

AUCTIONEERS AND AGENTS (AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 84, 1967.

An Act to make further provisions relating to the licensing of auctioneers, stock and station agents and real estate agents and the registration of real estate salesmen; to provide for the registration of trainee auctioneers, stock and station salesmen and business salesmen; to provide for the appointment in certain circumstances of a receiver of certain property of licensees under the Auctioneers, Stock and Station, Real Estate and Business Agents Act, 1941-1965; to repeal the provisions of that Act relating to business subagents; for these and other purposes to amend that Act and certain other Acts; and for purposes connected therewith. [Assented to, 18th December, 1967.]

BE

Auctioneers and Agents (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 84, 1967 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Auctioneers and Agents (Amendment) Act, 1967". Short title, citation and commencement.

(2) The Auctioneers, Stock and Station, Real Estate and Business Agents Act, 1941–1965, is in this Act referred to as the Principal Act.

(3) The Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts and by this Act, may be cited as the Auctioneers and Agents Act, 1941–1967.

(4) The Public Accountants Registration Act, 1945, as amended by subsequent Acts and by this Act, may be cited as the Public Accountants Registration Act, 1945–1967.

(5) Except as otherwise expressly provided, the several provisions of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The several provisions of this Act—

- (a) specified in column 1 of Part I of the Schedule to this Act shall commence upon the date specified opposite thereto in column 2 of that Part; and
- (b) specified in Part II of the Schedule to this Act shall commence upon such day or days as may be respectively appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

2. (1) As on and from the commencement of this section— Change of name of council.

- (a) the name of the body corporate referred to in section six of the Principal Act shall be the "Council of Auctioneers and Agents";

(b)

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No. 84, 1967 (b) a reference in any Act or other instrument to the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents shall be read and construed as a reference to the Council of Auctioneers and Agents.

(2) The alteration of name effected by subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the body corporate referred to in section six of the Principal Act or render defective any legal or other proceedings instituted or to be instituted by or against the said body corporate.

(3) Any legal or other proceedings may be continued or commenced by or against the body corporate by the name of the Council of Auctioneers and Agents that might have been continued or commenced by or against the body corporate by the name of the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents.

**Amendment
of Act No.
28, 1941.**

(4) The Principal Act is amended—

**Sec. 2.
(Division
into
Parts.)**

(a) by omitting from the matter relating to Part II in section two the words "THE COUNCIL OF THE AUCTIONEERS, STOCK AND STATION AGENTS, REAL ESTATE AGENTS AND BUSINESS AGENTS" and by inserting in lieu thereof the words "THE COUNCIL OF AUCTIONEERS AND AGENTS";

**Sec. 3.
(Defini-
tions.)**

(b) by omitting from the definition of "Council" in subsection one of section three the words "the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

**Part II.
(Heading.)**

(c) by omitting the heading to Part II and by inserting in lieu thereof the heading "THE COUNCIL OF AUCTIONEERS AND AGENTS";

(d)

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- (d) by omitting from subsection three of section six the words "The Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents." and by inserting in lieu thereof the words "the 'Council of Auctioneers and Agents'." No. 84, 1967
Sec. 6.
(The council.)

3. Nothing in this Act shall prejudice or affect in any way the continuity of the body corporate referred to in section six of the Principal Act and it shall continue notwithstanding the provisions of this Act. Continuity
of council
not affected
by this Act.

4. The Principal Act is further amended—

Further
amendment
of Act No.
28, 1941.

(Part I—
Prelimi-
nary.)

- (a) (i) by omitting from the matter relating to Part IV in section two the words "REAL ESTATE DEALERS AND REAL ESTATE SALESMEN" and by inserting in lieu thereof the words "REAL ESTATE DEALERS, REAL ESTATE SALESMEN, TRAINEE AUCTIONEERS, BUSINESS SALESMEN AND STOCK AND STATION SALESMEN"; Sec. 2.
(Division
into
Parts.)
- (ii) by inserting in the matter relating to Division 3 of the same Part after the words "*Real Estate Salesmen*" the words "*, Trainee Auctioneers, Business Salesmen and Stock and Station Salesmen*";
- (iii) by omitting the matter relating to Part VI in the same section and by inserting in lieu thereof the following matter :—

PART VI.—AUCTIONEERS AND AGENTS
FIDELITY GUARANTEE FUND—ss. 65–
83Y.

DIVISION 1.—*General*—ss. 65–83.

DIVISION 2.—*Receivers, etc.*—ss. 83A–
83Y.

(b)

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Sec. 3.
(Definitions.)

(b) (i) by omitting from the definition of "Business agent" in subsection one of section three the words "hotel businesses, residential businesses, boarding-house businesses, storekeeping businesses, manufacturing businesses or any trading businesses whatsoever or any share or interest in or concerning or the goodwill of or any stocks connected with any such businesses" and by inserting in lieu thereof the words "businesses or professional practices or any share or interest in or concerning or the goodwill of or any stocks connected with businesses or professional practices";

(ii) by inserting in the same subsection next before the definition of "Council" the following new definition :—

"Chattel auctioneer" means an auctioneer who acts as an auctioneer only in respect of goods, not being live stock, farm produce as defined in subsection one of section forty-four of this Act, raw wool or such other goods as may be prescribed.

(iii) by inserting in the same subsection next after the definition of "Employee" the following new definition :—

"Fund" means the Auctioneers and Agents Fidelity Guarantee Fund established by section sixty-five of this Act.

(iv) by inserting in the same subsection next after the definition of "Live stock" the following new definitions :—

"Moneys" includes an instrument for the payment of money in any case where the instrument may be paid into a bank.

"Moneys

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"Moneys received for or on behalf of any person" includes moneys held for or on behalf of any person, whether originally received for or on his behalf or not.

- (v) by inserting in the same subsection next after the definition of "Prescribed" the following new definition :—

"Proclaimed area" means—

- (a) the area that consists of the Metropolitan Police District, the Liverpool Police District, the Parramatta Police District and the Ryde Police District and any other area that is added to that firstmentioned area by a proclamation made under subsection four of this section; or
- (b) any area, not being an area that is so added, that is declared by a proclamation made under subsection four of this section to be a proclaimed area.
- (vi) by omitting paragraphs (a) and (b) of the definition of "Real estate agent" in the same subsection and by inserting in lieu thereof the following paragraphs :—

- (a) the sale, purchase, exchange, letting or taking on lease of land (including a lot within the meaning of the Conveyancing (Strata Titles) Act, 1961, as amended by subsequent Acts) or the sale, purchase or exchange of shares in a company the holding of which entitles the holder to possession of premises; or

- (b) the collection of rents payable in respect of any lease or letting of land,

but

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but does not include a person who carries on business as such an agent in respect of land used for agricultural or pastoral purposes.

- (vii) by inserting in the same subsection next after the definition of "Stock and station agent" the following new definition :—

"Superintendent of licenses" means the person for the time being holding office as superintendent of licenses under subsection (1B) of section one hundred and nineteen of the Liquor Act, 1912, as amended by subsequent Acts.

- (viii) by inserting next after subsection two of the same section the following new subsections :—

(3) Where a person carries on business—

- (a) as a business agent and also carries on business as an agent for the collection of instalments of principal or interest payable under bills of sale given in respect of businesses or professional practices or under contracts for the sale on terms of businesses or professional practices, a reference in this Act to any such person acting as, or carrying on the business of, a business agent includes a reference to that person carrying on business as an agent for the collection of those instalments;

(b) as a real estate agent and also carries on—

- (i) business as an agent for the collection of instalments of principal or interest payable under mortgages of land or under contracts for the sale on terms of land; or

- (ii) the business of arranging for the erection of buildings for or on behalf of other persons.

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a reference in this Act to any such person acting as, or carrying on the business of, a real estate agent includes a reference to that person carrying on business as an agent for the collection of those instalments or to that person carrying on the business of so arranging for the erection of buildings; or

- (c) as a stock and station agent and also carries on business as an agent for the collection of instalments of principal or interest payable under mortgages of land used for agricultural or pastoral purposes or under contracts for the sale on terms of any such land, a reference in this Act to any such person acting as, or carrying on the business of a stock and station agent includes a reference to that person carrying on business as an agent for the collection of those instalments.

(4) The Governor may, by proclamation published in the Gazette—

- (a) add any area to the proclaimed area referred to in paragraph (a) of the definition of "Proclaimed area" in subsection one of this section; or
(b) declare any area to be a proclaimed area for the purposes of this Act.

(5) The Governor may in like manner vary or revoke any such proclamation.

(6) The Governor may, in relation to a proclaimed area, from time to time, by proclamation published in the Gazette, specify the courts of petty sessions that shall have jurisdiction under the provisions of Division 1 of Part III, sections thirty-nine and fifty-two and Division 3 of Part IV, of this Act within that proclaimed area.

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(7) The Governor may, in like manner, vary or revoke any such proclamation.

(8) Where—

- (a) the situation of the registered office or proposed registered office of a licensee or applicant for a license, not being a business subagent's license; or
- (b) the registered address of a business subagent, real estate salesman, trainee auctioneer, business salesman or stock and station salesman or the place of residence of the applicant for a business subagent's license or the proposed registered address of the applicant for registration under this Act as a real estate salesman, trainee auctioneer, business salesman or stock and station salesman or the registered place of business of a real estate dealer,

is—

- (c) within a proclaimed area, the court of petty sessions specified in a proclamation under subsection six of this section in relation to that proclaimed area or, where more than one court of petty sessions has been so specified, the court of petty sessions so specified that is nearest to the registered office, proposed registered office, registered address, place of residence, proposed registered address or registered place of business, as the case may be, shall have the jurisdiction conferred on a court of petty sessions under the provisions of Division 1 of Part III, sections thirty-nine and fifty-two and Division 3 of Part IV, of this Act; and
- (d)

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- (d) outside a proclaimed area, the court of **No. 84, 1967** petty sessions nearest to the registered office, proposed registered office, registered address, place of residence, proposed registered address or registered place of business, as the case may be, shall have that jurisdiction.
- (c) by omitting from paragraph (a) of subsection two **Sec. 4.** of section four the words "one month" and by **(Act not to apply to any Government department, etc.)** inserting in lieu thereof the words "three months".
- 5. The Principal Act is further amended—**
- (a) by omitting section seven; **Further amendment of Act No. 28, 1941. (Part II—The Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents.)**
- (b) (i) by omitting from subsection one of section **Sec. 7.** eight the words "On and from the first day of **(First council with representation for business agents.)** July, one thousand nine hundred and fifty-eight, the" and by inserting in lieu thereof the word "The";
- (ii) by omitting subparagraph (i) of paragraph (b) of subsection two of the same section and by inserting in lieu thereof the following subparagraphs :—
- (i) two shall be auctioneers, other than chattel auctioneers;
- (ia) one shall be a chattel auctioneer;
- (iii)
- Sec. 8.** **(Constitution of subsequent councils.)**

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- (iii) by omitting subparagraph (i) of paragraph (a) of subsection four of the same section and by inserting in lieu thereof the following subparagraphs :—
- (i) auctioneers, other than chattel auctioneers;
 - (ia) chattel auctioneers;
- (iv) by omitting subparagraph (i) of paragraph (b) of the same subsection and by inserting in lieu thereof the following subparagraphs :—
- (i) on the roll of auctioneers, other than chattel auctioneers, if he holds an auctioneer's license, other than a chattel auctioneer's license;
 - (ia) on the roll of chattel auctioneers, if he holds a chattel auctioneer's license;
- (v) by inserting in subparagraph (i) of paragraph (c) of the same subsection after the word "auctioneer" the words ", not being a chattel auctioneer";
- (vi) by inserting in the same subparagraph after the word "auctioneers" the words ", other than chattel auctioneers";
- (vii) by inserting next after the same subparagraph the following new subparagraph :—
- (ia) as a chattel auctioneer—unless his name is on the roll of chattel auctioneers;
- (viii) by omitting from paragraph (e) of the same subsection the words "two members" where firstly occurring and by inserting in lieu thereof the words "one member";

(ix)

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- (ix) by inserting in the same paragraph after the words "member of the council." where firstly occurring the following new paragraph :—

The persons whose names are on the roll of chattel auctioneers shall elect one member of the council.

