

**Question on Notice
No. 651
Asked on 15 June 2004**

MR LIVINGSTONE asked the Minister for Tourism, Fair Trading and Wine Industry Development (Ms Keech)—

QUESTION:

What protection has the Office of Fair Trading put in place for consumers buying used cars from licensed motor dealers?

ANSWER:

I thank the honourable member for his question and for his keen interest in consumer protection.

There are a range of provisions in the *Property Agents and Motor Dealers Act 2000* (the PAMD Act) which safeguard consumers and ensure that licensed motor dealers conduct business in a fair and competent manner.

In 2001, the Government, through the PAMD Act, introduced reforms that require all licensed motor dealers to provide a “one business day” cooling-off period on the sale of used motor vehicles, other than commercial vehicles.

The effect of this mandatory cooling-off period has been to diminish situations whereby opportunistic motor dealers are able to “hard sell” vehicles to vulnerable consumers, as it gives the buyer a chance to reconsider the purchase and opt out within the cooling-off period.

A statutory warranty period also applies to used motor cars, other than commercial vehicles, sold directly by a licensed motor dealer. There are two types of statutory warranties:

- a three month or 5,000km warranty (whichever comes first), which applies to used cars with an odometer reading under 160,000km and manufactured less than 10 years before the sale date; and
- a one month or 1,000km warranty (whichever comes first), which applies to used cars with an odometer reading above 160,000km or manufactured more than 10 years before the sale date.

Statutory warranties apply to major defects and do not apply to defects relating to: tyres; the battery; lights; radiator hoses; installed radio, tape and CD players; airbags; the paintwork or upholstery (that were obvious at the time of sale); problems caused by misuse or neglect, such as allowing the engine to run out of oil or water; and the air-conditioning units in vehicles greater than 10 years old or with an odometer reading of more than 160,000km.

As motor dealers are obliged to meet the costs of any warranty work during the warranty period, this has increased the quality of the vehicles being sold by licensed motor dealers.

Licensed motor dealers must follow the stringent rules in the PAMD Act and not make misrepresentations or false statements about a motor vehicle to any person. Since 1 July 2002, the Office of Fair Trading has finalised over 50 proceedings in the Courts and the Commercial and Consumer Tribunal in relation to individuals and companies involved in the motor dealing industry. These actions have resulted in over \$200,000 in fines, one individual sentenced to 12 months imprisonment, 2 permanent licence disqualifications and 11 licence disqualifications of 5 years or more.

The PAMD Act provides a Claim Fund which is accessible to consumers who might have suffered financial loss because a licensed motor dealer misrepresented the vehicle, or stole or misappropriated trust money, or sold a vehicle for which the dealer cannot provide clear title.

All licensed motor dealers must guarantee clear title to any vehicle they sell and must supply a Motor Vehicle Security Certificate (commonly called a REVS certificate) with every vehicle sold.

All licensed motor dealers are bound by a mandatory Code of Conduct and must meet prescribed minimum standards of competency. These requirements ensure that dealers act competently, ethically and fairly when dealing with consumers.

Finally, if the motor dealer fails to comply with the Code of Conduct provisions, disciplinary action can be taken to rectify any non-compliance. In worst cases, the dealer's licence can be suspended or cancelled to prevent consumers from being exposed to further improper, unprofessional or unethical conduct.

None of the protections provided by the PAMD Act is available if consumers buy from private sellers or unlicensed, and therefore illegal, backyard dealers.