) the articles are delivered to the auctioneer by 1 person; and
 - (c) the lot value of the articles is not more than \$50.
- (4) Within 24 hours after selling the goods at auction, the chattel auctioneer must enter in the auctioneer's auction sales book—
- (a) the date of the auction; and
 - (b) a description of the goods; and
 - (c) the sale price paid for the goods at the auction; and
 - (d) the name and address of the buyer of the goods; and
 - (e) a cross-reference to the relevant entry for the goods in the auctioneer's auction store book.

Maximum penalty—10 penalty units.

- (5) The auctioneer must keep the following at the auctioneer's registered office—
- (a) the auction store book;
 - (b) the auction sales book.

Maximum penalty—10 penalty units.

- (6) In this section—
goods does not include livestock.

15 Sales of livestock by chattel auctioneers—Act, s 236(2)(a)(ii)

- (1) This section applies to a sale of livestock by auction by a chattel auctioneer.

- (2) Before the auction, the chattel auctioneer must—
- (a) enter in the auctioneer's livestock auction book—
 - (i) a description of the livestock; and
 - (ii) the number of livestock; and
 - (iii) the name and address of the client for whom the auctioneer is selling the livestock; and
 - (b) if livestock is to be sold on other than a cash basis—obtain a written authority for the sale—
 - (i) signed by the client; and
 - (ii) stating the auctioneer must pay to the client only the money actually paid to the auctioneer for the sale of the livestock, less the auctioneer's commission and authorised expenses.

Maximum penalty—10 penalty units.

- (3) At the start of the auction the chattel auctioneer must—
- (a) announce the name of the client for whom the auctioneer is selling the livestock to the bidders present at the auction; and
 - (b) if the auction is being conducted online, display the name of the client for whom the auctioneer is selling the livestock to each person who may bid online during the auction.

Maximum penalty—10 penalty units.

- (4) After selling the livestock at auction, the chattel auctioneer must, as soon as practicable, enter in the auctioneer's livestock auction book—
- (a) the date of the auction of the livestock; and
 - (b) the buyer's name; and
 - (c) the price paid by the buyer.

Maximum penalty—10 penalty units.

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- (5) The chattel auctioneer must keep both of the following at the auctioneer's registered office—
- (a) the auctioneer's livestock auction book;
 - (b) any written authority for the sale obtained under subsection (2)(b).

Maximum penalty—10 penalty units.

16 Motor dealer receipts—Act, s 236(2)(k)

- (1) This section applies to a motor dealer who receives a payment from a buyer, a prospective buyer or an option holder in relation to the purchase of a used motor vehicle.
- (2) The motor dealer must promptly give the buyer, prospective buyer or option holder a receipt that is headed 'Motor Dealers and Chattel Auctioneers Act 2014' and states the following particulars—
- (a) the motor dealer's name;
 - (b) the name of the buyer, prospective buyer or option holder;
 - (c) the vehicle's purchase price;
 - (d) the date of the payment;
 - (e) the amount of the payment;
 - (f) if the buyer, prospective buyer or option holder pays for the vehicle by cheque—the drawer of the cheque;
 - (g) the vehicle's make;
 - (h) the vehicle's body model;
 - (i) the vehicle's colour;
 - (j) the vehicle's engine number or, if the vehicle is a caravan, the vehicle's chassis number;
 - (k) the vehicle's identification number;
 - (l) the vehicle's registration number;

- (m) the vehicle's built date, within the meaning of schedule 1, section 3(3) of the Act;
 - (n) the name and signature of the person giving the receipt.
Maximum penalty—10 penalty units.
- (3) The motor dealer must keep a duplicate of the receipt in the motor dealer's records.
Maximum penalty—10 penalty units.

Part 4 Keeping documents

17 Keeping documents

- (1) This section applies subject to the *Evidence Act 1977*, section 111.
- (2) A principal licensee must keep each document the licensee is required to keep under the Act—
 - (a) in a secure, orderly and accessible manner; and
 - (b) for at least 5 years.Maximum penalty—10 penalty units.