- (c) by omitting from paragraph (c) of section nine the word "council" where secondly occurring and by inserting in lieu thereof the word "Minister";

Sec. 9.
(Vacation of office.)

- (d) (i) by omitting subsection one of section twelve;

Sec. 12.

- (ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(Deputies.)

(3) A deputy appointed under subsection two of this section shall, while he is acting as a deputy, have the like powers, authorities, duties and functions as the official member.

- (e) (i) by inserting in subsection one of section seventeen after the word "registrar" the words " , deputy registrar";

Sec. 17.
(Registrar.)

- (ii) by inserting next after subsection two of the same section the following new subsections :—

(3) The registrar may, by an instrument in writing under his hand, delegate all or any of his powers or functions under this Act (except this power of delegation) to the deputy registrar who, when acting in pursuance of any such delegation, shall be deemed to be the registrar.

(4) A delegation by the registrar under this section—

(a) shall not prevent the registrar from exercising any power or function under this Act; and

(b) may be revoked at any time by the registrar.

(f)

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New sec.
19A.
Audit of
council's
accounts.

(f) by inserting next after section nineteen the following new section :—

19A. (1) The accounts and funds of the council shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law from time to time in force relating to the audit of public accounts.

(2) The Audit Act, 1902, and any Act amending that Act apply to members of the council in the same manner as they apply to accounting officers in public departments.

Further
amendment
of Act No.
28, 1941.

(Part III—
Auctioneers,
Stock and
Station
Agents,
Real Estate
Agents and
Business
Agents.)

Sec. 20.
(No person
or partner
in a firm
to act
without a
license.)

6. The Principal Act is further amended—

- (a) (i) by omitting from subsection one of section twenty the word “No” and by inserting in lieu thereof the words “Subject to this Act, no”;
- (ii) by omitting from subsection three of the same section the words “carry on” where firstly occurring and by inserting in lieu thereof the words “act as or carry on or advertise, notify or state that it acts as or carries on or is willing to act as or carry on”;

Sec. 22.
(Licenses.)

- (b) (i) by inserting at the end of subparagraph (iv) of paragraph (a) of subsection two of section twenty-two the following word and new subparagraph :—

; or

- (v) a chattel auctioneer's license which shall be in force for all parts of New South Wales.

(ii)

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(ii) by inserting in paragraph (b) of the same subsection after the words "general license" the words "or a chattel auctioneer's license";

(iii) by inserting at the end of the same subsection the following new paragraphs :—

(c) The holder of a chattel auctioneer's license and a corporation that has taken out a chattel auctioneer's license in respect of an employee shall not act as an auctioneer in respect of any estate in land or goods, being live stock, farm produce as defined in subsection one of section forty-four of this Act, raw wool or such other goods as may be prescribed.

(d) A person is not entitled to take out or hold, and a corporation is not entitled to take out or hold in respect of an employee or different employees, a chattel auctioneer's license as well as any other auctioneer's license.

(iv) by omitting paragraph (c) of subsection four of the same section and by inserting in lieu thereof the following paragraph :—

(c) The holder of a license who desires to surrender the license may by instrument in writing so notify the registrar and may deliver the license to the registrar.

The registrar shall, upon receipt of the notification and license, endorse on the license the word "surrendered" and record in the register kept by him under subsection two of section thirty of this Act the fact that the license has been surrendered.

(c)

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Sec. 23.

(Procedure.)

(c) (i) by omitting from subsection one of section twenty-three the words "in triplicate";

(ii) by inserting at the end of subsection two of the same section the following new paragraphs :—

(c) be lodged with the registrar; and

(d) be accompanied by the prescribed fees and, except where the application is for a business subagent's license, the prescribed contribution.

(iii) by omitting subsections three, four and five of the same section and by inserting in lieu thereof the following subsections :—

(3) Upon receipt of an application for the grant or the renewal of a license, the registrar shall forward particulars of the application to the superintendent of licenses.

(4) The council may inquire into, and the superintendent of licenses, upon receipt of the particulars, shall inquire into and report to the council upon—

(a) where the applicant is an individual—the fame and character of the applicant;

(b) where the applicant is a corporation and the application is for a license, to be held by the corporation on its own behalf or in respect of an employee—the fame and character of the directors and the secretary of the corporation and whether the corporation is a fit and proper person to hold a license on its own behalf or in respect of an employee; and

(c)

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- (c) where the applicant is a corporation and the application is for a license, to be held by the corporation in respect of an employee—the fame and character of the employee. No. 84, 1967
- (iv) by omitting paragraph (a) of subsection six of the same section and by inserting in lieu thereof the following paragraph :—
- (a) Where an application is made by the licensee for the renewal of the license held by him, the registrar shall, if—
- (i) he is satisfied that the applicant is not precluded by reason of any other provision of this Act from being granted the renewal; and
- (ii) the renewal of the license is not issued on or before the date of expiry of the license,
- issue to the licensee a provisional license.
- Any such provisional license shall take effect, or be deemed to have taken effect, as the case may require, from the date of expiry of the license.
- (v) by inserting in paragraph (b) of the same subsection after the words “to be” the words “, and, where the provisional license is issued after the expiration of the license, to have been, as from the date of expiry of the license,”;
- (vi) by omitting from the same paragraph the words “license or” wherever occurring;
- (vii) by inserting in the same paragraph after the word “took” the words “, or is deemed to have taken,”;

(viii)

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- (viii) by omitting from paragraph (c) of the same subsection the words "license or" where firstly and secondly occurring;
- (ix) by omitting from the same paragraph the words "
, and the prescribed fees and the prescribed contribution paid under this subsection shall be applied in or towards payment of the prescribed fees and the prescribed contribution for the license or renewal of license";
- (x) by omitting paragraph (d) of the same subsection;
- (xi) by inserting next after the same subsection the following new subsection :—

(6A) Upon the refusal or withdrawal of an application—

- (a) for a license, not being a renewal of a license, there shall be refunded to the applicant, or to any other person who appears to the registrar to be entitled thereto, the prescribed fees (other than the prescribed fee referred to in subsection three of section twenty-five of this Act) and the prescribed contribution paid by the applicant; or
- (b) for the renewal of a license, there shall be refunded to the applicant or to any other person who appears to the registrar to be entitled thereto—
 - (i) the prescribed fees paid by the applicant (other than the prescribed fee referred to in subsection three of section twenty-five of this Act) reduced by such amount as bears to those prescribed fees; and
 - (ii)

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(ii) the prescribed contribution **No. 84, 1967**
reduced by such amount as
bears to the prescribed
contribution,

the same proportion as the period in months (disregarding any fraction of a month) for which the provisional license had effect bears to twelve months but nothing in this subsection requires a refund to be made in any case where the applicant applied for licenses of two or more classes, or for the renewal of licenses of two or more classes, and one or more licenses, or the renewal of one or more licenses, are granted.

(xii) by omitting subsections seven and eight of the same section and by inserting in lieu thereof the following subsections : —

(7) (a) A member of the police force, with the approval in writing of the superintendent of licenses, or the council may object to the grant of the application and, where it or he does so, a statement setting out the nature of the objection proposed to be made shall be lodged by the council or by that member of the police force, as the case may be, with the clerk of the court of petty sessions having jurisdiction under subsection eight of section three of this Act.

(b) A copy of the statement shall be included in any report furnished pursuant to subsection four of this section.

(8) Where no objection to the grant of the application for the license has been made, the registrar shall issue the license.

(xiii)

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- (xiii) by omitting from subsection nine of the same section the words "the officer in charge of police" and by inserting in lieu thereof the words "a member of the police force";
- (xiv) by omitting from paragraph (b) of the same subsection the words "or police";
- (xv) by omitting from the same subsection the words "If the court grants the application, the clerk of the court shall, on payment to him of the prescribed fees and, except in the case of a person applying for a business subagent's license, the prescribed contribution, issue the license." and by inserting in lieu thereof the following paragraphs : —

Upon determination of the application the clerk of the court shall notify the decision of the court to the registrar.

If the court grants the application, the registrar shall upon receipt of the notification, issue the license.

- (xvi) by inserting in paragraph (c) of subsection ten of the same section after the word "Act" the words "or that any director or the secretary of the corporation is not of good fame or character or otherwise a fit and proper person, if he were to apply for a license, to hold the license or that the corporation is not a fit and proper person to hold a license on its own behalf or in respect of an employee";
- (xvii) by inserting in subsection (10A) of the same section after the word "license" where firstly occurring the words "(not being a renewal of a license)";
- (xviii) by omitting the same subsection and by inserting in lieu thereof the following subsections : —
 - (10A) Subject to subsection (10AB) of this section, a license (not being a renewal of a license)

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license) shall not be granted to an applicant, No. 84, 1967
not being a corporation, or to a corporation
in respect of an employee, unless the applicant
or employee—

(a) has passed the examination prescribed
in respect of applicants for such a
license and conducted by the Depart-
ment of Technical Education or such
other examination as may be
prescribed;

(b) has held for a period of not less than
two years—

(i) where the license applied for is
an auctioneer's license—a
certificate of registration as a
trainee auctioneer;

(ii) where the license applied for is
a real estate agent's license—a
certificate of registration as a
real estate salesman;

(iii) where the license applied for is
a business agent's license—a
certificate of registration as a
business salesman;

(iv) where the license applied for is
a stock and station agent's
license—a certificate of regis-
tration as a stock and station
salesman; and

(c) has produced to the council evidence
that he has had experience that satisfies
the council that he is capable of
performing the duties generally
performed by the holder of such a
license.

