



New South Wales

Business Franchise Licences (Tobacco) Amendment Regulation 1997

under the

Business Franchise Licences (Tobacco) Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Business Franchise Licences (Tobacco) Act 1987*.

MICHAEL EGAN, M.L.C.,
Treasurer

Explanatory note

The objects of this Regulation are:

- (a) to require tobacco retailers who obtain successive monthly licences under the Act to provide, at 3-yearly intervals, detailed current particulars of their licensed businesses to the Chief Commissioner for Business Franchise Licences (that is, particulars of the same kind as those that an applicant must provide on first applying for a licence under the Act), and
- (b) to dispense with an exemption under which a licensed tobacco retailer who purchases tobacco from an unlicensed person in the belief (supported by the prescribed evidence) that the person was licensed is exempt from payment of the ad valorem component of the licence fee.

Failure to supply the particulars referred to in paragraph (a) when required will result in forfeiture of the right to the general exemption granted under clause 12 of the *Business Franchise Licences (Tobacco) Regulation 1995*. (The exemption effectively dispenses with the flat fee for a subsequent tobacco franchise licence that would otherwise be payable by tobacco retailers.)

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Abolition of the exemption mentioned in paragraph (b) will require licensees who purchase tobacco to verify the status of the vendor as a licensee (otherwise the full ad valorem licence fee will be chargeable under section 41 of the Act).

This Regulation is made under section 83 (1), (2) (b) and (2) (c) of the *Business Franchise Licences (Tobacco) Act 1987*.

Business Franchise Licences (Tobacco) Amendment Regulation 1997

1 Name of Regulation

This Regulation is the *Business Franchise Licences (Tobacco) Amendment Regulation 1997*.

2 Commencement

This Regulation commences on 27 June 1997.

3 Amendment of Business Franchise Licences (Tobacco) Regulation

The *Business Franchise Licences (Tobacco) Regulation* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

5 Transitional provision

The provisions of clause 12 of the *Business Franchise Licences (Tobacco) Regulation 1995*, as in force immediately before this Regulation takes effect, continue to apply in respect of any further licence referred to in those provisions for which the licence period commences before 1 July 1997.

Schedule 1 Amendment

(Clause 3)

Clause 12 Other general exemptions

Omit the clause. Insert instead:

12 General exemption

- (1) The holder of a retailer's licence or a group retailer's licence is exempt from the provisions of the Act that require a fee to be paid before the Chief Commissioner may grant a further licence if:
 - (a) the fee that would otherwise be payable for the further licence is \$100, and
 - (b) the licensee has, in pursuance of an application that contained the particulars specified in section 37 of the Act, been granted a retailer's licence or a group retailer's licence (the *first licence*) for a licence period that commenced within the period of 3 years prior to the commencement of the licence period for which the further licence will be in force, and
 - (c) the licensee has held such a licence for an unbroken succession of licence periods beginning with the licence period for the first licence.
- (2) The exemption provided for by subclause (1) is not available (and the appropriate licence fee is accordingly payable) if
 - (a) the Chief Commissioner has, not later than 14 days before the expiry date of the licensee's current licence, advised the licensee by notice in writing that the particulars specified in section 37 (1) of the Act must be submitted to the Chief Commissioner, using a form approved by the Chief Commissioner for the purpose, before that date, and
 - (b) the licensee does not supply those particulars in accordance with the notice.