



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**
Consumer Protection

13 December 2021

Our Ref: A40585809

Enquiries: Felicity Bonner, 6552 9326

Ms Jacqui Ecclestone
President
Financial Counsellors' Association of Western Australia
By email: admin@financialcounsellors.org

Dear Ms Ecclestone

CHANGE TO THE MAXIMUM AMOUNT OF PRE-ESTIMATED LIQUIDATED DAMAGES – VEHICLE SALE CONTRACTS

I am writing to advise you of an upcoming change to the amount of pre-estimated liquidated damages that can be charged by a motor vehicle dealer in Western Australia. As financial counsellors within Western Australia may have clients who have entered into a contract to purchase a motor vehicle, information about this change may be useful to your organisation.

From 1 January 2022, the maximum amount of pre-estimated liquidated damages as specified in the Motor Vehicle Repairers Regulations 2007 (WA) will reduce from 15 per cent to five per cent. This ensures dealers can charge no more than five per cent of the purchase price of the vehicle if a consumer cancels the vehicle sale contract.

This change stems from a practice by some dealers to automatically charge consumers the maximum amount of liquidated damages when they cancel a contract to purchase a vehicle, instead of a reasonable estimation of the actual cost to the dealership.

Even with the reduced maximum it will continue to be the case that any liquidated damages charged by a dealer should be no more than a genuine estimate of the loss they expect to suffer as a result of the cancellation. For example, in today's market, it could be assumed that the cost of cancellation will be relatively low, given the high demand for both new and used vehicles.

Motor vehicle dealers will be expected to use forms that reflect the new maximum amount of five per cent from 1 January 2022.

Consumers who are not satisfied with the amount of liquidated damages a dealer is seeking, or who have been charged an amount above the prescribed maximum, can lodge a complaint with Consumer Protection. An independent assessment will then be conducted in an attempt to resolve the matter.

I would appreciate your assistance in sharing information about this change with financial counsellors in Western Australia, ahead of its commencement on 1 January 2022.

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If you require further information about the content of this letter, or have any questions about pre-estimated liquidated damages being charged by motor vehicle dealers, please contact Consumer Protection on 1300 304 054 or via email at consumer@dmirs.wa.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Gary Newcombe', with a stylized, flowing script.

Gary Newcombe

COMMISSIONER FOR CONSUMER PROTECTION