

Queensland



**CONSUMER LAW
(MISCELLANEOUS
PROVISIONS) ACT 1995**

Act No. 1 of 1995

Queensland



CONSUMER LAW (MISCELLANEOUS PROVISIONS) ACT 1995

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REPEALS

Queensland



**Consumer Law (Miscellaneous Provisions)
Act 1995**

Act No. 1 of 1995

**An Act to amend certain Acts administered by the Deputy Premier,
Minister for Emergency Services and Minister for Rural
Communities and Consumer Affairs of Queensland, and to
repeal certain Acts**

[Assented to 3 March 1995]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Consumer Law (Miscellaneous Provisions) Act 1995*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Amended Acts—Sch 1

3. Schedule 1 amends the Acts mentioned in it.

Repealed Acts—Sch 2

4. Schedule 2 repeals the Acts mentioned in it.

PART 2—AMENDMENT OF AUCTIONEERS AND AGENTS ACT 1971

Amended Act

5. The *Auctioneers and Agents Act 1971* is amended in this Part.

Amendment of s 5 (Interpretation)

6. Section 5—

insert—

‘“**security interest certificate**” means a security interest certificate under the *Motor Vehicles Securities Act 1986*.’

Replacement of s 57 (Guarantee of title)

7. Section 57—

omit, insert—

‘Guarantee of title

‘**57.(1)** This section applies if a used motor vehicle is sold by or for a motor dealer to someone else (a “**buyer**”).

‘**(2)** The motor dealer must ensure the buyer gains clear title to the motor vehicle at the time of sale.

Maximum penalty—20 penalty units.

‘**(3)** In a proceeding for an offence against subsection (2), it is a defence for the motor dealer to prove that the dealer took all reasonable steps to ensure subsection (2) is complied with.

‘**(4)** The motor dealer must on the day of, and before, the sale—

- (a) give the buyer a security interest certificate for the vehicle issued on the day of sale; and
- (b) give the buyer an approved form stating—
 - (i) particulars about the vehicle, including its identity and odometer reading at the time of sale; and
 - (ii) that the dealer has ensured that the buyer will gain clear title to the vehicle at the time of sale; and
- (c) ask the buyer to sign an approved form acknowledging receipt of the documents mentioned in paragraphs (a) and (b); and
- (d) give the original of the form mentioned in paragraph (b) to the buyer and keep a copy of the form.

Maximum penalty—20 penalty units.

‘**(5)** A proceeding against a motor dealer for an offence against subsection (2) does not affect the civil liability of the dealer.

‘**(6)** In this section—

“sold” includes sold by auction.’.

Insertion of new ss 59A and 59B

8. After section 59—

insert—

‘Tampering with odometers

‘59A.(1) A person must not tamper with a motor vehicle’s odometer with intent to falsely represent that, at a particular time, the vehicle had not travelled more than a specified distance.

Maximum penalty—100 penalty units.

‘(2) If a court finds a person guilty of an offence against subsection (1), the court may, on its own initiative or on the application of a person who has suffered loss, order the person who committed the offence to compensate for loss resulting from the commission of the offence.

‘(3) In any proceeding, the distance shown at any time on the odometer tampered with is evidence of a false representation by the person who tampered with the odometer that the vehicle had not travelled more than the distance shown on the odometer.

‘(4) Subsection (2) does not limit a court’s powers under the *Penalties and Sentences Act 1992* or any other law.

‘Evidence of tampering by a motor dealer

‘59B.(1) Evidence that a motor vehicle’s odometer was tampered with when the vehicle was in a dealer’s possession is evidence that the dealer contravened section 59A(1).¹

‘(2) Evidence that a motor vehicle’s odometer reading shortly after a dealer had possession of the vehicle was less than its reading when the dealer took possession of the vehicle is evidence the dealer contravened section 59A(1).

‘(3) In this section—

¹ Section 59A (Tampering with odometers).

“**possession**” of a motor vehicle includes custody and control of the vehicle.’.

Amendment of s 98 (Application of Fund)

9. Section 98(1A)—

insert—

“**contravention**” of section 57, includes a failure by a motor dealer to ensure a buyer gains clear title to a motor vehicle at the time of sale as mentioned in section 57(2), even if the motor dealer does not commit an offence against the subsection.

Amendment of s 99 (Claims against the Fund)

10. Section 99—

insert—

‘**(2B)** If a person recovers from the Fund more than the person is entitled to recover from the Fund under subsection (2) (including an amount the person must notify the Committee of under subsection (2A))—

- (a) the amount to which the person is not entitled is a debt owing to the Fund; and
- (b) the Committee may bring a civil action in a court of competent jurisdiction to recover the debt for the Fund; and
- (c) the Committee must pay any amounts recovered under paragraph (b) to the Fund.’.