This subsection does not apply where the
application is for an auctioneer's license
(being a general license) or a business agent's
license

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license and the applicant is a person to whom such a license may be granted pursuant to the provisions of section twenty-six or twenty-seven of this Act.

(10AB) The council may exempt any applicant for a license from the requirements of paragraph (a) or (b) or of both paragraphs (a) and (b) of subsection (10A) of this section.

(xix) by inserting next after subsection (10B) of the same section the following new subsection :—

(10C) A license (not being a renewal of a license) shall not after the commencement of this subsection be granted—

(a) to an applicant, not being a corporation; or

(b) to a corporation in respect of an employee,

who, at the date of the application has not attained the age of twenty-one years.

Sec. 23A.
(Restoration
of license
not
renewed.)

(d) (i) by inserting in subsection one of section 23A after the words "of such license." the following new paragraph :—

Any such application shall be made to the registrar who shall forward it to the clerk of the court of petty sessions having jurisdiction under subsection eight of section three of this Act.

(ii) by omitting from the same subsection the words "The clerk of the court may on payment to him of the like fees and contributions as are payable on the renewal of a license issue

to

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to such person a provisional license.” and by inserting in lieu thereof the following new paragraph :—

Upon an application for restoration of any such license being made the like fees and contributions as are payable on the renewal of a license shall be paid and the registrar shall, if he is satisfied that the applicant is not precluded by reason of any other provision of this Act from being granted a license of the class in respect of which the application for restoration is made, issue to that person a provisional license.

(iii) by inserting in subsection two of the same section after the word “court” where firstly occurring the words “of petty sessions having jurisdiction under subsection eight of section three of this Act”;

(e) by inserting at the end of subsection one of section twenty-four the following new paragraph :—

Any such application shall be made to the registrar who shall forward it to the clerk of the court of petty sessions having jurisdiction under subsection eight of section three of this Act.

(f) (i) by inserting next after subparagraph (i) of paragraph (a) of subsection one of section twenty-five the following new subparagraph :—

(ia) being a chattel auctioneer’s license—
thirty-two dollars;

(ii) by inserting in paragraph (d) of the same subsection after the words “general license” the words “or chattel auctioneer’s license”;

(iii)

(iii)

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Sec. 24.
(Variation of license.)

Sec. 25.
(Fees payable for licenses.)

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- (iii) by inserting next after the same subsection the following new subsection :—

(1A) The fees referred to in subsection one of this section shall accompany the application for the license in respect of which the fees are payable.

- (iv) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) Each application for a license or renewal of a license shall also be accompanied by an administration fee of ten dollars or, where some other administration fee is prescribed, that other fee.

- (v) by omitting from subsection four of the same section the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

- (vi) by inserting in paragraph (c) of the same subsection after the word "registrar" the words " , the deputy registrar";

Sec. 26.
(Power to grant auctioneers' and business agents' licenses to persons resident in reciprocating States.)

- (g) by inserting in paragraph (b) of subsection four of section twenty-six after the words "primary products license" the words "or a chattel auctioneer's license";

Sec. 29.
(Cancellation of license.)

- (h) (i) by omitting from subsection one of section twenty-nine the words "of or above the rank of inspector" and by inserting in lieu thereof the words " , with the approval of the superintendent of licenses,";

- (ii) by omitting from the same subsection the words "or police";

(iii)

Auctioneers and Agents (Amendment).

(iii) by inserting next after paragraph (b) of the same subsection the following new paragraph :—

(bi) that any director or the secretary of the corporation is not a fit and proper person to be a director or the secretary, as the case may be, of a corporation holding a license on its own behalf or in respect of an employee; or

(iv) by inserting at the end of paragraph (c) of the same subsection the following word and new paragraph :—

; or

(d) that any director or the secretary of the corporation has been guilty of such conduct as renders him unfit to be a director or the secretary, as the case may be, of a corporation holding a license on its own behalf or in respect of an employee.

(v) by inserting at the end of the same subsection the following new paragraph :—

Where the summons alleges a ground referred to in paragraph (bi) or (d) of this subsection, a copy of the summons shall be served personally or by post on the director or the secretary referred to in the statement of that ground in the summons.

(vi) by omitting from subsection three of the same section the word "court" where secondly occurring and by inserting in lieu thereof the word "registrar";

(vii)

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(vii) by inserting in the same subsection after the word "both," the words "and, where the court orders the cancellation of the license of a corporation on a ground referred to in paragraph (bi) or (d) of subsection one of this section, that any director or the secretary of the corporation";

(viii) by inserting next after the same subsection the following new subsection :—

(3A) Upon cancellation of a license under this section, the clerk of the court by which the license is cancelled shall notify the decision of the court to the registrar.

New sec.
29A.

(i) by inserting next after section twenty-nine the following new section :—

Disqualifica-
tion of
former
licensees,
etc.

29A. (1) In this section, "former licensee" means a person who, within a period of twelve months before a complaint in respect of that person is made under subsection two of this section—

(a) has been the holder of a license (including a business subagent's license) and has ceased to hold that license;

(b) has been a person in respect of whom a corporation has held a license and has ceased to be a person in respect of whom that corporation holds a license; or

(c) has been a director or the secretary of a corporation that, within that period, has held a license.

(2) Upon complaint being made to him by a member of the police force, with the approval of the superintendent of licenses, or by the registrar any justice of the peace may summon a former licensee to appear before a court of petty sessions holden before a stipendiary magistrate to show cause
why

Auctioneers and Agents (Amendment).

why that former licensee should not be disqualified either permanently or temporarily from holding a license on the ground—

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(a) in the case of a former licensee referred to in the definition of "former licensee" in subsection one of this section who is an individual—

(i) that he is not a fit and proper person to hold a license or to have a license held in respect of him by a corporation; or

(ii) that he has been guilty of conduct that renders him unfit to hold a license or to have a license held in respect of him by a corporation; or

(b) in the case of a former licensee referred to in paragraph (a) of the definition of "former licensee" in subsection one of this section that is a corporation—

(i) that it is not a fit and proper person to hold a license on its own behalf or in respect of an employee; or

(ii) that its affairs have been so conducted as to render it unfit to hold a license on its own behalf or in respect of an employee.

(3) If, upon the day and at the time and place appointed by the summons issued under this section, the former licensee does not appear, the court of petty sessions may, upon proof of the due service of the summons upon the former licensee a reasonable time before the time appointed for his appearance, proceed to hear and determine the matter of the complaint in the absence of the former licensee.

(4)

Auctioneers and Agents (Amendment).

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(4) The court may, upon being satisfied as to the truth of any of the grounds specified in the summons, order that the former licensee be disqualified, either permanently or for such period as the court specifies in the order, from holding a license under this Act.

(5) Upon the disqualification of any person under this section, the clerk of the court by which the disqualification is imposed shall notify the decision of the court to the registrar.

Sec. 30.
(Register to
be kept by
registrar.)

- (j) (i) by omitting subsection one of section thirty;
- (ii) by omitting from subsection two of the same section the word "such";
- (iii) by inserting in the same subsection after the word "applications," the words "and disqualifications,";

Sec. 31.
(Appeal.)

- (k) (i) by inserting in subsection one of section thirty-one after the word "twenty-nine" wherever occurring the words "or 29A";
- (ii) by omitting from paragraph (b) of the same subsection the words "the officer in charge of police" and by inserting in lieu thereof the words "a member of the police force";
- (iii) by omitting from the same subsection the words "or the officer in charge of police" and by inserting in lieu thereof the words "or the member of the police force";
- (iv) by inserting in paragraph (b) of subsection four of the same section after the word "employee," the words "or the director or secretary of a corporation referred to in the statement of the ground on which the disqualification was imposed,";

(v)

Auctioneers and Agents (Amendment).

- (v) by omitting from the same paragraph the words "officer in charge of police" wherever occurring and by inserting in lieu thereof the words "member of the police force";
- (vi) by inserting in the same paragraph after the word "twenty-nine" wherever occurring the words "or 29A";
- (vii) by inserting in subsection (4A) of the same section after the word "twenty-nine" the words "or 29A";
- (l) by inserting in section thirty-two after the word "manager" the words "or the secretary";
- (m) by omitting from section thirty-three the word "court" where secondly occurring and by inserting in lieu thereof the word "registrar";
- (n) (i) by omitting from subsection four of section thirty-four the words "court from which the license issued" and by inserting in lieu thereof the word "registrar";
- (ii) by omitting from the same subsection the words "and the clerk of such court shall record such notice and advise the registrar who" and by inserting in lieu thereof the words "and the registrar";
- (o) (i) by omitting subsection two of section thirty-five and by inserting in lieu thereof the following subsection :—
- (2) A licensee, being a corporation, shall, in addition to complying with the provisions of subsection one of this section, paint or affix and keep painted or affixed—
- (a) the name of the employee in charge of the licensee's registered office on the outside of that registered office; and
- (b)

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Sec. 32.

(Effect of disqualification on membership, etc., of corporation.)

Sec. 33.

(Failure to deliver up license.)

Sec. 34.

(Registered office and address.)

Sec. 35.

(Publication of name of licensee.)

Auctioneers and Agents (Amendment).

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(b) where the business of the corporation is carried on at any place other than that registered office, the name of the employee in charge at that place on the outside of that place,

in a conspicuous position and in letters easily legible and conforming to the type and size of type prescribed.

(ii) by inserting in paragraph (a) of subsection three of the same section after the word "one" the words "or two";

Sec. 36.
(Payment
into bank.)

(p) by inserting at the end of section thirty-six the following new subsection :—

(6) A reference in this section to a licensee includes a reference to a person who has been, but has, after the commencement of this subsection, ceased to be, a licensee and to the personal representative of a licensee who has, after that commencement, died and in the application of this section to—

(a) a person who has been, but has so ceased to be, a licensee, a reference to moneys received for or on behalf of any person by any licensee shall be read as a reference to moneys received by that person for or on behalf of any other person in connection with his business as a licensee; and

(b) the personal representative of a licensee who has died, a reference to moneys received for or on behalf of any person by any licensee shall be read as a reference to moneys received by that licensee or personal representative for or on behalf of any person in connection with the business carried on by that licensee.

(q)

Auctioneers and Agents (Amendment).

(q) by inserting next after section thirty-six the following new sections :—

No. 84, 1967
New secs.
36A-36C.

