

# Motor vehicle industry *newsletter*



Department of Consumer  
and Employment Protection  
Government of Western Australia

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## F

rom the Minister for Consumer and  
Employment Protection

I am pleased to introduce the first edition of  
the **MOTOR VEHICLE INDUSTRY NEWSLETTER**.

This new quarterly publication is prepared by the  
Motor Vehicles Branch of the Department of Consumer  
and Employment Protection, in conjunction with the  
recently appointed Motor Vehicle Industry Board, to  
keep those of you, who are engaged in the buying,  
selling or repairing of motor vehicles, informed about  
current issues and developments in the industry from the  
Department's perspective.

The motor vehicle industry plays a crucial role in Western  
Australia's economy and within our community. The  
Gallop Labor Government believes it deserves greater  
attention than the last Liberal Government gave it. We  
have worked closely with the industry, in a range of  
areas and I welcome the enthusiasm of the motor vehicle  
industry to embrace changes such as the creation of the  
Motor Vehicle Industry Board. The industry's success in  
recent years can be attributed to its professionalism and  
high standards.

As many of you will be aware, there have been significant  
amendments to the Motor Vehicle Dealers Act 1973 over the  
past couple of years and the new Motor Vehicle Repairers  
Act 2003 is on track for implementation mid 2005. There  
have been numerous changes to laws that regulate the motor  
vehicle sales industry, and the government has introduced  
completely new laws which will regulate how the vehicle  
repair industry operates. A licensing regime for motor vehicle

repairers is something the industry has lobbied in favour  
of for many years and its introduction fulfils a key election  
commitment of the Gallop Government.

One of the Board's major aims will be to provide you with all  
the information you need to understand the new laws and what  
you may need to do in relation to the changes. The Board will  
also keep you informed about what the Government is doing  
to promote the interest of the motor vehicle industry and to  
make it a fairer and more competitive market-place in which to  
do business.

This newsletter will include the latest 'hot topics' you need to  
be aware of and will introduce you to Departmental staff, who  
can provide specific information on your particular situation.

I trust the information provided in this letter will help keep  
you up to date with what is happening in your industry and I  
invite you to provide feedback about what you would like to  
see included in future editions of the newsletter.

If you have any questions or feedback about this  
newsletter, please contact Mr Michael Johnson,  
Manager, Motor Vehicles Branch on 9282 4352 or  
email [mjohnson@docep.wa.gov.au](mailto:mjohnson@docep.wa.gov.au)



I would also take this opportunity  
of wishing you and your family a  
safe, happy festive season and I  
trust the new year will bring you  
success and good fortune.

John Kobelke MLA

## The new Motor Vehicle Industry Board

The Motor Vehicle Industry Board is established under the *Motor Vehicle Dealers Act 1973* and has the functions, powers and duties conferred on it by the *Motor Vehicle Dealers Act 1973* and the *Motor Vehicle Repairers Act 2003*.

This Board will replace the current Motor Vehicle Dealers Licensing Board, and deal with both the motor vehicle repair and sales industry. It is anticipated that the new Board will commence operating in its own right in December 2004.

## Membership of the Motor Vehicle Industry Board

The Motor Vehicle Industry Board has nine members and their respective deputies, comprising:

- ⇒ an independent chairperson;
- ⇒ two people who each have knowledge and experience in the motor vehicle dealing sector of the industry regulated by the *Motor Vehicle Dealers Act 1973*;
- ⇒ two people who each have knowledge and experience in the motor vehicle repairing sector of the industry as regulated by the *Motor Vehicle Repairers Act 2003*;
- ⇒ one person nominated by the Minister from a panel of names provided by the Royal Automobile Club of W.A. (Incorporated), or any other person the Minister sees fit; and
- ⇒ three people who each represent the interests of purchasers of motor vehicles or customers of motor vehicle repairers (people licensed under the *Motor Vehicle Repairers Act 2003*).

## Key role and functions of the Motor Vehicle Industry Board

The functions of the Motor Vehicle Industry Board include:

- licensing of motor vehicle dealers, yard managers, salespeople;
- licensing and certification of motor vehicle repair businesses and repairers (tradespeople);
- approving training courses for industry participants and the trainers who provide those courses;
- overseeing the conciliation of disputes between licensees and consumers;
- exercising disciplinary actions against licensees and certificate holders where required; and
- making recommendations on payments to consumers from the Motor Vehicle Repairer Industry Compensation Fund and Motor Vehicle Industry Education and Research Fund.

