

# Motor Dealers and Chattel Auctioneers Regulation 2014

Explanatory notes for SL 2014 No. 249

made under the

*Motor Dealers and Chattel Auctioneers Act 2014*

## General Outline

### Short title

*Motor Dealers and Chattel Auctioneers Regulation 2014*

### Authorising law

Section 236 of the *Motor Dealers and Chattel Auctioneers Act 2014*

### Policy objectives and the reasons for them

The policy objectives of the *Motor Dealers and Chattel Auctioneers Regulation 2014* (the Regulation) are to:

1. Contribute to the repeal and split of the *Property Agents and Motor Dealers Act 2000* (PAMD Act) and related subordinate legislation into four separate Acts and regulations.
2. Reduce red tape and regulatory burden for motor dealers and chattel auctioneers.
3. Amalgamate the necessary provisions (relevant to the regulation of motor dealers and chattel auctioneers) contained within the *Property Agents and Motor Dealers Regulation 2001*, the *Property Agents and Motor Dealers (Auctioneering Practice Code of Conduct) Regulation 2001* and the *Property Agents and Motor Dealers (Motor Dealing Practice Code of Conduct) Regulation 2001* (the PAMD Regulations).

4. Prescribe particular limited licences and limited registration certificates under the *Motor Dealers and Chattel Auctioneers Act 2014* (the Act).
5. Prescribe provisions which provide for the circumstances under which the chief executive can shorten a licence term.
6. Clarify provisions relating to the displaying and announcing of the percentage of the buyer's premium payable on the purchase of goods at online auctions and the registration of bidders for online auctions.

## **Achievement of policy objectives**

### *Facilitating the split of the PAMD Act and Regulations*

The first policy objective will be achieved when the Act and Regulation commence.

### *Reducing red tape and regulation*

The second policy objective, to reduce red tape and regulation, will be achieved by not incorporating a number of existing provisions of the PAMD Regulations into the Regulation.

### *Amalgamation of provisions contained in previous subordinate legislation*

The Regulation amalgamates necessary provisions contained in the PAMD Regulations. For instance, it establishes a single fee schedule relating to the issue, renewal and restoration of licences and to the registration of motor salespersons, and also regulates the licensing and conduct standards of motor dealers, chattel auctioneers, and their employees.

### *Limited licences and registration certificates*

The Regulation will provide that a motor dealer may hold a limited motor dealer licence under section 15 of the Act or a limited registration certificate under section 151 of the Act to perform only the activities mentioned in section 76(e) and (f) of the Act. It also provides that a limited licence may be issued under section 76(g) to a person to negotiate under a consultancy arrangement who is not a motor dealer or chattel auctioneer for the purchase or sale of a used motor vehicle for the person. This provision was omitted from the previous PAMD Regulations.

### *Shortening a licence term*

The Regulation provides that the chief executive may issue a second licence for a shortened term in particular circumstances so that all licences expire at the same

time. The new provisions are consistent with the status quo and the operational procedures of the Office of Fair Trading.

#### *Online auctions*

It is recognised that there has been a shift within the motor dealing and chattel auctioneering industries to an online auction platform rather than the traditional style of auction. Accordingly, the Regulation has been amended to accommodate the use of online auctions.

### **Consistency with policy objectives of authorising law**

The Regulation is consistent with the policy objectives of the Act.

### **Inconsistency with policy objectives of other legislation**

The Regulation is consistent with the policy objectives of other legislation.

The regulatory framework established in the Regulation is an amalgamation of the previous pieces of legislation, the PAMD Regulations, with changes to reduce unnecessary regulation and red tape.

### **Alternative ways of achieving policy objectives**

There is no alternative way to achieve the policy objective.

### **Benefits and costs of implementation**

Stakeholders will benefit from the Regulation as it contains significantly fewer legislative obligations compared to the existing PAMD Regulations.

The implementation costs associated with this Regulation are consistent with those associated with the repeal and replacement of the PAMD Act with three industry specific Acts and one common Act that provides for an agent's financial administration obligations.

### **Consistency with fundamental legislative principles**

The Regulation is generally consistent with fundamental legislative principles.

The provisions which will, consistent with the status quo, clarify that when a person holds more than one type of licence, the licence term of the second licence may be

shortened so that both licences will expire on the same day, may be considered an inappropriate delegation of administrative power.

The possible breach is justified as it is necessary to provide administrative flexibility for the benefit of licensees that hold more than one type of licence. Stakeholders will benefit from a reduction in red tape and a savings in the time associated with potentially being required to renew multiple licences at different times through separate renewal processes.

Allowing the chief executive to shorten a licence term in the circumstances provided for in the legislation will ensure licence renewal applications can be processed more efficiently and will benefit stakeholders.

## **Consultation**

The majority of the provisions of the Regulation are consistent with the existing provisions of the *Property Agents and Motor Dealers Regulation 2001*. Notably, a large number of provisions of the existing *Property Agents and Motor Dealers Regulation 2001* have not been incorporated into the Regulation. As such, stakeholders will benefit from this reduction in legislative obligations and red tape.

Peak stakeholder bodies, including the Australian Livestock and Property Agents Association, Royal Automobile Club of Queensland, Auctioneers and Valuers Association of Australia, Motor Trades Association of Queensland and Queensland Law Society have been consulted on a draft version of the Regulation, and a number of changes were made to the Regulation to reflect stakeholder concerns and suggestions.

The Department of the Premier and Cabinet, Queensland Treasury and Trade, and the Office of Best Practice Regulation within the Queensland Competition Authority were consulted on the Regulation.