PART 3—AMENDMENT OF CLASSIFICATION OF FILMS ACT 1991

Amended Act

11. The *Classification of Films Act 1991* is amended in this Part.

Amendment of s 3A (Meaning of “sell”)

12. Section 3A, paragraph (e)—

omit, insert—

- ‘(e) invite to treat or expose for an act mentioned in paragraphs (a) to (c); or
- (f) cause or permit to be done an act mentioned in paragraphs (a) to (e).’.

PART 4—AMENDMENT OF CLASSIFICATION OF PUBLICATIONS ACT 1991**Amended Act**

13. The *Classification of Publications Act 1991* is amended in this Part.

Amendment of s 3 (Definitions)

14. Section 3, definition “sell”, all words from ‘and includes’—

omit, insert—

‘and includes—

- (a) offer, invite to treat or expose for sale or hire; and
- (b) agree to sell or hire; and
- (c) cause or permit to be sold or hired.’.

PART 5—AMENDMENT OF MOTOR VEHICLES SECURITIES ACT 1986

Amended Act

15. The *Motor Vehicles Securities Act 1986* is amended in this Part.

Amendment of s 6 (Register)

16.(1) Section 6(1), ‘registrar’—

omit, insert—

‘chief executive’.

(2) Section 6(2)(c)—

omit, insert—

‘(c) the day and time the interest is registered;’.

(3) Section 6—

insert—

‘(3) The time of registration stated in the register must be expressed as the relevant time in New South Wales.’.

Replacement of ss 22–24

17. Sections 22 to 24—

omit, insert—

‘Security interest certificate

‘22.(1) The chief executive must give a person a security interest certificate for a vehicle if the person—

- (a) asks the chief executive, in the approved form, for the certificate; and
- (b) pays the fee prescribed under the regulations.

‘(2) A security interest certificate for a motor vehicle must—

- (a) if security interests are registered for the vehicle—state particulars about the security interests; and
- (b) if no security interest is registered for the vehicle—state that fact.

‘(3) The certificate must also state—

- (a) the day and time it is issued; and
- (b) other particulars the chief executive considers appropriate.

‘(4) The chief executive may issue the certificate in the way the chief executive considers appropriate.

Example of the way the certificate may be issued—

The chief executive may issue the certificate by electronic means from the department’s computer to a motor dealer’s computer and printed by the dealer’s printer.

‘(5) The time of issue stated in the certificate must be expressed as the relevant time in New South Wales.

‘Inspecting the register

‘23. A person may, on payment of the fee prescribed under the regulations—

- (a) inspect the register at the department’s Brisbane office when the office is open to the public; and
- (b) take extracts from, or obtain a copy of details in, the register.

‘Forged etc. certificates

‘24.(1) A person must not, without lawful excuse, possess a document that is, or purports to be, a security interest certificate if—

- (a) the certificate is forged and the person knows or believes it is forged; or
- (b) the certificate contains a false representation and the person knows or believes it contains a false representation.

Maximum penalty—100 penalty units.

‘(2) A person must not fraudulently change a security interest certificate. Maximum penalty—100 penalty units.’.

Omission of s 25 (Purchaser from approved dealer not to be deemed to have notice of security interest in certain circumstances)

18. Section 25—

omit.

Amendment of s 38 (Recognised States)

19. Section 38(2), ‘sections 13 and 22 apply as if the security interest had’—

omit, insert—

‘the security interest is taken to have’.

**PART 6—AMENDMENT OF TRAVEL AGENTS ACT
1988**

Amended Act

20. The *Travel Agents Act 1988* is amended in this Part.

Omission of ss 58 and 59

21. Sections 58 and 59—

omit.

SCHEDULE 1

CONSEQUENTIAL AND MINOR AMENDMENTS

section 3

AUCTIONEERS AND AGENTS ACT 1971

1. Section 14A(3), ‘shall not be granted to a corporation’—

omit, insert—

‘may be granted to a corporation only if the following circumstances apply’.

2. Section 14A(3)(a), (b), (c) and (d), ‘unless’—

omit.

3. Section 14A(3)(a)(ii), (b)(ii) and (c)(ii), ‘or’—

omit.

4. Section 14A(3)(d)(ii), ‘business; or’—

omit, insert—

‘business;’.

5. Section 14A(3)(e) to (h)—

omit, insert—

(e) the corporation is a fit and proper person to hold a corporation licence and its executive officers are fit and proper persons to be executive officers of a corporation that holds a corporation licence;

(f) the corporation and its executive officers are—

- (i) of good fame and character; and
- (ii) not disqualified from holding a corporation licence, licence or certificate of registration;
- (g) the corporation's executive officers are not disqualified under an order made under Part 5A from being executive officers of a corporation that holds a corporation licence;
- (h) the corporation complies with all other requirements of this Act about obtaining a corporation licence or the renewal or restoration of a corporation licence.'.