## Appointed members

- Ms Virginia Seymour, Chairperson
- Mr Robert Pearce, Dealer member
- Mr Doug Kerr, Dealer member
- Mr Patrick Browne, Repairer member
- Mr Wayne Phipps, Repairer member
- Ms Helen Taplin, Consumer member
- Ms Judy Seif, Consumer member
- Dr Allan Barton, Consumer member
- Mr David Moir, RAC member and Deputy Chairperson

## Appointed deputy members

- Mr Colin Rockman, Deputy Dealer member
- Mr Robert Fowler, Deputy Dealer member
- Mr Brian Forbes, Deputy Repairer member
- Mr Kevin Davis, Deputy Repairer member
- Mr Rodney Style, Deputy Consumer member
- Ms Miriam Sauley, Deputy Consumer member
- Ms Rhonda Algaba, Deputy Consumer member
- Mr Chris Atkinson, Deputy RAC member

## Licensing news

All Motor Vehicle Dealer licences expire on 31 December and all salesperson and yard manager licences expire on 31 August every three years. This results in high numbers of renewal applications being submitted in a small time period causing delays in the processing of some licence renewals.

As from 1 July 2004 the renewal term of licences for dealers, salespeople and yard managers will be staggered and range between two years and one month to three years. From 2007 renewals will return to the three-year period from the new expiry date.

By spreading licence renewal over the full 12 months, the Board can process and renew licences more effectively, and limit delays in the issue of new certificates.

This year, the first stage of renewing salespersons and yard managers licences went very smoothly.

A list of all salespeople and yard managers who

## Motor vehicle repairers legislation

The passage of the *Motor Vehicle Repairers Act 2003* through Parliament in December 2003 signalled the commencement of a new licensing regime to regulate the motor vehicle repair industry in Western Australia.

The implementation of the Act is a major project for this Department. The main focus of the legislation is certifying tradespeople to undertake prescribed classes of repair work, and licensing motor vehicle repair businesses and their premises to carry out certain classes of repair work.

The first major undertaking was to establish a new combined Motor Vehicle Industry Board to regulate both the motor vehicle repair and sales industries. Applications for expressions of interest were called for earlier this year following an extensive assessment of applications, appointments to the Board were finalised in October 2004.

The Board's initial focus will be as a key stakeholder in the development of the regulations that are necessary to certify tradespeople and licence repair businesses.



## Certification of repairers (phase 1)

It is proposed to certify tradespeople first, before requiring businesses to become licenced. Under the Act, repair businesses must employ at least one certified repairer to supervise repair work, making the introduction of the certification of repairers a necessary prerequisite to business licensing.

Following certification of repairers, the implementation of the Act will move to licensing repair businesses.

## Development of regulations for the certification of repairers

The Act provides for specific matters to be dealt with by subsidiary legislation – known as 'regulations'. For example, in order to commence certification of repairers, the Act requires regulations be prescribed for the classes of repair work for which a person will be required to obtain certification.

The process for the development of the regulations requires various steps to be undertaken, including consulting with relevant stakeholders.

## Where we are at now

Preliminary consultation with some industry stakeholders occurred while the appointment of the Board was being finalised.

An 'Issues Paper' about the new laws is currently being drafted and will be published shortly. The paper will provide the basis on which stakeholders can provide their feedback for consideration in the development of the regulations.

The Board will be a key participant in the consultation process and in obtaining agreement on proposed regulations.

did not renew in 2004 was sent to Motor Vehicle Dealers on 21 September 2004. All members of the industry are urged to re-check this list to ensure that neither their own name nor the name of any employee is included. *The Motor Vehicle Dealers Act 1973* allows for a maximum penalty of \$5,000 with a daily penalty of \$100 per day for salespersons and yard managers working without a licence and for a dealer who employs an unlicensed salespeople or yard manager (sections 31A, 31B and 31C).

Possession of a valid licence is ultimately the responsibility of the licence holder. Renewals and reminders is a service offered by the Department of Consumer and Employment Protection, not a requirement of the Act.

Where a dealer is planning to employ a salesperson or yard manager who is unable to provide a valid licence, he / she can contact the Licensing Team on 9282 0838 to check if the applicant does in fact hold a valid licence.

