

ANNUAL REPORT OF THE MOTOR VEHICLE DISPUTES TRIBUNAL WELLINGTON

Period 1 July 2009 to 30 June 2010

Dear Minister

Pursuant to section 87 of the Motor Vehicle Sales Act 2003 ("the Act") I am pleased to submit the following Annual Report summarising the application I have dealt with during the year, detailing cases which, in my opinion, require special mention and making recommendations for amendments to the Act.

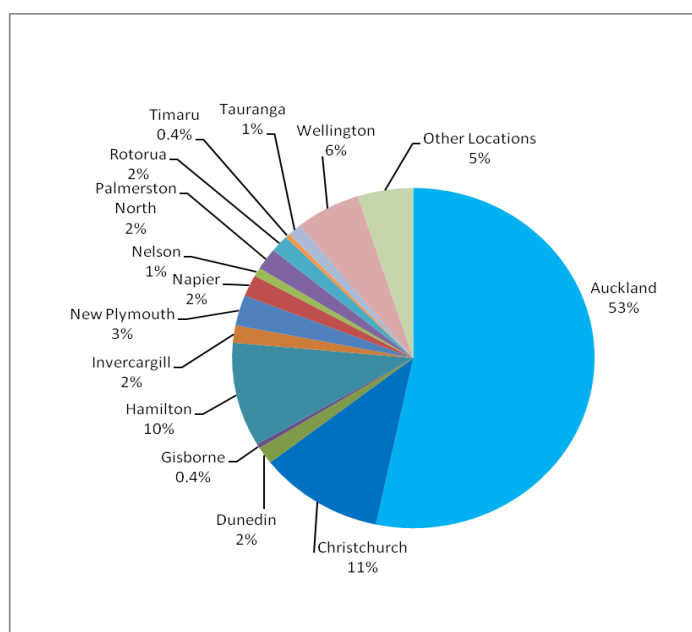
1. Summary of Application dealt with Nationally:

	Applications Y/E 30/6/10	Applications Y/E 30/6/09
<u>Total number of disputes originating from</u>		
❖ Auckland area (New Plymouth north)	184	158
❖ Wellington area (Palmerston North south)	61	70
	245	228
<u>Disputes carried over from previous year</u>		
❖ Auckland Adjudicator	15	17
❖ Wellington Adjudicator	6	15
TOTAL	266	260
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<u>Disputes settled or withdrawn</u>	54	68
<u>Disputes transferred</u> to Disputes Tribunal unheard	1	
<u>Disputes heard</u> (including disputes carried over from Previous year)		
❖ Auckland Adjudicator	153	132
❖ Wellington Adjudicator	26	39
<u>Disputes unheard</u> as at 30 June		
❖ Auckland Adjudicator	26	15
❖ Wellington Adjudicator	6*	6
*Includes 2 Reserved decisions		
TOTAL	266	260
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Total outstanding cases as at 30 June (unheard and reserved decisions)	32	21

2. Nicola Wills – Adjudicator

	Year ending 30/06/10		Year ending 30/06/09	
Number of Disputes found for Trader	7	27%	21	54%
Number of Disputes found for Purchaser	19	73%	17	43.5%
Adjourned to allow parties to settle			1	2.5%
Total Heard and Decisions Delivered	26	100%	39	100%

3. Location of Disputes



4. Cases requiring special mention

Having reviewed the cases heard over the last year, I note that there is a general lack of understanding by directors/owners of small businesses that traders and purchasers who purchase vehicles for business purposes can contract out of the Consumer Guarantees Act 1993. There is also an increasing incidence of the use by traders of standard form contracts that include both an acknowledgement that a vehicle is being purchased for business use and a clause contracting out of the Consumer Guarantees Act 1993. Those two factors can result in small businesses being exposed to a considerable amount of risk around the purchase of business vehicles.

5. Recommendation for Amendments to the Act

Section 94(1) Motor Vehicle Sales Act 2003

Section 94(1) requires the Disputes Tribunal to direct publication of a notice in the Gazette if in determining an application, the Disputes Tribunal decides against a motor vehicle trader. I would recommend that this section be amended to allow for publication at the Tribunal's discretion. The public policy reason behind publication

is to ensure that the names of traders who do not meet legislative standards are available (via the Gazette) to potential purchasers of motor vehicles. Publication of traders who have a decision made against them does not always achieve that objective.

This is because it is not uncommon for an application to be made to the Tribunal because the purchaser and the trader cannot agree as to the extent of the trader's legal obligations in circumstances where the trader has tried to adopt a legally correct approach and cannot get the purchaser to agree. So while this technically results in a decision against the trader, it is not indicative of a trader who is not prepared to meet legislative requirements.

N Wills
Wellington Motor Vehicle Disputes Adjudicator
3 August 2010