

REPUBLIC OF NAURU

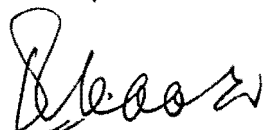
No. 18 of 1973

AN ACT

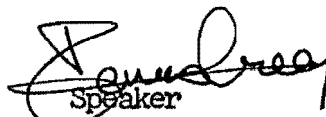
To control the sale of second-hand motor vehicles.

(Certified: 8/11/1973)

I HEREBY CERTIFY that the attached document is a fair print of an Act entitled the Sale of Second-Hand Motor Vehicles Act, 1973 that has been made by Parliament and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.


Clerk of Parliament
8/11/1973

Pursuant to Article 35 (3) and 47 of the Constitution, I, KENAS AROI, Speaker of Parliament, HEREBY CERTIFY that the Sale of Second-Hand Motor Vehicles Act, 1973 a copy of which is attached has been passed by Parliament.


Speaker
8/11/1973

AN ACT

To control the sale of second-hand motor vehicles

(Certified: 8/11/1973)

Enacted by the Parliament of Nauru as follows :

SHORT TITLE

1. This Act may be cited as the Sale of Second-hand Motor Vehicles Act 1973 and shall come into force on a date to be notified by the Minister in the Gazette, such date being not earlier than four weeks after the date on which this Act is certified by the Speaker.

INTERPRETATION

2. In this Act, unless the context otherwise requires, -

"an authorised motor vehicle examiner" means a person nominated by the Minister as an authorised motor vehicle examiner for the purposes of this Act under section 6 of this Act;

"new motor vehicle" means a motor vehicle which has not been used in any country other than for the purpose of a manufacturer's or seller's road test or for the purpose of delivery, subject to a maximum total mileage of use for such purposes of 400 miles but does not include a motor cycle.

"sale" means any transaction whereby goods are exchanged for valuable consideration either in money or in kind.

SELLER TO SUPPLY BUYER WITH LIST OF DEFECTS

3. (1) Not less than three days before any motor vehicle, other than a new motor vehicle, is sold in Nauru, the person selling the motor vehicle shall supply to the person buying the motor vehicle two copies of a list of the motor vehicle's defects prepared and signed by an authorised motor vehicle examiner. The list, which need not include details of deterioration appropriate to a motor vehicle which has been reasonably used and regularly and properly serviced and maintained and which is of the same age as the motor

vehicle to which the list relates, shall be accompanied by a statement prepared and signed by the authorised motor vehicle examiner in respect of every defect showing the estimated cost of remedying the defect or stating that it cannot be remedied.

(2) Before the contract for the sale of a motor vehicle is completed, the buyer shall return one copy of the list of defects supplied to him under the preceding subsection, signed by him as an acknowledgement that he has received two copies thereof and has retained one copy. Where more persons than one are buying a motor vehicle jointly, the list shall be signed by all of them.

PURCHASE PRICE TO BE DEPOSITED IN THE TREASURY

4. (1) All moneys payable on or before a date three months after the sale or delivery, whichever is the later, of a motor vehicle in respect of the purchase price shall not be received, otherwise than as provided for in the next following two subsections, by the seller or by any person on his behalf but shall be paid into the Treasury and held on deposit by the Republic as stake-holder for the seller and the buyer.

(2) Moneys paid into the Treasury under the preceding subsection in respect of the sale of any motor vehicle shall be paid out to the person entitled to receive them under the terms of the contract of sale of the motor vehicle, upon his presenting to the Chief Accountant for verification the copy of the list of defects signed by the buyer in pursuance of subsection (2) of section 3.

(3) Where proceedings have been commenced in the District Court under section 5 of this Act in relation to the sale of a motor vehicle, money paid into the Treasury under subsection (1) of this section shall be paid out in accordance with an order of the Court made in those proceedings and not otherwise.

LIABILITY OF SELLER FAILING TO COMPLY WITH SECTION 3

5. Where a person who sells a motor vehicle has failed to supply to the buyer a list of its defects not less than three days before the date of the sale, the buyer or, where more persons than one buy the car jointly, any one or more of the buyers may within three months of the

sale or delivery of the motor vehicle, whichever is the later, -

(a) by notice in writing signed by the buyer or all the buyers, as the case may be, rescind the contract of sale, redeliver the motor vehicle to the seller or any person nominated by him to take delivery thereof on his behalf and commence proceedings in the District Court for the repayment of all moneys paid in respect of the purchase of the motor vehicle:

Provided that, where more persons than one buy a motor vehicle jointly, nothing shall be done by any one of them under this paragraph except with the written consent, and on behalf, of all of them and that consent shall be lodged in the registry of the District Court;

(b) commence proceedings in the District Court for an order reducing the purchase price of the motor vehicle by the likely cost of remedying the defects from which the motor vehicle was suffering at the time of the sale and, if the money paid in respect of the purchase of the motor vehicle exceeds the reduced price, for the repayment of that part of the money which exceeds the reduced price.

AUTHORISED MOTOR VEHICLE EXAMINERS

6. (1) The Minister shall from time to time, by notice in the Gazette, nominate persons whom he regards as suitably qualified and experienced in the maintenance and repair of motor vehicles to be authorised motor vehicle examiners for the purposes of this Act:

Provided that, before this Act comes into force, not less than two persons shall be so nominated and thereafter the number of persons resident in Nauru who are so nominated shall not be permitted to fall below two at any time.