18 Keeping documents in electronic form

- (1) This section applies if—
 - (a) a principal licensee is required to keep a document under the Act; and
 - (b) the document is stored in electronic form on a computer.Maximum penalty—10 penalty units.
- (2) The principal licensee must ensure—
 - (a) the computer system has enough capacity and backup capability to record the information required to be kept under the Act; and

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- (b) the computer system is backed up at least once a month; and
- (c) a computer disk or other electronic device used to store the backed-up information is kept in a location that—
 - (i) is not the principal licensee’s registered office, or if the principal licensee has more than 1 place of business, is not the principal licensee’s registered office or other place of business; and
 - (ii) is unaffected by magnetic interference or another thing that may adversely affect the stored information.

Maximum penalty—10 penalty units.

Part 5 Conduct standards

Division 1 Conduct standards

19 Conduct standards

This part provides—

- (a) conduct standards for motor dealers and motor salespersons for section 94 of the Act; and
- (b) conduct standards for chattel auctioneers for section 140 of the Act.

Division 2 Motor dealers and motor salespersons

20 Motor dealer to act in accordance with client's instructions

- (1) A motor dealer must act in accordance with a client's instructions unless it is contrary to this division or otherwise unlawful to do so.
- (2) However, the price at which a motor dealer offers to sell or buy a used motor vehicle must be in accordance with the client's written instructions.

21 Conflict of duty or interest

- (1) A motor dealer must not accept an appointment to act, or continue to act, as a motor dealer for a client if doing so will place the motor dealer's duty or interests in conflict with the client's interests.
- (2) A motor salesperson must not act, or continue to act, as a motor salesperson for a client if doing so will place the salesperson's duty or interests in conflict with the client's interests.
- (3) However—
 - (a) subsection (1) does not apply if the motor dealer discloses the conflict to the client in writing before accepting the appointment or continuing to act; and
 - (b) subsection (2) does not apply if the motor salesperson discloses the conflict to the client in writing before acting or continuing to act.

22 Finding out or verifying used motor vehicle ownership

A motor dealer or motor salesperson must take reasonable steps to find out or verify the ownership of a used motor vehicle before offering it for sale.

23 Finding out or verifying facts material to the sale or purchase of used motor vehicle

- (1) This section applies to a motor dealer or motor salesperson acting in the sale or purchase of a used motor vehicle.
- (2) The motor dealer or motor salesperson must take reasonable steps to find out or verify the facts material to the sale or purchase that a prudent motor dealer or motor salesperson would have found out or verified to avoid error, omission, exaggeration or misrepresentation.
- (3) The steps must be taken before offering the vehicle for sale and afterwards as the occasion arises.

Division 3 Chattel auctioneers

24 Chattel auctioneer to act in accordance with client's instructions

- (1) A chattel auctioneer must act in accordance with a client's instructions unless it is contrary to this division or otherwise unlawful to do so.

Example—

A chattel auctioneer must not market, or advertise or offer to sell, goods on terms different from the terms authorised by the client.

- (2) However, the price at which a chattel auctioneer offers to sell goods must be in accordance with the client's written instructions

25 Conflict of duty or interest

A chattel auctioneer must not accept an appointment to act, or continue to act, as a chattel auctioneer for a client if doing so will place the auctioneer's duty or interests in conflict with the client's interests.

26 Finding out or verifying property ownership and description

Before auctioning goods, a chattel auctioneer appointed to sell the goods must take reasonable steps to find out or verify the ownership and description of the goods.

27 Finding out or verifying facts material to the sale of goods

- (1) A chattel auctioneer appointed to sell goods must take reasonable steps to find out or verify the facts material to the sale that a prudent chattel auctioneer would have found out or verified to avoid error, omission, exaggeration or misrepresentation.
- (2) The steps must be taken before the auctioneer lists the goods for auction and afterwards as the occasion arises.

28 Registration of bidders and related obligations for auction

- (1) For each auction a chattel auctioneer conducts at the same place on the same day, the auctioneer must keep a register of each bidder (a *registered bidder*) registered under this section to bid at the auction.
- (2) The auctioneer must—
 - (a) inform persons considering bidding in the auction that only bids from registered bidders will be accepted; and
 - (b) before accepting a bid—ensure the bidder is a registered bidder.
- (3) However, if a bidder has previously been registered by the auctioneer for the sale of livestock or used motor vehicles, the bidder's previous registration may be applied to 1 or more subsequent auctions conducted by the auctioneer.
- (4) The auctioneer may register a person as a bidder only if the person—
 - (a) gives the auctioneer the person's name and address; and