36A. Where a licensee, in the month of January in any year, holds any moneys in a trust account kept by him in any year and those moneys were received by the licensee more than two years before that month, the licensee shall in that month furnish to the registrar a statement in or to the effect of the form prescribed showing particulars of—

Unclaimed
trust
moneys
held by a
licensee.

- (a) those moneys;
- (b) every person for whom or on whose behalf the moneys are so held; and
- (c) the last known address of each of those persons.

36B. Where a person has been, but has ceased to be, a licensee or the personal representative of a licensee who has died holds any moneys in a trust account kept by him in accordance with section thirty-six of this Act, he shall—

Unclaimed
trust
moneys
held by a
former
licensee.

- (a) within three months after the date on which he ceased to be a licensee or became the personal representative of the licensee who died, furnish to the registrar a statement in or to the effect of the form prescribed showing particulars of—
 - (i) the moneys held by him in his trust account as at the date on which he furnishes the statement;
 - (ii) every person for whom or on whose behalf the moneys are so held; and
 - (iii) the last known address of each of those persons; and

(b)

Auctioneers and Agents (Amendment).

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(b) within fourteen days after the expiration of a period of twelve months after the date on which the statement referred to in paragraph (a) of this section was furnished, furnish to the registrar a statement in or to the effect of the form prescribed showing particulars of—

- (i) the moneys held by him in his trust account as at the date on which he furnishes the statement;
- (ii) every person for whom or on whose behalf the moneys are so held;
- (iii) the last known address of each of those persons; and
- (iv) any payments made from the trust account since the statement referred to in paragraph (a) of this section was made.

Duties of registrar in relation to unclaimed moneys in trust accounts.

36C. (1) The registrar shall, upon receipt of the statement referred to in section 36A, or in paragraph (b) of section 36B, of this Act—

- (a) send by post to each person for whom or on whose behalf any moneys referred to in the statement are held a notice in writing addressed to him at his address shown in the statement stating the particulars of the moneys held for or on behalf of that person; and
- (b) cause to be published in the Gazette a notification stating the particulars of the moneys held for or on behalf of each such person,

and

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and stating that, if those moneys are not paid out of the trust account in which they are held within a period of three months after the date of the notification referred to in paragraph (b) of this subsection, the person holding the moneys will be required to pay them to the registrar. No. 84, 1967

(2) The registrar may, at any time after the expiration of a period of three months after the publication in the Gazette of a notification referred to in paragraph (b) of subsection one of this section, by a notice in writing served personally or by post on the person by whom the moneys referred to in the notification are held, require that person—

- (a) to pay to the registrar any moneys referred to in the notification that have not been previously paid by that person out of the trust account in which they are held; and
- (b) to furnish to the registrar, within such period as may be specified in the notice, a statement showing particulars of any payments made out of the moneys referred to in the notification since the statement referred to in subsection one of this section was made.

(3) The registrar shall pay any moneys received by him pursuant to a notice under subsection two of this section into the fund.

(4) The council shall, on application made to it by any person entitled to any moneys paid into the fund under this section, pay the moneys to that person.

(5) Any person who neglects or fails to comply with the requirements of any notice served on him under subsection two of this section shall be guilty of an offence against this Act.

(r)

Auctioneers and Agents (Amendment).

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Sec. 38A.

(Furnishing of particulars of trust account or transactions.)

(r) by inserting next after subsection five of section 38A the following new subsections :—

(6) A person guilty of an offence against this Act arising under subsection three of this section shall be liable to a penalty not exceeding ten dollars for each day on which the offence occurs.

(7) Without affecting the application of the foregoing provisions of this section to licensees, the provisions—

(a) of this section, other than paragraph (b) or (c) of subsection one, apply to any person who is required by virtue of subsection six of section thirty-six of this Act to keep a trust account, and so apply while he is required to keep that account; and

(b) of this section, other than paragraph (a) of subsection one, apply to any person who is required by subsection two of section thirty-eight of this Act to preserve any written record referred to in that subsection and so apply while he is required to preserve that written record.

Sec. 38B.
(Inspection of records.)

(s) (i) by omitting from subsection one of section 38B the words "or other" where secondly occurring and by inserting in lieu thereof the words ", a member of the police force of or above the rank of sergeant or an";

(ii) by omitting from subsection two of the same section the words "or other" where firstly occurring and by inserting in lieu thereof the words ", any such member of the police force or an";

(iii) by inserting in the same subsection after the word "licensee" where fourthly occurring the words "or, where a licensee has died, the personal representative of the licensee";

(iv)

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(iv) by inserting next after the same subsection No. 84, 1967 the following new subsection :—

(2A) The registrar, any such member of the police force or an officer of the council may serve on a banker with whom a licensee has deposited any money in any account (whether his own account or a general or separate trust account) an instrument, in the form prescribed and under the hand of the registrar or a member of the police force of or above the rank of sergeant—

(a) certifying that—

(i) the licensee cannot be located;

(ii) the licensee has left the State;

(iii) the licensee or any servant or agent of the licensee or the personal representative of the licensee has neglected or refused to furnish any authority or order on the banker in accordance with subsection two of this section; or

(iv) the licensee has ceased to be a licensee; and

(b) requiring that banker to produce to him for inspection the written records of the bank relating to the account in which that money is held.

(t) by inserting next after section 38c the following New secs. 38D, 38E.
new sections :—

38D. (1) In this section—

“person to whom this section applies” means—

(a) a licensee;

(b)

Audit of licensees' books, records, etc.

Auctioneers and Agents (Amendment).

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- (b) a person who has been, but after the commencement of this section ceases to be, a licensee; and
- (c) the personal representative of a licensee who has died after that commencement.

“prescribed day” means the thirtieth day of June or, in respect of any particular person to whom this section applies, such other day as the registrar may, on the application of that person, fix by order in writing addressed to that person.

(2) Within three months after the prescribed day in every year applicable to him, a person to whom this section applies shall—

- (a) cause the books, papers, accounts and other documents relating to any moneys held during the year ended on that day in a trust account kept by him in accordance with section thirty-six of this Act to be audited by a person qualified under section 38E of this Act to act as an auditor; and
- (b) forthwith after the receipt from the auditor of a report of the result of the audit, lodge it with the registrar.

(3) Subsection two of this section ceases to apply to a person to whom this section applies and who is referred to in paragraph (b) or (c) of the definition of that expression in subsection one of this section—

- (a) where, at the date on which he ceased to be a licensee or became the personal representative of a licensee, he did not hold any moneys in any trust account kept by him in accordance with section thirty-six of this Act—upon the expiration of a period of **three**

Auctioneers and Agents (Amendment).

three months after the prescribed day No. 84, 1967 applicable to him that next follows the day on which he ceased to be a licensee or became the personal representative, as the case may be; or

- (b) where, at the date on which he ceased to be a licensee or became the personal representative of a licensee, he held moneys in any trust account kept by him in accordance with section thirty-six of this Act—upon the expiration of a period of three months after the prescribed day applicable to him that next follows the day on which he has disbursed the last of the moneys in any such trust account.

(4) A person to whom this section applies shall obtain from the auditor making an audit for the purposes of this section a copy of the report of the result of the audit signed by the auditor and preserve it for a period of three years after the date on which the report was made.

(5) A licensee shall not be required under this section to cause any books, papers, accounts or other documents to be audited in respect of any period in respect of which those books, papers, accounts and other documents have already been audited for the purposes of this section.

(6) A licensee who in the course of any year ending on the prescribed day neither received nor held any money for or on behalf of any other person shall be deemed to have complied with this section if, within the period of three months after that day, he makes and lodges with the registrar a statutory declaration to that effect.

(7) Where, in relation to the books, papers, accounts and other documents kept by a partnership of licensees, the provisions of this section

Auctioneers and Agents (Amendment).

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section are complied with by any one of the licensees, those provisions shall be deemed to have been complied with by all of the licensees.

Qualifications and duties of auditors.

38E. (1) A person shall be qualified to act as an auditor for the purposes of section 38D of this Act—

- (a) if he is registered under the Public Accountants Registration Act, 1945, as amended by subsequent Acts; or
- (b) where the registrar is satisfied that a person so registered is not conveniently available, if he is a person, nominated by the person whose books, papers, accounts and other documents are to be audited, who has by order in writing been approved by the registrar,

but shall not be so qualified—

- (c) if the person so registered or approved is or has at any time within two years before the last day of the period in respect of which the audit is to be made, been an employee or partner of the person whose books, papers, accounts and other documents are to be audited; or
- (d) if he is a licensee, or a shareholder in a corporation that is a licensee and has not more than twenty shareholders.

(2) If an auditor in the course of making an audit of any books, papers, accounts and documents for the purposes of section 38D of this Act discovers that any breach of this Act or the regulations has been committed, that there is any discrepancy relating to the trust account to which those books, papers, accounts and other documents relate or that the books, papers, accounts and other documents

Auctioneers and Agents (Amendment).

documents are not kept in such a manner as to enable them to be properly audited, he shall fully set out the facts so discovered by him in the report made by him for the purposes of that section and shall forward a copy of the report to the registrar.

(3) An auditor, or an assistant of an auditor, appointed to make an audit for the purposes of section 38D of this Act shall not communicate any matter which may come to his knowledge in the course of the audit to any person except in the course of his duties as an auditor or assistant of an auditor, in accordance with this section or in the like circumstance and to the like extent as a member of the council or any of its officers is permitted under subsection one of section 86A of this Act to publish information.

(4) A report for the purposes of section 38D of this Act or under this section relating to books, papers, accounts and other documents of any person or a statutory declaration lodged with the registrar under that section shall be available in the hands of the registrar for inspection by the auditor appointed to carry out for the purposes of that section any subsequent audit of the books, papers, accounts and other documents of that person.

- (u) (i) by omitting from subsection one of section thirty-nine the words "or police";
- (ii) by inserting in paragraph (b) of the same subsection after the word "refused" the words "(otherwise than pursuant to subsection (10A) or (10C) of section twenty-three of this Act)";
- (iii) by omitting from paragraph (c) of the same subsection the words "as a real estate salesman" wherever occurring and by inserting in lieu thereof the words "under Part IV of this Act";
- (iv)
- Sec. 39.
(Certain persons not to be employed by licensees.)

Auctioneers and Agents (Amendment).

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(iv) by omitting from paragraph (d) of the same subsection the words "as a real estate salesman under this Act" and by inserting in lieu thereof the words "under Part IV of this Act";

(v) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) A licensee or a corporation on whose behalf a license is held shall not employ, in connection with his or its business as an auctioneer, business agent, real estate agent or stock and station agent, any person to carry out the functions of a trainee auctioneer, business salesman, real estate salesman or stock and station salesman (as respectively defined in section fifty-one of this Act) unless that person is registered under Part IV of this Act as a trainee auctioneer, business salesman, real estate salesman or stock and station salesman, as the case may be.