Dealers are also reminded of the importance of maintaining a valid Motor Vehicle Dealer's licence as the Act also allows for a maximum penalty of \$50,000 with a daily penalty of \$1,000 for a person who operates as a Motor Vehicle Dealer without holding a current Motor Vehicle Dealer's licence.



## Compliance issues

It has now been two years since the *Motor Vehicle Dealers Act* was extensively overhauled. However, there are still many people in the industry carrying on their business contrary to the changes that have been made and in doing so render themselves liable to disciplinary action by the Board or even prosecution in the Court of Petty Sessions.

If you do not comply with the Act, you could be putting your licence in jeopardy. Some of the more common but serious breaches are listed here:

**Contract to buy a motor vehicle:** Certain parts of the contract cannot be changed and these include the terms and conditions that are prescribed by law. These particulars, terms and conditions are complex and can be found in the Motor Vehicle Dealers (Sales) Regulations. Most standard contracts include them on the reverse side. You can add information provided it does not change the meaning of the terms and conditions. If you would like advice please contact us. Recently dealers have been fined by the Board for using contracts that did not comply.

**Consignment sales:** The law concerning consignment sales can be complex, and you are required to know them. However, it is our experience that some dealers break the basic rules including those listed below:

- ☞ *You must establish a consignment trust account with your bank before you accept a vehicle for consignment sale.*
- ☞ *You cannot accept a vehicle on consignment unless you and the person consigning the vehicle ("the consignor") have signed a written contract (agreement) which contains the terms and conditions required by the Fourth Schedule of the Motor Vehicle Dealers (Sales) Regulations.*
- ☞ *You must pay any money received for sale of the consignment vehicle (including deposits) directly into the consignment trust account within 24 hours on a business day.*
- ☞ *You cannot withdraw money from the trust account unless you are paying the money to consignor or to a finance company which holds a security interest.*
- ☞ *You must pay the consignor within two days of receiving payment for the vehicle.*

## Prosecutions - Unlicensed dealing

During 2004 to date, two unlicensed dealing charges have gone before the Perth Court of Petty Sessions.

As a result:

Robert James PARKINSON received a \$10,000 fine plus \$300 costs (8 April 2004); and

Christopher Peter DAWSON received an \$8,000 fine plus \$250 costs (16 July 2004).

We have had dealers say to us "*But that's not what I consider a consignment sale, because I acquire it into my stock before I dispose of it.*" This is a device to avoid compliance and is not acceptable. There are many other requirements so if you are considering selling even one vehicle by consignment we urge you to carefully read the Act or contact one of our officers.

**Advertising:** The Department has recently embarked on an education program to inform dealers of their obligations in regard to advertising. The response from dealers has been encouraging and we have seen a significant improvement in the standard of advertising in the newspapers. Not only is Dealer's advertising bound by the *Motor Vehicle Dealers Act*, but also the Fair Trading and Consumer Credit Acts, so there are many pitfalls to be avoided. We are currently working with Motor Trade Association to produce new guidelines for vehicle advertising.

**Licenses:** Regardless of what type of licence you hold, now may be an ideal time to check to make sure it is current. Now may also be an ideal time for dealers to check all their salespeople and yard manager's licenses because if you are employing an unlicensed person you are equally liable. And remember, it is your responsibility to ensure you are licensed.

If you have any questions whatsoever in regard to any of these issues, you are urged to contact the Branch to get the right advice, as it is our preference that you get it right the first time and safeguard your livelihood and your business.

## Motor Vehicles Branch

### Key staff

Michael Johnson  
Manager  
9282 4352

Geoff O'Reilly  
Senior Compliance Officer  
9282 4346

Adrian Bettella  
Principal Customer Services  
Officer 9282 4340

Maxine Nayton  
Licensing Coordinator  
9282 4353

### New address

The *Motor Vehicles Branch* of the Department of Consumer and Employment Protection **has moved**.

As from 25 October 2004, the Motor Vehicles Branch is located at (rear) 321 Selby Street, Osborne Park.

The new contact details are as follows:

Telephone: 9282 4361 (Motor Vehicles Branch)  
9282 4362 (Motor Vehicles Licensing)

Facsimile: 9282 4363

Email: [consumer@docep.wa.gov.au](mailto:consumer@docep.wa.gov.au)

Postal address: Locked Bag 14, Cloisters Square, Perth WA 6850

Our reception desk is open to the public between 8:30am and 5:00pm, Monday to Friday.