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- (b) produces satisfactory evidence of the person's identity to the auctioneer; and
Example for paragraph (b)—
 - a driver licence with the person's photo on it
- (c) gives the auctioneer the name and address of any other person for whom bids are intended to be made on instructions given by the other person by telephone.
- (5) The auctioneer must, if satisfied of the person's identity—
 - (a) assign a unique bidder identifier to the person; and
 - (b) record the person's name and address, and the unique bidder identifier assigned by the auctioneer to the person, in the register.
- (6) If the auction is for the sale of goods other than livestock, the auctioneer must ensure—
 - (a) the unique bidder identifier assigned to the person can be easily used by the person to bid during the auction; and
Example for paragraph (a)—
 - The auctioneer may give the person a card or other thing with the person's unique bidder identifier clearly shown on it.
 - (b) the unique bidder identifier can be easily identified by the auctioneer when the person uses it to make a bid during the auction.
- (7) The auctioneer must keep the register for at least 5 years after the day of the last entry made in it.

29 Bids by sellers

If the seller of goods offered for sale by auction conducted by a chattel auctioneer bids for the goods when they are offered for sale, the auctioneer must disclose to the other bidders that the bid is made by the seller.

30 Disclosure of bidder identity

- (1) A chattel auctioneer must not disclose the identity of a bidder registered by the auctioneer under section 28 to anyone other than an inspector or a court.
- (2) However, the chattel auctioneer may disclose a bidder's identity to the seller of the goods offered for sale if the disclosure is necessary to—
 - (a) enable the seller to negotiate with the bidder after the goods have been passed in; or
 - (b) otherwise facilitate the sale of the goods.

Part 6 Issuing or renewing licence for shorter term

31 Shorter term for additional licence—Act, s 66(2)

- (1) Subsection (2) applies if—
 - (a) a person applies for 1 or more licences under the Act or an Agents Act; and
 - (b) the application has not been decided when the person applies for 1 or more additional licences under the Act; and
 - (c) an application mentioned in paragraph (a) or (b) is decided before the other applications are decided.
- (2) The chief executive may issue a licence for an application under the Act mentioned in subsection (1) for a shortened term, so that each licence mentioned in that subsection expires at the same time.
- (3) Subsection (4) applies if—
 - (a) a person holds a licence under the Act or an Agents Act; and
 - (b) the person applies for 1 or more additional licences under the Act (the *second licence*).

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- (4) The chief executive may issue the second licence for a shortened term, so that each licence mentioned in subsection (3) expires at the same time.

32 Shorter term for renewal of licence—Act, s 66(2)

- (1) This section applies if—
- (a) a person holds a licence under the Act or an Agents Act; and
 - (b) the person applies for renewal of 1 or more additional licences under the Act.
- (2) The chief executive may renew a licence mentioned in subsection (1)(b) for a shortened term, so that each licence mentioned in subsection (1) expires at the same time.

33 Shorter term if holder of another licence carries on business with applicant—Act, s 66(2)

- (1) Subsection (2) applies if—
- (a) a person applies for—
 - (i) 1 or more licences; or
 - (ii) the renewal of 1 or more licences; and
 - (b) another person who carries on business with the applicant holds a licence under the Act or an Agents Act.
- (2) The chief executive may issue or renew a licence mentioned in subsection (1)(a) for a shortened term, so that each licence mentioned in subsection (1) expires at the same time.

Part 7 Fees

Division 1 Fees payable

34 Fees

Subject to division 2, the fees payable under the Act are prescribed in schedule 1.

Division 2 Licences

35 Fee discount for multiple applications under the Act or an Agents Act

- (1) This section applies if—
 - (a) a person's application for a licence has not been decided when the person applies for 1 or more additional licences under the Act or an Agents Act; or
 - (b) a person applies for a licence and, at the same time, applies for 1 or more additional licences under the Act or an Agents Act.
- (2) If—
 - (a) the licence issue fee for 1 or more of the licences mentioned in subsection (1) is higher than the licence issue fee for any of the other licences mentioned in that subsection; and
 - (b) 1 of the applications is accompanied by a single licence issue fee that is the highest of the licence issue fees for a licence mentioned in subsection (1);the licence issue fee for each of the other licences is \$0.
- (3) If the licence issue fee payable for each licence mentioned in subsection (1) is the same and 1 of the applications is accompanied by the licence issue fee, the licence issue fee for each of the other applications is \$0.