This subsection does not apply to the employment of a person to carry out the functions of a business salesman or a stock and station salesman until the expiration of three months after the commencement of this subsection.

Sec. 40.
(Production
of license.)

(v) by inserting in section forty after the word "sergeant" wherever occurring the words ", to any officer of the council authorised under subsection one of section 38B of this Act";

Sec. 43.
(Publication
of name
and place
of business
in advertise-
ments.)

(w) by inserting in paragraph (c) of subsection forty-three after the word "business" the words "or where the corporation is carrying on business under a business name registered or deemed to be registered under any Act for the time being in force relating to the registration of business names, that business name and the address of its place of business";

(x)

Auctioneers and Agents (Amendment).

- (x) by omitting section fifty; No. 84, 1967
- Sec. 50.
(No auction sales after sunset (sales of wool excepted).)
- (y) (i) by omitting from section 50A the words Sec. 50A.
 “wilfully false, misleading or deceptive state- (Misrepresentation by business agent or subagent.)
 ment, representation or promise or by any
 wilful concealment of material fact” and by
 inserting in lieu thereof the words “statement,
 representation or promise that is false, mis-
 leading or deceptive (whether to his know-
 ledge or not) or by any concealment of
 material fact (whether intended or not)”;
- (ii) by inserting at the end of the same section the following new subsections :—
- (2) Without limiting the generality of subsection one of this section a statement, representation or promise shall, for the purposes of that subsection, be deemed to be false, misleading or deceptive if the statement, representation or promise is of such a nature that it would reasonably tend to lead to a belief in the existence of a state of affairs that does not in fact exist, whether or not the statement, representation or promise indicates that that state of affairs does exist.
- (3) It is a sufficient defence to a prosecution under subsection one of this section if the defendant proves that the statement, representation or promise arising out of the making of a statement, representation or promise that is false, misleading or deceptive was based upon a statement in writing made to the defendant by the owner of the business or undertaking concerned.

No. 84, 1967 7. The Principal Act is further amended—

Further
amendment
of Act No.
28, 1941.

(Part IV—
Real Estate
Dealers and
Real Estate
Salesmen.)

Part IV.
(Heading.)

- (a) by omitting the heading to Part IV and by inserting in lieu thereof the following heading :—

REAL ESTATE DEALERS, REAL ESTATE SALESMEN, TRAINEE AUCTIONEERS, BUSINESS SALESMEN AND STOCK AND STATION SALESMEN.

Sec. 51.
(Interpretation.)

- (b) (i) by inserting in section fifty-one in the definition of "Allotment of land" after the word "erected" the words "and includes a lot within the meaning of the Conveyancing (Strata Titles) Act, 1961, as amended by subsequent Acts, and shares in a company the holding of which entitles the holder to possession of premises";

- (ii) by inserting next after the same definition the following new definition :—

"Business salesman" means a person who—

- (a) for or on behalf of a business agent induces or attempts to induce or negotiates with a view to inducing any person to sell, buy or exchange or otherwise deal with or dispose of any business or professional practice or any share or interest in or concerning or the goodwill of or any stocks connected with any business or professional practice; or

(b)

Auctioneers and Agents (Amendment).

- (b) for or on behalf of a business agent and otherwise than at a place at which that business agent carries on business, collects instalments of principal or interest payable under a bill of sale given in respect of a business or professional practice or under a contract for the sale on terms of a business or professional practice, No. 84, 1967

but does not include an auctioneer, a trainee auctioneer, a stock and station agent, a stock and station salesman, a real estate agent, a real estate salesman or a business agent.

- (iii) by omitting from the same section the definition of "Real estate salesman" and by inserting in lieu thereof the following definitions :—

"Real estate salesman" means a person who—

- (a) for or on behalf of a real estate agent or real estate dealer induces or attempts to induce or negotiates with a view to inducing any person—

(i) to buy, sell or otherwise dispose of any land, including any allotment of land;

(ii) to make any offer to buy, sell or otherwise dispose of any land, including any allotment of land;

(iii)

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- (iii) to accept any offer to buy, sell or otherwise dispose of any land, including any allotment of land; or
 - (iv) to enter into any contract for the purchase, sale or other disposal of any land, including any allotment of land;
- (b) for or on behalf of a real estate agent and otherwise than at a place at which that real estate agent carries on business—
- (i) collects rents payable in respect of any lease or letting of land, including any allotment of land; or
 - (ii) collects instalments of principal or interest payable under a mortgage of land or under a contract for the sale on terms of land, including an allotment of land; or
- (c) for or on behalf of a real estate agent arranges for the erection of buildings for or on behalf of any other person,

but does not include an auctioneer, a trainee auctioneer, a stock and station agent, a stock and station salesman, or a real estate agent.

'Stock

Auctioneers and Agents (Amendment).

“Stock and station salesman” means a No. 84, 1967
person who—

(a) for or on behalf of a stock and station agent induces or attempts to induce or negotiates with a view to inducing any person—

(i) to buy, sell or otherwise dispose of any land used for agricultural or pastoral purposes or any live stock;

(ii) to make any offer to buy, sell or otherwise dispose of any land used for agricultural or pastoral purposes or any live stock;

(iii) to accept any offer to buy, sell or otherwise dispose of any land used for agricultural or pastoral purposes or any live stock; or

(iv) to enter into any contract for the purchase, sale or other disposal of any land used for agricultural or pastoral purposes or any live stock;

(b) for or on behalf of a stock and station agent arranges for the provision of agistment for live stock; or

(c)

Auctioneers and Agents (Amendment).

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(c) for or on behalf of a stock and station agent and otherwise than at a place at which that stock and station agent carries on business—

(i) collects rents payable in respect of any lease or letting of land used for agricultural or pastoral purposes or fees for agistment; or

(ii) collects instalments of principal or interest payable under a mortgage of land used for agricultural or pastoral purposes or under a contract for the sale on terms of any such land;

but does not include an auctioneer, a trainee auctioneer or a stock and station agent.

“Trainee auctioneer” means a person who for or on behalf of the holder of an auctioneer’s license or a corporation that has taken out an auctioneer’s license in respect of an employee sells or attempts to sell or offers for sale or resale any estate, goods or effects by way of auction at an auction sale, but does not include an auctioneer.

Sec. 52.
(Provisions
as to em-
ployment of
certain
persons by
real estate
dealers.)

(c) (i) by omitting from subsection one of section fifty-two the words “or police”;

(ii) by inserting in paragraph (b) of the same subsection after the word “refused” the words “(otherwise than pursuant to subsection (10A) or (10c) of section twenty-three of this Act)”;

(d)

Auctioneers and Agents (Amendment).

(d) by inserting in the heading to Division 3 of Part IV after the word "*Salesmen*" the words "*, Trainee Auctioneers, Business Salesmen and Stock and Station Salesmen*";

No. 84, 1967
Div. 3.
(Heading.)

(e) (i) by omitting from paragraph (a) of subsection one of section fifty-six the words "or service";

(ii) by inserting next after the same subsection the following new subsection : —

Sec. 56.
(Real estate salesmen to be registered.)

(1A) A person who is the holder of a certificate of registration as a real estate salesman shall not act as or carry out the functions of a real estate salesman unless he does so as an employee of the holder of a real estate agent's license, being the holder specified in that certificate of registration as his registered employer, as an employee of the real estate dealer so specified or as an employee of a corporation that is so specified and that holds a real estate agent's license in respect of another employee.

(f) by inserting next after section fifty-six the following new section : —

New sec.
56A.

56A. (1) Subject to this Act, after the expiration of a period of three months after the commencement of this section, no person shall—

Trainee auctioneers, business salesmen and stock and station salesmen to be registered.

(a) unless he is registered as a trainee auctioneer in accordance with this Act—

(i) be or remain in the employment of any auctioneer as a trainee auctioneer;

(ii) represent, whether expressly or impliedly, that he is a trainee auctioneer or that he is in the employment of an auctioneer as a trainee auctioneer; or

(iii)

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- (iii) act as or carry out any of the functions of a trainee auctioneer;
- (b) unless he is registered as a business salesman in accordance with this Act—
 - (i) be or remain in the employment of any business agent as a business salesman;
 - (ii) represent, whether expressly or impliedly, that he is a business salesman or that he is in the employment of a business agent as a business salesman; or
 - (iii) act as or carry out any of the functions of a business salesman; or
- (c) unless he is registered as a stock and station salesman in accordance with this Act—
 - (i) be or remain in the employment of any stock and station agent as a stock and station salesman;
 - (ii) represent, whether expressly or impliedly, that he is a stock and station salesman or that he is in the employment of a stock and station agent as a stock and station salesman; or
 - (iii) act as or carry out any of the functions of a stock and station salesman.

(2) A person—

- (a) who is the holder of a certificate of registration as a trainee auctioneer shall not act as or carry out the functions of a trainee auctioneer unless he does so—
 - (i) as an employee of the holder of an auctioneer's license, being the holder specified in that certificate of registration

Auctioneers and Agents (Amendment).

registration as his registered employer, or as an employee of a corporation that is so specified and that holds an auctioneer's license in respect of another employee; and

- (ii) under the supervision and in the presence of the holder of an auctioneer's license, being the holder specified in that certificate of registration as his registered employer or, where his employer specified in that certificate of registration is a corporation, under the supervision and in the presence of another employee of that corporation in respect of whom that corporation holds an auctioneer's license;
- (b) who is the holder of a certificate of registration as a business salesman shall not act as or carry out the functions of a business salesman unless he does so as an employee of the holder of a business agent's license, being the holder specified in that certificate of registration as his registered employer, or as an employee of a corporation that is so specified and that holds a business agent's license in respect of another employee; or
- (c) who is the holder of a certificate of registration as a stock and station salesman shall not act as or carry out the functions of a stock and station salesman unless he does so as an employee of the holder of a stock and station agent's license, being the holder specified in that certificate of registration as his registered employer, or as an employee of a corporation that is so specified and that holds a stock and station agent's license in respect of another employee.

(3)

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(3) Any person who commits any contravention of or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

Sec. 57.
(Procedure.)

(g) (i) by inserting in subsection one of section fifty-seven after the words "a real estate salesman" the words ", trainee auctioneer, business salesman or stock and station salesman";

(ii) by omitting from the same subsection the words "in triplicate";

(iii) by omitting subsections two, three and four of the same section and by inserting in lieu thereof the following subsections : —

(2) The application shall—

(a) contain such particulars as may be prescribed, including particulars of the person by whom he is to be employed in his capacity as a real estate salesman, trainee auctioneer, business salesman or stock and station salesman, as the case may be;

(b) specify in what capacity the applicant desires to be registered;

(c) be lodged with the registrar; and

(d) be accompanied by the fees referred to in subsection six of this section.