(2) Before an authorised motor vehicle examiner prepares and signs a list of defects of any vehicle for the purpose of section 3 of this Act or prepares and signs a statement to accompany any such list, he shall carry out a thorough examination of the motor vehicle, including a road test but not necessarily including dismantling the motor vehicle.

(3) Any person who as an authorised motor vehicle examiner signs a list of defects under section 3 of this Act and -

(a) wilfully fails to include in that list any defect of which he is aware and which should be included or wilfully

includes in that list a defect which does not exist;
(b) wilfully fails to carry out a thorough examination of the motor vehicle before signing that list; or
(c) in the statement accompanying that list gives an estimate of the cost of remedying any of the defects listed which he knows, or has reason to believe, to be unreasonably inaccurate or which he does not believe to be reasonably accurate,
is guilty of an offence and is liable to a fine of one thousand dollars; and he is also liable to compensate the buyer or the seller for any loss resulting from any such wilful failure or from such giving of an estimate which is not reasonably accurate.

(4) The Minister may by regulations prescribe the fee to be charged by an authorised motor vehicle examiner or his employer for the examination of a motor vehicle and the preparation and signature of a list of the defects of the motor vehicle under section 3 and of the statement to accompany the list.

OFFENCES

7. Any person who in respect of the sale of a motor vehicle in Nauru after the commencement of this Act receives, in Nauru or elsewhere, before the expiration of three months after the sale or delivery of the motor vehicle, whichever is the later, payment in money or money's worth in respect of the purchase price, other than money which has been paid into the Treasury under section 4 of this Act and is lawfully paid out of the Treasury to him, is guilty of a cognisable offence and is liable to three months' imprisonment.

EXTENSION OF APPLICATION OF THIS ACT TO OTHER GOODS

8. The Cabinet may, by notice in the Gazette, extend the application of the provisions of this Act to any other specified class of goods:

Provided that the Act shall not apply to such a class of goods so as to affect the sale thereof until a date to be specified by the Cabinet in the notice, being a date not less than four weeks after the date of publication of the notice in the Gazette;

And provided further that Parliament may, within twenty-eight days of the publication of the notice in the Gazette or, if Parliament does not sit within that period, within one week

after the first sitting day after the end of that period, by resolution disallow the extension of the application of this Act to any such class of goods and, if it does so disallow the extension, the provisions of this Act will not apply to goods of that class.

PUBLICITY TO BE GIVEN TO THIS ACT AND TO ANY EXTENSION OF ITS APPLICABILITY

9. The Cabinet shall ensure that, before this Act comes into force or any extension of its applicability under section 8 takes effect, and from time to time thereafter, such publicity, by radio broadcast and by the display of written notices, is given in the English, Nauruan, Gilbertese, Ellice and Cantonese languages, that no reasonable possibility exists of any person suffering injustice by reason of ignorance of its provisions.

REGULATIONS

10. The Cabinet may make regulations for the better carrying into effect of the provisions, objects and intentions of this Act and for the due administration thereof and, without prejudice to the generality of the foregoing provisions of this section, may, where it has issued a notice under section 8 extending the applicability of the provisions of this Act to any class of goods, -

- (a) empower and require the Minister to nominate suitably qualified and experienced persons to examine the goods and give estimates of the cost of repairing defects;
- (b) apply the provisions of section 6 to such persons; and
- (c) prescribe a form of the list of defects to be supplied in place of the form set out in the Schedule to this Act.

SCHEDULE
(Section 3)
FORM OF LIST OF DEFECTS

FORM SS-HMV/1
SALE OF SECOND-HAND MOTOR VEHICLES ACT 1973

LIST OF DEFECTS

Name of Seller(s):

Name of Buyer(s) :

Details of the motor vehicle -

- (a) Registration No. :
- (b) Make :
- (c) Type :
- (d) Year of manufacture :
- (e) Year imported into Nauru :
- (f) Engine no. :
- (g) Chassis no. :

The motor vehicle of which the details are shown above is suffering from the following defects, in addition to normal deterioration which would be appropriate to a motor vehicle of its age which had been reasonably used and regularly and properly serviced and maintained :

Mechanical :

- (a) Engine :
- (b) Gearbox :
- (c) Differential :
- (d) . Wheels :
- (e) Steering :
- (f) Suspension :
- (g) braking system :
 - (i) foot brakes;
 - (ii) hand brakes:
- (h) Other :

Chassis, Body work and Interior :

- (a) Damage to chassis :
- (b) Damage to bodywork :
- (c) Rust :
- (d) Damage to, or undue wear of, interior :

Electrical equipment :

Tyres :

- (a) Front off-side :
- (b) Front near-side :
- (c) Rear off-side :
- (d) Rear new-side :
- (e) Spare :

Tools :

Accessories (e.g. radio) :

Signed :

(Authorised Motor Vehicle
Examiner)

Date :

Date list delivered to the buyer :

Signed :

(Buyer)

Date :

Note : (1) For the purposes of this form, normal deterioration does not include rust.

(2) If any item listed on this form is not defective, a note "No Defect" should be entered against it.