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- (4) If the applicant is a corporation and 1 of the licence applications mentioned in subsection (1) is accompanied by an application fee, the application fee for each other application is \$0.
- (5) In this section—
application fee includes an application fee for a licence under an Agents Act.
licence issue fee includes a licence issue fee for a licence under an Agents Act.

36 Fee discount for applicant holding 1 or more licences under the Act or an Agents Act

- (1) This section applies if—
 - (a) a person holds 1 or more licences under the Act or an Agents Act; and
 - (b) the person applies for 1 or more additional licences under the Act.
- (2) The licence issue fee for each licence mentioned in subsection (1)(b) is \$0.
- (3) If the applicant is a corporation, the application fee for each application is \$0.

37 Fee discount for renewal of 1 or more licences under the Act or an Agents Act

- (1) This section applies if—
 - (a) a person holds a licence under the Act and 1 or more other licences under the Act or an Agents Act; and
 - (b) the person applies for renewal of 1 or more of the licences.
- (2) If—
 - (a) the licence renewal fee for 1 or more of the licences mentioned in subsection (1) is higher than the licence

renewal fee for any of the other licences mentioned in that subsection; and

- (b) 1 of the applications is accompanied by a single licence renewal fee that is the highest of the licence renewal fees for a licence mentioned in that subsection;

the licence renewal fee for each of the other licences is \$0.

- (3) If the licence renewal fee payable for renewal of each licence mentioned in subsection (1) is the same and 1 of the renewal applications is accompanied by the licence renewal fee, the licence renewal fee for each of the other licences is \$0.

- (4) In this section—

licence renewal fee includes a licence renewal fee for a licence under an Agents Act.

38 Fee discount to hold real estate auctioneer licence and chattel auctioneer licence

- (1) This section applies if—

(a) a person applies for a chattel auctioneer licence; and

(b) either—

(i) the person holds a real estate auctioneer licence; or

(ii) the person's application for a real estate auctioneer licence has not been decided when the person applies for the chattel auctioneer licence.

- (2) The application fee and licence issue fee for the chattel auctioneer licence application is \$0.

- (3) In this section—

real estate auctioneer licence means an auctioneer licence issued under the *Property Occupations Act 2014*.

Division 3 Refunds for licensees

39 Withdrawn or refused licence application

The licence issue fee paid in relation to an application for a licence must be refunded if—

- (a) the application is withdrawn; or
- (b) the chief executive refuses to issue the licence in relation to the application.

40 Surrendered licences

- (1) This section applies if—
 - (a) the term of a licence is more than 1 year; and
 - (b) the licence is surrendered before the term expires.
- (2) However, this section does not apply if the person surrendering the licence—
 - (a) continues to hold, at the time of the surrender, 1 or more additional licences under the Act or an Agents Act; and
 - (b) received a discount under division 2 in relation to any of the licences.
- (3) For each whole year the surrendered licence is unexpired, an amount must be refunded that is equal to the licence renewal fee for 1 year that was payable by the person who held the licence when the fees payable for the licence were paid.

41 Shortened licence term

- (1) This section applies if the chief executive issues or renews a licence for a shorter term under part 6.
- (2) For each whole month the term of the licence is shortened, an amount must be refunded that is equal to one-twelfth of the licence renewal fee for the licence for 1 year that was payable when the fees for the licence were paid.

(3) In this section—

whole month means a month beginning on the day of the calendar month on which a licence was issued or renewed and ending on the day before the corresponding day of the next calendar month.

Examples of a whole month—

- for a licence issued on 1 September in a year—a month beginning on the first day of any month and ending on the last day of that month
- for a licence issued on 7 March in a year—a month beginning on the seventh day of any month and ending on the sixth day of the next month

Division 4 Refunds for motor salespersons

42 Withdrawn or refused application for registration as motor salesperson

The registration issue fee paid in relation to an application for registration as a motor salesperson must be refunded if—

- (a) the application is withdrawn; or
- (b) the chief executive refuses to issue a registration certificate in relation to the application.

43 Surrendered registration certificate

(1) This section applies if—

- (a) the term of registration as a motor salesperson is 3 years; and
- (b) the registration certificate for the registration is surrendered before the term expires.

(2) For each whole year the registration is unexpired, an amount must be refunded that is equal to the registration certificate renewal fee for 1 year that was payable when the fees for the term of registration were paid.