(3) Upon receipt of the application for registration or for the renewal of registration, the registrar shall forward particulars of the application to the superintendent of licenses.

(4) The council may inquire into, and the superintendent of licenses shall, upon receipt of such particulars, inquire into and report upon, the fame and character of the applicant.

(4A)

Auctioneers and Agents (Amendment).

(4A) Where an application is made by any person for registration or renewal of registration, the registrar shall—

- (a) if he is satisfied that the applicant is not precluded by reason of any other provision of this Act from being granted registration or renewal of registration; and
- (b) where the application is for the renewal of registration, if the renewal of registration is not granted on or before the date of expiry of the registration,

issue to the applicant a provisional certificate of registration as a real estate salesman, trainee auctioneer, business salesman or stock and station salesman, as the case may be.

(4B) A provisional certificate of registration—

- (a) shall take effect, where the application was for registration—on and from the date on which the certificate was issued; and
- (b) shall take effect or be deemed to have taken effect, where the application was for renewal of registration—on and from the date of expiry of the certificate of registration in respect of which the application for renewal was made.

(4c) Where a provisional certificate of registration is issued under subsection (4A) of this section, the holder of the certificate shall, for all purposes of this Act, be deemed to be and, where the provisional certificate was issued on an application for renewal of registration and was issued after the expiry of the certificate of registration in respect of which

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which the application for renewal was made, to have been, as from the date of expiry of the certificate, the holder of the certificate of registration specified in his application until such time as a certificate of registration or renewal of a certificate of registration is issued to him pursuant to this section or until his application is refused or until the expiration of twelve months after the date on which the provisional certificate took effect, whichever first occurs.

(4D) If a certificate of registration or a renewal of a certificate of registration is so issued to a person to whom a provisional certificate has been issued under subsection (4A) of this section that certificate or renewal shall take effect as from the date upon which the provisional certificate took effect.

(4E) Upon the refusal or withdrawal of an application for registration or renewal of registration, there shall be refunded to the applicant or to any other person who appears to the registrar to be entitled thereto, the prescribed fees paid by the applicant (other than the administration fee referred to in subsection six of this section), reduced by such amount as bears to those prescribed fees the same proportion as the period in months (disregarding any fraction of a month) for which the provisional certificate of registration had effect bears to twelve months, but nothing in this subsection requires a refund to be made in any case where the applicant applied for registration, or renewal of registration, in two or more capacities and he was granted registration, or renewal of registration, in one or more capacities.

(4F)

Auctioneers and Agents (Amendment).

(4F) (a) A member of the police force, No. 84, 1967 with the approval in writing of the superintendent of licenses, or the council may object to the grant of the application and, where it or he does so, a statement setting out the nature of the objection proposed to be made shall be lodged by the council or by that member of the police force, as the case may be, with the clerk of the court of petty sessions having jurisdiction under subsection eight of section three of this Act.

(b) A copy of the statement shall be included in any report furnished pursuant to subsection four of this section.

(4G) Where no objection to the grant of the application for registration has been made, the registrar shall issue the certificate of registration.

(iv) by omitting subsection six of the same section and by inserting in lieu thereof the following subsection :—

(6) Each applicant for registration shall lodge with his application—

(a) a fee of two dollars, whether the application is for registration in one or more capacities; and

(b) in respect of each capacity in which he applies to be registered, an administration fee of two dollars, or where some other administration fee is prescribed, that other fee.

(v) by omitting from subsection seven of the same section the words “the officer in charge of police” and by inserting in lieu thereof the words “a member of the police force”;

(vi)

Auctioneers and Agents (Amendment).

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- (vi) by omitting from paragraph (b) of the same subsection the words "or police";
- (vii) by omitting from the same subsection the words "If the court grants the application, the clerk of the court shall, on payment to him of a fee of fifty cents for the issue thereof and an administration fee of two dollars, or where some other administration fee is prescribed, such other fee, issue to the applicant a certificate of registration as a real estate salesman." and by inserting in lieu thereof the following paragraphs :—

Upon determination of the application the clerk of the court shall forthwith notify the decision of the court to the registrar.

If the court grants the application, the registrar shall, upon receipt of the notification, issue to the applicant a certificate of registration as a real estate salesman, trainee auctioneer, business salesman or stock and station salesman, as the case may require.

- (viii) by inserting in subsection eight of the same section after the words "real estate salesman" the words ", trainee auctioneer, business salesman or stock and station salesman";
- (ix) by inserting in paragraph (a) of subsection nine of the same section after the words "real estate salesman" the words ", trainee auctioneer, business salesman or stock and station salesman";
- (x) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraphs :—

(b) Subject to this Act, a certificate of registration may be renewed and on each renewal shall be in force for a further period of twelve months.

(c)

Auctioneers and Agents (Amendment).

(c) Every applicant for the renewal of one **No. 84, 1967** or more certificates of registration held by him shall lodge with his application—

- (i) a fee of two dollars; and
- (ii) in respect of each such certificate of registration, an administration fee of two dollars, or where some other administration fee is prescribed, that other fee.

(d) The holder of a certificate of registration under this Part who desires to surrender the certificate may by instrument in writing notify the registrar that he so desires and may deliver the certificate to the registrar.

The registrar shall, upon receipt of the notification and certificate, endorse on the certificate the word "surrendered" and record in the register kept by him under section fifty-eight of this Act the fact that the certificate has been surrendered.

(xi) by omitting subsection ten of the same section and by inserting in lieu thereof the following subsection :—

(10) The administration fee prescribed by or under subsections six and nine of this section shall be paid to the credit of the Auctioneers and Agents Administration Account referred to in subsection four of section twenty-five of this Act.

- (h) (i) by omitting subsection one of section fifty-eight; Sec. 58.
(Register to be kept by registrar.)
- (ii) by omitting from subsection two of the same section the word "such";

(i)

Auctioneers and Agents (Amendment).

No. 84, 1967

Subst. sec.
59.

Registered
employer
and
registered
address.

- (i) by omitting section fifty-nine and by inserting in lieu thereof the following section:—

59. (1) Every holder of a certificate of registration under this Part shall have a registered employer and a registered address in New South Wales.

(2) The registered employer and the registered address of a holder of a certificate of registration under this Part shall be specified in the certificate of registration.

(3) The employer specified in the application for registration as being the employer by whom the applicant is, or is to be, employed shall, upon the grant of registration (whether provisional or otherwise), be specified in the certificate of registration granted on the application as the registered employer of the holder of that certificate.

(4) The address of the registered office of the registered employer by whom or by which the holder of a certificate of registration is, or is to be, employed shall, upon the grant of registration (whether provisional or otherwise), be specified in the certificate of registration granted on the application as the registered address of the holder of that certificate.

(5) The registrar shall, upon application made by the holder of a certificate of registration under this Part and upon payment of a fee of fifty cents, vary the certificate of registration—

- (a) by substituting for the name of the registered employer specified therein the name of some other employer by whom the holder of the certificate is, or is to be, employed; or
- (b) by substituting for the registered address specified therein the address of the registered employer by whom the holder of the certificate is, or is to be, employed.

(6)

Auctioneers and Agents (Amendment).

(6) The registrar shall record in the register ^{No. 84, 1967} kept under section fifty-eight of this Act any variation made under subsection five of this section.

- (j) (i) by omitting from subsection one of section sixty the words "of or above the rank of inspector" and by inserting in lieu thereof the words ", with the approval of the superintendent of licenses,"; ^{Sec. 60. (Cancellation of certificate of registration.)}
- (ii) by inserting in the same subsection after the words "a real estate salesman" the words ", trainee auctioneer, business salesman or stock and station salesman";
- (iii) by omitting from the same subsection the words "or police";
- (iv) by omitting from subsection two of the same section the words "real estate salesman" wherever occurring and by inserting in lieu thereof the word "person";
- (v) by omitting from subsection three of the same section the words "real estate salesman" wherever occurring and by inserting in lieu thereof the word "person";
- (vi) by omitting from the same subsection the word "court" where secondly occurring and by inserting in lieu thereof the word "registrar";
- (k) (i) by omitting from subsection one of section sixty-one the words "the officer in charge of police" where firstly occurring and by inserting in lieu thereof the words "a member of the police force"; ^{Sec. 61. (Appeal.)}
- (ii) by omitting from the same subsection the words "real estate salesman" and by inserting in lieu thereof the words "holder of the certificate of registration";

(iii)

*Auctioneers and Agents (Amendment).***No. 84, 1967**

- (iii) by omitting from the same subsection the words "officer in charge of police" where secondly occurring and by inserting in lieu thereof the words "member of the police force";
- (iv) by omitting from paragraph (b) of subsection four of the same section the words "real estate salesman" and by inserting in lieu thereof the words "holder of the certificate of registration";
- (v) by omitting from the same paragraph the words "officer in charge of police" wherever occurring and by inserting in lieu thereof the words "member of the police force";
- (vi) by inserting next after subsection four of the same section the following new subsection :—

(4A) An appeal under this section in any case to which paragraph (a) of subsection one of this section applies shall not be commenced after the expiration of twenty-one days after the date of refusal of the application or the date of the order under section sixty of this Act, as the case may be.

Sec. 62.
(Production
of certificate
of registra-
tion.)

- (1) (i) by omitting from section sixty-two the words "real estate salesman" where firstly occurring and by inserting in lieu thereof the words "holder of a certificate of registration";
- (ii) by inserting in the same section after the word "sergeant" the words ", to any officer of the council authorised under subsection one of section 38B of this Act";
- (iii) by omitting from the same section the words "such real estate salesman" and by inserting in lieu thereof the word "he";

(iv)

Auctioneers and Agents (Amendment).

(iv) by inserting in the same section after the words **No. 84, 1967** "real estate salesman" where lastly occurring the words "; trainee auctioneer, business salesman or stock and station salesman, as the case may be";

(m) (i) by omitting from section sixty-three the words **Sec. 63.** "real estate salesman who lets out, hires or lends any" and by inserting in lieu thereof the words "holder of a certificate of registration who lets out, hires or lends a"; **(Real estate salesman not to lend certificate of registration.)**

(ii) by omitting from the same section the words "and cancelled" and by inserting in lieu thereof the words "which shall forward it to the registrar to be cancelled by him".

8. (1) The Principal Act is further amended—

Further amendment of Act No. 28, 1941. (Part VI—The Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund.)

(a) by omitting the heading to Part VI and by inserting **Part VI.** in lieu thereof the following heading and **(Heading.)** subheading :—

AUCTIONEERS AND AGENTS FIDELITY GUARANTEE FUND.

DIVISION 1.—General.

(b) by omitting from subsection one of section sixty-five **Sec. 65.** the words "Auctioneers, Stock and Station, Real **(The fund.)** Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

(c)

Auctioneers and Agents (Amendment).

