

## LICENSING, REGULATION AND ALCOHOL STRATEGY

### Licences for Motor Vehicle Dealers

**This fact sheet has been developed to inform business and individuals of the responsibilities when operating as a Motor Vehicle Dealer in the Northern Territory, and details the licensing requirements under the *Consumer Affairs and Fair Trading Act*.**

A person who carries on the business as a "Motor Vehicle Dealer" in the Northern Territory must hold a current Northern Territory Motor Vehicle Dealer's licence.

Operating as a Motor Vehicle Dealer without a licence may incur a maximum fine of 2500 penalty units. The *Penalty Units Act* prescribes the monetary value of a penalty unit, its indexation and change of value by regulation. As at 1 July 2009, a penalty unit means \$130. Further penalties may also apply to include forfeiture of the vehicles and any sale proceeds.

### Key Requirements to Obtain a Licence

There are two key requirements to obtaining a licence.

#### (1) Character Test

Applicants (including directors of corporations) must be of good character and not have a criminal history containing, for example: dishonesty, fraud or physical violence offences. The Commissioner of Consumer Affairs will take into account the reputation of the applicant in deciding whether they are a fit and proper person to be granted a licence. Members of the public have an opportunity to object to the granting of a licence on specific criteria.

#### (2) Material & Financial Resources

An applicant must satisfy the Commissioner that they have the necessary material and financial resources to effectively carry out business. This includes the personal or corporate finances of the applicant, any lines of credit and the premises and equipment which would support the applicant in carrying on the business.

Applicants should complete a Business Plan to accompany the licence application using Form 3 (Corporation) or Form 4 (Natural Person). A corporation must attach a statement, certified by an accountant, of the financial performance and financial position of the corporation for the previous

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financial year and for the financial year in which the application is made, as at the date of this application or as near as practicable to that date.

A natural person must provide a banker's guarantee, bank statement, evidence of a capital injection or a statement of personal position for the sole trader and each partner.

### **Fees and Duration of Licences**

- An application fee\* applies when the application is lodged. This is non-refundable and covers the costs of assessment.
- A fee\* applies to each Authority to Release Criminal History (separate payment).
- A licence fee\* applies upon the grant of a licence in relation to one car yard and an additional fee\* for each additional yard. A Motor Vehicle Dealer's licence is continuous in the Northern Territory, subject to lodgement of an Annual Return and the prescribed fee\*. **A licence is not transferable.** If a Motor Vehicle Dealer sells his or her business the new owner must apply separately for a licence.
- An annual fee\* applies to retain the licence and an additional fee\* for each additional caryard. This is payable upon lodgement of the dealers annual return which is due on the 31<sup>st</sup> October each year.
- Please note fees are GST exempt.

### **Undertaking a Criminal History Check**

Please note applicants for a criminal history check are required to attend a police station to lodge their criminal history check. The Police will photocopy your identification (drivers licence/ 18+ card, birth certificate/extract or passport) and witness the Authority to Release Criminal History. The criminal history check can only be witnessed by an authorised officer. Authorised officers are Northern Territory Police Fire and Emergency Services employees and interstate and overseas Police Officers.

The fee\* for lodging a criminal check is to be paid at the police station.

Please supply a copy of a receipt showing payment of your criminal history check fee when lodging your application.

### **Key Steps In Obtaining a Motor Vehicle Dealer's Licence**

- 1) Determine which type of application is required. A Motor Vehicle Dealer's licence can be granted to either an individual, partnership or a corporation.
- 2) Obtain and complete the relevant forms, being -
  - an application for licence form by a Corporation (form 1); or
  - an application for licence form by an natural person (form 2); together with
  - the Authority to Release Criminal History forms for each corporate director or each natural person identified in the application; and either
  - a Business Plan to accompany an application by a corporation (form 3); or
  - a Business Plan to accompany an application by a natural person (form 4).

If the application is to be made by a Corporation or by an individual who will not be present and in charge of the business during all normal business hours then the applicant will also need to obtain an application for the Commissioner's Approval of Manager (form 14).

- 3) Applicants should attach to the Business Plan details of their current financial and material resources (A financial statement, certified by an accountant (see 2) above) for existing companies, capital to be injected into new companies, and for individuals (sole traders and partnerships), a statement of personal assets and liabilities, and an income and expenditure statement, supported by a bank statement, bank guarantee, audited accounts or other similar document).
- 4) When lodging the completed application, applicants must provide photographic proof of identity in the form of a current passport or drivers licence for each person covered by an Authority to Release Criminal History form and pay the prescribed fees\*.
- 5) If the application is being lodged by post, the applicant should ensure the relevant fees\* are enclosed, and includes a certified true copy of proof of identity for each person covered by an Authority to Release Criminal History form.

Note: Cheque payments to be made payable to the Receiver of Territory Monies, or electronic payment (Visa and Mastercard) can be made through Territory Business Centres, telephone (08) 8982 1700.

- 6) Applicants must place an advertisement in the Northern Territory News (and another local newspaper if available) notifying the public of the application and inviting objections within a period of 14 days. (Refer to the [Guide to Advertising](#) for further details and a pro-forma advertisement).
- 7) All applications must be determined under the law within 45 days. Please note, the Commissioner of Consumer Affairs will only accept applications which are completed in full.

### **The Key Obligations of a Licensed Motor Vehicle Dealer**

A Motor Vehicle Dealer must carry on their business fairly at all times and must restrict their dealings to the licensed premises identified on the licence. There are standard contracts a dealer must use in their various dealings and they must record specific information in the dealings register.

A dealer must provide warranty on each vehicle sold where the age of the vehicle is less than 10 years or it has been driven less than 160,000 kilometres when sold. The warranty being that the dealer will make good any defect which becomes apparent during the warranty period (three months from the date of sale or 5,000 kilometres whichever is the earlier). This does not apply to vehicles sold subject to exclusion of express warranty or sold for wrecking purposes.

A licensed Motor Vehicle Dealer must not carry on business unless either the licensed Motor Vehicle Dealer or a manager approved by the Commissioner is present and in charge of the day to day conduct of the business.

A dealer must lodge by the 31<sup>st</sup> October each year an annual return together with the prescribed fee\*.

You should be aware that Consumer and Business Affairs will be able to issue Infringement Notices as of 1 September 2006.

*\*Please refer to the relevant schedule of fees.*

#### **TERRITORY BUSINESS CENTRES**

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