Division 5 Fees that are not refundable

44 No refund payable in particular circumstances

To remove any doubt, it is declared that—

- (a) no refund is payable for an application fee for—
 - (i) a licence; or
 - (ii) renewal of a licence; or
 - (iii) restoration of a licence; or
 - (iv) registration as a motor salesperson; or
 - (v) renewal of a registration certificate; or
 - (vi) restoration of a registration certificate; and
- (b) no refund is payable for—
 - (i) a licence restoration fee; or
 - (ii) a registration restoration fee; or
 - (iii) the unexpired term of a deactivated licence; or
 - (iv) the period a licence or registration certificate—
 - (A) is suspended; or
 - (B) would have been in force apart from its cancellation.

Part 8 Miscellaneous

45 Form in which particular records and registers may be kept

- (1) For section 117 of the Act, a motor dealer may keep a transactions register in hard copy or electronic form.
- (2) For section 236(2)(j) of the Act, a chattel auctioneer may keep any or all of the following records in hard copy or electronic form—

- (a) the auctioneer's auction sales book;
 - (b) the auctioneer's auction store book;
 - (c) the auctioneer's livestock auction book.
- (3) For schedule 1, section 10 of the Act—
- (a) a warrantor for a statutory warranty may keep the record mentioned in that section in hard copy or electronic form; and
 - (b) the warrantor must number and date each entry in the record.

46 Amending particular record or transaction register

- (1) This section applies to—
- (a) a transaction register kept under section 117 of the Act; and
 - (b) a record kept under schedule 1, section 10 of the Act.
- (2) If the register or record is kept in hard copy form, a person may only amend it by—
- (a) ruling through the incorrect information; and
 - (b) including the correct information in close proximity to the incorrect information; and
 - (c) recording the reason for the amendment in close proximity to the amendment; and
 - (d) signing and dating the amendment.
- Maximum penalty—10 penalty units.
- (3) If the register or record is kept in electronic form, a person may only amend it by—
- (a) striking out the incorrect information; and
 - (b) inserting the correct information immediately under the incorrect information; and
 - (c) recording, in close proximity to the amendment—

[s 47]

- (i) the reason for the amendment; and
- (ii) the name of the person who made the amendment; and
- (iii) the date the person made the amendment.

Maximum penalty—10 penalty units.

47 Defects not covered by statutory warranty

For schedule 1, section 8(c) of the Act, the following are prescribed as defects in a warranted vehicle that are not covered by the statutory warranty—

- (a) a defect in the vehicle's fitted airbag;
- (b) a defect in the vehicle's installed audio entertainment device;

Example of an audio entertainment device—

a radio, tape recorder, CD player or a device, for example, a digital audio device, that performs a comparable function

- (c) a defect in any of the following—
 - (i) a tyre or tyre tube;
 - (ii) a battery;
 - (iii) a light other than a warning light or a turn indicator light used as a hazard light;
 - (iv) a radiator hose;
 - (v) a radio aerial or other aerial;
 - (vi) spark plugs;
 - (vii) distributor points;
 - (viii) wiper rubbers;
 - (ix) oil or an oil filter;
 - (x) a fuel filter or air filter;
 - (xi) a hose for a heater unit.

Schedule 1 Fees

section 34

Part 1 Fees relating to licences

Division 1 Issue of licence

	\$
1 Application fee for a licence (Act, s 17(2)(a))	165.90
2 Licence issue fee (Act, s 17(2)(b))—	
(a) corporation—	
• for 1 year	645.30
• for 3 years	1,297.00
(b) individual—	
(i) chattel auctioneer—	
• for 1 year	1,260.00
• for 3 years	2,507.00
(ii) motor dealer—	
• for 1 year	1,260.00
• for 3 years	2,507.00

Division 2 Renewal of licence

	\$
3 Application fee for renewal of a licence (Act, s 43(2)(d)(i))	84.80
4 Licence renewal fee for a licence, other than a deactivated licence mentioned in section 60(6) of the Act (Act, s 43(2)(d)(ii))—	
(a) corporation—	
• for 1 year	325.70
• for 3 years	983.50
(b) individual—	
(i) chattel auctioneer—	
• for 1 year	639.20
• for 3 years	1,925.00
(ii) motor dealer—	
• for 1 year	639.20
• for 3 years	1,925.00
5 Licence renewal fee for a deactivated licence (Act, ss 43(2)(d)(ii) and 60(6))—	
(a) corporation—	
• for 1 year	165.90
• for 3 years	491.70
(b) individual—	
(i) chattel auctioneer—	
• for 1 year	319.60
• for 3 years	958.90
(ii) motor dealer—	
• for 1 year	319.60