- No. 84, 1967
Sec. 66.
(Separate bank account.)
- (c) by omitting from section sixty-six the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";
- Sec. 69.
(Audit.)
- (d) by omitting section sixty-nine;
- Sec. 71.
(Contributions to fund.)
- (e) (i) by inserting in subsection one of section seventy-one after the word "dollars" the words "or, where another amount, not exceeding twenty dollars, is prescribed, that other amount";
- (ii) by omitting from the same subsection the word "license" where secondly occurring and by inserting in lieu thereof the word "employee";
- (iii) by omitting from the same subsection the words "Provided that where a corporation holds more than one auctioneer's license in respect of an employee one contribution only shall be payable under this section in respect of all auctioneer's licenses held by such corporation in respect of such employee";
- (iv) by omitting subsection three of the same section;
- Sec. 72.
(Levies.)
- (f) (i) by omitting from subsection four of section seventy-two the words "under each such license" and by inserting in lieu thereof the words "in respect of each such employee";
- (ii) by omitting from the same subsection the words "Provided that where a corporation has taken out more than one auctioneer's license in respect of an employee such corporation shall be liable to pay the levy imposed under this section in respect only of one such auctioneer's license taken out in respect of such employee";

(g)

Auctioneers and Agents (Amendment).

- (g) (i) by inserting next after subsection one of section No. 84, 1967
seventy-four the following new subsection :—

(1A) For the purposes of subsection one ^{Sec. 74.}
of this section and any other provision of this ^{(Application}
Part, a reference to a person having the ^{of fund.)}
apparent control or charge for the time being
of the office or business of a licensee includes
a reference to a person or body referred to in
subparagraph (i) of paragraph (a) of sub-
section two of section four of this Act carry-
ing on the business of a licensee or deceased
licensee.

- (ii) by inserting in subsection four of the same
section after the word "shall" where firstly
occurring the words " , unless the council
otherwise determines,";
- (iii) by omitting from the same subsection the
words "police or";
- (iv) by inserting at the end of the same section
the following new subsection :—

(5) For the purposes of this section, where
an offence has been taken into account under
section 447B of the Crimes Act 1900, as
amended by subsequent Acts, the person who
admitted his guilt in respect of the offence
shall be deemed to have been convicted of the
offence.

- (h) (i) by omitting from subsection one of section ^{Sec. 75.}
seventy-five the words "The council may" and ^{(Claims}
by inserting in lieu thereof the words "Subject ^{against}
to section seventy-four of this Act, the council ^{the fund.)}
may";

- (ii) by omitting from the same subsection the
words " , and unless and until the claimant
has exhausted all relevant rights of action and
other legal remedies available against the
defaulting licensee or any other person in
respect of the loss suffered by him";

(i)

Auctioneers and Agents (Amendment).

No. 84, 1967
 Sec. 78.
 (Defences.)

(i) (i) by omitting from subsection one of section seventy-eight the words "brought—

(a) where the amount claimed does not exceed one hundred dollars in a court of petty sessions holden before a stipendiary magistrate;

(b) where the amount claimed exceeds one hundred dollars but does not exceed two thousand dollars in a district court;

(c) where the amount claimed exceeds two thousand dollars in the Supreme Court"

and by inserting in lieu thereof the words "brought in a court of competent jurisdiction";

(ii) by inserting at the end of the same section the following new subsection :—

(4) No proceedings shall be brought against the council in relation to any claim against the fund after the expiration—

(a) in a case where the council disallowed the claim before the commencement of this subsection—of a period of six months after that commencement;

(b) in any other case—of a period of six months after the time the council has notified the claimant that it has disallowed the claim, or such longer period as the court, on sufficient cause being shown, may, on such terms as it thinks fit, permit.

Sec. 82.
 (Refund to representative of deceased agent or retiring agent.)

(j) by omitting section eighty-two;

(k)

Auctioneers and Agents (Amendment).

(k) by inserting next after section eighty-three the following new Division :—

No. 84, 1967
New Div. 2.
Part VI.

DIVISION 2.—*Receivers, etc.*

83A. In this Division, unless inconsistent with the context or subject-matter—

Interpreta-
tion.
cf. Act No.
22, 1898,
s. 65A.

“Court” means the Supreme Court.

“Defalcation” means any larceny, embezzlement, omitting to account, fraudulent misappropriation or other act punishable by imprisonment, of or in relation to any money or other property.

“Licensee” means any person who is or has been a licensee and includes, where the context so admits or requires, the personal representative of a deceased licensee.

“Money” includes instrument for the payment of money in any case where the instrument may be paid into a bank, and any security for money the title to which is transferable by delivery.

“Property”, in relation to a licensee, means—

- (a) money or other property which was in the course of or in connection with the business of the licensee, or the business of any firm of licensees of which the licensee is or has been a member, entrusted to or received on behalf of any other person by the licensee or firm or by any of his or their clerks, servants or agents or by any licensee with whom the licensee or firm shares remuneration and which has not been paid or delivered by the licensee or firm to the person entitled thereto or as that person has directed or otherwise according to law;

(b)

Auctioneers and Agents (Amendment).

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- (b) money or other property which would, were it not for the appointment of a receiver as provided in this Division, be receivable on behalf of any other person by the licensee or firm of licensees after the appointment of that receiver;
- (c) money received by the receiver during a receivership under this Division being interest, dividends or other income arising from any property held by the receiver under this Division; and
- (d) ledgers, books of account, vouchers, records, deeds, files and other documents and writings of any description.

Power of Court to appoint receiver in certain cases.
cf. Act No. 22, 1898, s. 65B.

83B. Where the council is of opinion—

- (a) that any defalcation has been or may have been committed in relation to any trust account or trust fund of any licensee; or
- (b) that through—
 - (i) the mental or physical infirmity of a licensee;
 - (ii) the death or insolvency or the sequestration or assignment for the benefit of creditors of the estate of a licensee;
 - (iii) the abandonment of a licensee's business;
 - (iv) a licensee having been disqualified from holding a license; or
 - (v) the license of a licensee having been cancelled or a licensee's application for a renewal of a license having been refused,

any

Auctioneers and Agents (Amendment).

any person is unable to obtain payment or delivery of money or other property held for or on behalf of that person by the licensee or by any firm of licensees of which the licensee is or was a partner,

the Court, on application in that behalf by the council and on being satisfied that the council has reasonable grounds for that opinion, may appoint a receiver of all or any property which is held by the licensee or the firm of licensees of which the licensee is or was a partner or by some other person on his behalf or is recoverable by the licensee or firm, or, where the licensee is dead, which by reason of his death is or may be recoverable by his personal representative.

83c. (1) An application under this Division for the appointment of a receiver shall be made by way of summons in chambers and the Court may give such directions as to service thereof or may dispense with service as the Court thinks fit.

Application for appointment of receiver. cf. Act No. 22, 1898, s. 65c.

(2) In the absence of any directions or order dispensing with service or reducing the time for service, the summons shall be served upon the licensee not less than forty-eight hours before the return of the summons.

(3) Upon and during the hearing of any such application or any subsequent proceeding of any kind relating to the order or the conduct of the receivership thereunder, no person shall be or be permitted to be present in Court, or if the proceedings are heard in chambers, in chambers, except—

- (a) the judge to whom the application is being made and the officers of the Court;
- (b) the applicant and the respondent and their respective barristers and solicitors and the clerks of such barristers and solicitors;
- (c) the members of any firm of licensees of which the respondent is or was a member;
- and (d)

Auctioneers and Agents (Amendment).

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(d) any person while being examined as a witness,

unless the Court in the interests of justice permits any other person to be present.

(4) The Court may, on the application of any party or as it thinks fit, make an order forbidding the publication of any report or account of the evidence or other proceedings on the hearing of an application under this section and a breach of any such order or any colourable or attempted evasion thereof may be dealt with as a contempt of the Court.

Copy of order appointing receiver to be served on licensee. cf. Act No. 22, 1898, s. 65D.

83D. Unless the Court dispenses with service, a copy of the order of the Court appointing the receiver shall, as soon as practicable, be served on the licensee and on any other person to whom the Court directs that notice of the appointment of the receiver should be given.

Receiver may require delivery of property to him. cf. *Ibid.* s. 65E.

83E. (1) The receiver may require any person to give to the receiver such information concerning any property of which he has been appointed receiver as may reasonably be required.

(2) Any person so required to give information, who without lawful justification or excuse (the proof whereof shall lie on him) refuses or fails so to do or otherwise hinders, obstructs or delays the receiver in the performance of his duties or the exercise of his powers under this Division shall be guilty of an offence against this Act.

Receiver may forbid withdrawal of moneys from bank. cf. *Ibid.* s. 65F.

83F. (1) Where the receiver has reasonable grounds for believing that there is in any bank account money received for or on behalf of any person by the licensee or by the firm of licensees of which the licensee is or was a partner, he may serve on the bank a notice in writing with a copy of the order of the Court attached or appended thereto

Auctioneers and Agents (Amendment).

thereto forbidding, except by him or on his authority, any withdrawal of moneys from or any dealing (including in any case the completion of any uncompleted dealing commenced before the service of the notice) with that account, whether the account is in the name of the licensee or the name of any firm of licensees of which the licensee is or was a partner or, where the licensee is dead, any account which is in that name or firm name or which was formerly in that name or firm name and is now in the name of his personal representative. No. 84, 1967

(2) Without prejudice to any other mode of service, service of any notice pursuant to this section may be effected by leaving the notice and copy of the order attached or appended thereto with the manager, accountant or such other person as appears to be at the time of service in charge of the branch of the bank at which there is an account to which subsection one of this section refers.

(3) The bank on which the notice is served shall not permit any withdrawal from or dealing with any account to which the notice relates except by or on the authority of the receiver.

(4) The receiver may withdraw all the moneys in any such account or from time to time withdraw any of those moneys and pay them into a special account or special accounts in his own name and may operate on and otherwise deal with the special account or special accounts in accordance with law.

83G. (1) The receiver may acquire or take possession of any property of which he has been appointed receiver :

Provided that all ledgers, books of account, vouchers, records, deeds, files and other documents and writings (other than those relating either to any property referred to in paragraph (a) or (b) of the definition of "Property" in section 83A

Receiver may take possession of property. cf. Act No. 22, 1898, s. 65G.

of

Auctioneers and Agents (Amendment).

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of this Act or to any former business of the licensee) shall, as soon as is reasonable, be returned to the licensee.

(2) If the licensee or any other person, on being required by the receiver to transfer or deliver to the receiver or to permit the receiver to take possession of any such property in his possession or at his disposition or under his control does not comply with the requirement, or if it appears to the receiver that any such person on being thus required has not fully complied with the requirement, the receiver may apply to the Court for an order for the transfer or delivery to him of the property, whereupon the Court may make that order.