6. Section 25(2) to (4)—

omit.

7. Section 25(5)—

renumber as section 25(2).

8. Section 28(6)(c), 'licence or'—

omit.

9. Section 41—

omit.

10. Section 98(1)(a), after 'section'—

insert—

'57,'.

MOTOR VEHICLES SECURITIES ACT 1986

1. Section 5, definition “registrar”—

omit.

2. Section 5—

insert—

‘ “**security interest certificate**” means a security interest certificate issued under section 22.²’.

3. Section 6(2)—

insert—

(e) other particulars the chief executive considers are appropriate to identify the interest; and

(f) other particulars prescribed under the regulations.’.

4. Sections 7(2), 7AA, 8(3), 9(1), 14(3) and 15, ‘registrar’—

omit, insert—

‘chief executive’.

5. Section 15(a)—

omit, insert—

‘(a) entering in the register any particulars prescribed under the regulations; and’.

² Section 22 (Security interest certificate).

6. Section 15(b), after ‘prescribed’—*insert—*

‘under the regulations’.

7. Section 17—*insert—*

‘Maximum penalty—20 penalty units.’.

8. Section 18, ‘Registrar’—*omit, insert—*

‘chief executive’.

9. Sections 19 and 20, ‘registrar’—*omit, insert—*

‘chief executive’.

10. Section 26(3), ‘registrar’—*omit, insert—*

‘chief executive’.

11. Section 28(1)(a), ‘registrar’—*omit, insert—*

‘chief executive’.

12. Section 31—*omit, insert—***‘Delegation****‘31.** The chief executive may delegate the chief executive’s powers to a

person who is an officer or employee under the *Public Service Management and Employment Act 1988*.’

13. Section 32(1), ‘The registrar, or an’—

omit, insert—

‘An’.

14. Section 32(2), ‘the registrar, or’—

omit.

15. Section 37, ‘registrar’—

omit, insert—

‘chief executive’.

16. Section 37—

insert—

‘(e) a certificate purporting to be signed by the chief executive stating that a document is a copy of a security interest certificate is evidence that it is a security interest certificate issued under the Act.’

TRADE MEASUREMENT ACT 1990

1. Section 6(3)—

omit.

TRADE MEASUREMENT ADMINISTRATION ACT 1990

1. Long title, ‘and the Trade Measurement (Bread) Act 1990’—

omit.

2. Section 3, definitions “Magistrates Court”, “Minister” and “regulations”—

omit.

3. Section 3(3)—

omit.

4. Section 5(1), ‘, the *Trade Measurement (Bread) Act 1990*’—

omit.

5. Section 12, ‘, the *Trade Measurement (Bread) Act 1990*’—

omit.

6. Section 13(1), ‘, the *Trade Measurement (Bread) Act 1990*’—

omit.

7. Section 13(2) to (4)—

omit.

8. Section 19(2)(a), ‘or the *Trade Measurement (Bread) Act 1990*’—

omit.

9. Section 19(2)(b), ‘either of those Acts’—

omit, insert—

‘the Principal Act’.

10. Section 19(2), ‘or, as the case may be, the *Trade Measurement (Bread) Act 1990*’—

omit.

11. Section 19(3)(b), ‘or, as the case may be, the *Trade Measurement (Bread) Act 1990*’—

omit.

12. Section 20—

omit.

13. Section 21—

omit, insert—

‘Delegation

‘**21.** The Chief Inspector may delegate the Chief Inspector’s powers under the Principal Act or this Act.’.

14. Section 22(3), ‘*Trade Measurement (Bread) Act 1990*’—

omit.

15. Section 24(2)(b), ‘or the *Trade Measurement (Bread) Act 1990*’—

omit.

16. Section 24(2)(c)(i), ‘, the *Trade Measurement (Bread) Act 1990*’—

omit.

17. Part 7 heading, ‘repeal’—

omit.

18. Section 25—

omit.

19. Section 31—

omit, insert—

‘References to repealed Act

‘**31.** In any Act or document, a reference to the *Weights and Measures Act 1951* or the *Trade Measurement (Bread) Act 1990* is taken to be a reference to the *Trade Measurement Act 1990* or this Act, as the case requires.’.

20. Section 32—

insert—

‘**(3)** This section is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

‘**(4)** This section expires on the day this subsection commences.’.

21. Section 33—

omit.

SCHEDULE 2

REPEALS

section 4

Mortgage Brokers Act 1987 No. 55

Trade Measurement (Bread) Act 1990 No. 69