- | | |
|---------------|--------|
| | \$ |
| • for 3 years | 958.90 |

Division 3 Restoration of licence

- | | |
|--|----------|
| | \$ |
| 6 Application fee for restoration of a licence (Act, s 46(2)(e)(i)) | 84.80 |
| 7 Licence renewal fee for a licence, other than a deactivated licence mentioned in section 60(6) of the Act (Act, s 46(2)(e)(ii))— | |
| (a) corporation— | |
| • for 1 year | 325.70 |
| • for 3 years | 983.50 |
| (b) individual— | |
| (i) chattel auctioneer— | |
| • for 1 year | 639.20 |
| • for 3 years | 1,925.00 |
| (ii) motor dealer— | |
| • for 1 year | 639.20 |
| • for 3 years | 1,925.00 |
| 8 Licence renewal fee for a deactivated licence (Act, ss 46(2)(e)(ii) and 60(6))— | |
| (a) corporation— | |
| • for 1 year | 165.90 |
| • for 3 years | 491.70 |
| (b) individual— | |
| (i) chattel auctioneer— | |

Schedule 1

	\$
• for 1 year	319.60
• for 3 years	958.90
(ii) motor dealer—	
• for 1 year	319.60
• for 3 years	958.90
9 Licence restoration fee for a licence, other than a deactivated licence mentioned in section 60(6) of the Act (Act, s 46(2)(e)(iii))	113.10
10 Licence restoration fee for a deactivated licence (Act, ss 46(2)(e)(iii) and 60(6))	57.15

Division 4 Other acts relating to licence

	\$
11 Application fee for the appointment, or the extension of the appointment, of a substitute licensee (Act, s 51(5)(c) or 52(5)(c))	84.80
12 Application fee for amendment of the conditions of a licence (Act, s 56(2))	84.80
13 Fee for deactivation of a licence (Act, s 60(2))	84.80
14 Fee for reactivation of a licence (Act, s 60(9))	84.80
15 Fee for replacement of a licence (Act, s 67(2))	42.95
16 Fee for replacement of a licence other than under the Act, section 67 (Act, s 236(2)(b))	42.95

Division 5 Licence register

	\$
17 Fee to inspect the licence register (Act, s 68(3))	17.25
18 Fee for a copy of details in the licence register (Act, s 68(3))	17.25

Part 2 Fees relating to registration as motor salesperson

Division 1 Issue of registration certificate

	\$
19 Application fee for registration as a motor salesperson (Act, s 154(2)(a))	100.80
20 Registration issue fee (Act, s 154(2)(b))—	
• for 1 year	233.50
• for 3 years	467.30

Division 2 Renewal of registration certificate

	\$
21 Application fee for renewal of a registration certificate (Act, s 168(2)(c)(i))	51.05
22 Registration certificate renewal fee (Act, s 168(2)(c)(ii))—	

Schedule 1

	\$
• for 1 year	116.80
• for 3 years	356.70

Division 3 Restoration of registration certificate

	\$
23 Application fee for restoration of a registration certificate (Act, s 171(2)(d)(i))	51.05
24 Registration renewal fee (Act, s 171(2)(d)(ii))—	
• for 1 year	116.80
• for 3 years	356.70
25 Registration restoration fee (Act, s 171(2)(d)(iii))	20.30

Division 4 Other acts relating to registration certificate

	\$
26 Application fee for amendment of the conditions of a registration certificate (Act, s 176(2))	51.05
27 Fee for replacement of a registration certificate (Act, s 186(2))	25.80

Division 5 Registration certificate register

	\$
28 Fee to inspect the registration certificate register (Act, s 187(4))	17.25
29 Fee for a copy of details in the registration certificate register (Act, s 187(4))	17.25

Part 3 Fees relating to register of undertakings

	\$
30 Fee to inspect the register of undertakings (Act, s 214(4))	17.25
31 Fee for a copy of details in the register of undertakings (Act, s 214(4))	17.25