(3) If it appears to the receiver that an order made by the Court under subsection two of this section is not complied with, the Court may, on application by the receiver, authorise any member of the police force, or the receiver or some other person and any member of the police force, to enter any premises or other place specified in the order and to search for any property of which the receiver is entitled to take possession under the provisions of this section and to seize any such property and remove it to such place as the receiver thinks fit and on such application the Court may make such further order in the matter as to the Court seems fit.

(4) Wilful failure to comply with any order made by the Court under subsection two of this section shall be punishable as a contempt of the Court.

83H. Any person who at any time with intent to defeat the purposes of this Division and whether before or after a receiver has been appointed—

(a) withdraws money from or makes any payment out of any account; or

(b)

Improperly
withdrawing
money or
destroying
or conceal-
ing property.
cf. Act No.
22, 1898,
s. 65H.

Auctioneers and Agents (Amendment).

- (b) destroys or conceals or removes from one place to another place or delivers into the possession or places under the control of any other person any property of which a receiver has been or is likely to be appointed,

shall be guilty of an offence against this Act.

83I. (1) The receiver may deal with any property which he has acquired or of which he has taken possession under the provisions of this Division in any manner in which the licensee or the firm of which the licensee is or was a partner might lawfully have dealt with the property and shall as soon as is reasonably possible and to the extent to which ownership can be established deliver the property to the persons lawfully entitled thereto.

Power of receiver to deal with property.
cf. Act No. 22, 1898, s. 65I.

(2) Without restricting or in any way derogating from the powers of the receiver under the provisions of subsection one of this section, the receiver may—

- (a) prove, grant, claim and draw a dividend in respect of any debt due to the licensee in connection with any property of which the receiver has been appointed receiver;
- (b) give receipts for any money received by him, which shall effectually discharge the person paying the money from all responsibility in respect of the application thereof; and
- (c) employ a barrister or solicitor or other agent to give advice or take any proceedings or otherwise act for the receiver in relation to any property of which he has been appointed receiver.

83J. The receiver, the licensee, any member of the firm of which the licensee is or was a partner or the personal representative of a deceased licensee, or any person who has submitted to the receiver a claim

Summons for directions.
cf. *Ibid.* s. 65J.

*Auctioneers and Agents (Amendment).***No. 84, 1967**

claim in respect of any property may apply to the Court for directions as to the manner in which the receiver shall exercise or perform the powers or duties conferred or imposed on him by this Division either generally or in respect of any particular matter specified in the application, whereupon the Court may make such order as to the Court seems fit.

Property
claimed by
licensee.

cf. Act No.
22, 1898,
s. 65K.

83K. (1) The receiver may give notice to the licensee or any other person that, if the licensee or other person has any claim to any property, he shall within the time specified in the notice (being not less than thirty days from the giving of the notice) submit to the receiver full particulars of the property claimed and the grounds of the claim.

(2) If such a notice has been given the receiver may disregard any claim made by the licensee or other person otherwise than in accordance with the terms of the notice.

(3) The licensee shall not be entitled to any payment in respect of or otherwise to enforce any such claim and shall not be entitled except as against a licensee to a lien upon any document or writing held by the receiver unless and until the proper claims of all other claimants are fully satisfied and the expenses of the receivership, as defined in section 83Q of this Act, have been paid.

Liens for
costs on
property
held by
receiver.
cf. *Ibid.*
s. 65L.

83L. (1) If the licensee or the firm of which the licensee is or was a partner claims a lien for costs on any document, writing or other property held by the receiver, the receiver may by notice in writing require him or them to give to the receiver within a time specified in the notice (being not less than thirty days from the giving of the notice) particulars of all documents, writings and other property on which he claims or they claim a lien together with a detailed itemised account relating to the amount in respect of which each lien is claimed.

(2)

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(2) If the licensee or firm fails to comply with any such requirement in respect of any lien claimed by him or them the receiver may in dealing with the document, writing or other property disregard the lien. No. 84, 1967

(3) The receiver may, on receipt of any such itemised account, apply under section 42A of this Act for a review of the amount in respect of which any lien is claimed and the provisions of that section apply, mutatis mutandis, to any such review.

(4) If the licensee or firm so requests in writing, the receiver shall give to the licensee or firm or any other person on his or their behalf such access to all relevant books and documents as is reasonably necessary to enable the preparation of the itemised account and in such event the time specified in the notice pursuant to subsection one of this section shall not commence until that access has been given.

83M. (1) The receiver may apply to the Court for an order that the licensee or any other person appear before the Court to be examined by the receiver as to any property of which the receiver has been appointed receiver, whereupon the Court may make such order as to the examination of the licensee or other person as to the Court seems fit. Power of Court to order person to appear for examination by receiver.
cf. Act No. 22, 1898, s. 65M.

(2) Upon any such examination before the Court the receiver and the licensee or other person may be represented by counsel, and the Court may put or allow to be put to the licensee or other person such questions as it thinks fit.

(3) The licensee or other person shall be examined on oath and shall answer all such questions.

(4)

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(4) The licensee or other person may object to any question upon the ground that the answer may tend to incriminate him but shall be compellable to answer such question notwithstanding such objection.

(5) No answer given subject to any such objection shall be admitted in evidence in any proceedings for any offence except that of perjury in connection with the examination.

Application
for termina-
tion of
appointment
of receiver.
cf. Act No.
22, 1898,
s. 65N.

83N. (1) The council, the receiver or the licensee or the firm of licensees of which the licensee is or was a partner may at any time apply to the Court for an order that the appointment of a receiver be terminated, whereupon the Court may make such an order and may if it thinks fit appoint another person to be the receiver in his place.

(2) If a receiver's appointment is terminated by an order of the Court and another person is appointed to be the receiver in his place, the former receiver shall, as soon as he reasonably may and subject to any directions given by the Court under this section, transfer or deliver to the receiver appointed in his place all property and any documents, writings and other property which he holds by virtue of his appointment as receiver.

(3) If a receiver's appointment is terminated by order of the Court and no other person is within fourteen days of the termination appointed to be receiver in his place, he may, and upon demand in writing by the licensee or the firm of licensees of which the licensee is or was a partner shall, as soon as he reasonably may and subject to any directions given by the Court under this section and subject, unless the council shall otherwise determine, to the payment by the licensee or firm to the council of the expenses of the receivership, as defined

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defined in section 83Q of this Act, transfer or deliver **No. 84, 1967**
to the licensee or firm all property which he then
holds by virtue of his appointment as receiver.

83o. (1) All moneys and other property which **Property**
come into the possession of the receiver in the **not dealt**
course of the receivership and which the receiver **with by**
has not dealt with in accordance with the provisions **receiver.**
of this Division, other than this section, shall be **cf. Act No.**
paid or delivered by the receiver to the council on **22, 1898,**
and to the extent of a request by the council for the **s. 65o.**
payment or delivery, but where no such request is
made, the moneys and other property shall be paid
or delivered to the licensee or to the firm of licensees
of which the licensee is or was a partner, as the
case may require.

(2) Where property is delivered to the
council pursuant to subsection one of this section,
the council shall deal with the property in such
manner as the Court, upon application by the
council, may direct, and where the property is sold,
the proceeds of the sale shall, for the purposes of
subsection three of this section, be deemed to be
moneys paid by the receiver to the council in
accordance with subsection one of this section.

(3) All moneys paid by the receiver to the
council in accordance with subsection one of this
section shall be paid to the fund to be applied
firstly in the reimbursement to it of any claims
paid by it in respect of the licensee or the firm
of licensees of which the licensee is or was a
partner, secondly in the satisfaction of or partial
satisfaction of claims against the licensee or firm of
licensees of which the licensee is or was a partner
to the extent to which they or any of them have not
otherwise been fully satisfied and thirdly in payment
of the expenses of the receivership, as defined in
section 83Q of this Act.

(4)

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(4) If after the moneys have been so applied there remains a surplus of moneys paid by the receiver to the council, the surplus shall be paid to the licensee or to the firm of licensees of which the licensee is or was a partner, as the case may require.

Receiver may invest moneys in his hands. cf. Act No. 22, 1898, s. 65P.

83P. (1) The receiver may invest any moneys in his hands in the course of his receivership in any manner in which trustees are for the time being authorised by law to invest funds.

(2) Any income accruing from the investment of any such moneys and any profit from the sale of any such investment shall be added to and form part of the property of which he has been appointed receiver

Remuneration of receiver and expenses of receivership. cf. *Ibid.* s. 65Q.

83Q. (1) All moneys payable to the receiver as remuneration for his services, all costs of legal proceedings and other expenses incurred by him in the course of his receivership, and any reimbursement made pursuant to section 83s of this Act (all of which are hereafter in this section referred to as "the expenses of the receivership") shall, to the extent that they have not otherwise been paid to the receiver under this Act, be paid to him by the council out of the fund.

(2) Any amount paid out of the fund for the expenses of the receivership shall be recoverable by the council from the licensee as a debt owing by him to the council.

(3) In default of agreement between the council and the receiver as to the amount to be paid to the receiver as his remuneration the Court may, on application by the council or the receiver, determine the amount to be so paid.

83R.

Auctioneers and Agents (Amendment).

83R. In any proceedings in the Court under the provisions of this Division the Court may make such order as to the payment of the costs of the proceedings and costs incurred in the execution of any order made by the Court as to the Court seems fit.

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Cost of proceedings.
cf. Act No. 22, 1898, s. 65R.

83s. If any claim or charge is made by any person against the receiver for any act or omission by the receiver or by his servants or agents done or made by him or them in good faith and in the execution or purported execution of the powers conferred or duties imposed on him by or under this Division, the council may reimburse the receiver out of the fund for all or any costs, charges, expenses or damages which he may have incurred in relation to the claim or charge.

Claim or charge against receiver may be paid from fund.

cf. *Ibid.* s. 65s.

83T. The Court, on application by the licensee or by any firm of which the licensee is or was a partner, may re-open any agreement between the council and the receiver as to the amount to be paid to the receiver as his remuneration, and may determine the amount to be so paid.

Re-opening of agreement as to receiver's remuneration.

cf. *Ibid.* s. 65T.

83U. (1) Where proceedings are taken by the council under subsection two of section 83Q of this Act for the recovery of any amount paid out of the fund for the expenses of the receivership therein referred to and there is evidence which satisfies the Court that the amounts charged for those expenses are excessive, the Court may take an account between the council and the receiver and relieve the licensee from payment of any sum in excess of the sum adjudged by the Court to be fairly payable in respect of those expenses.

Court may review receiver's expenses.

cf. *Ibid.* s. 65U.

If any excess has been paid or allowed in account by the council, the Court may order the receiver to repay it.

(2) The Court shall have and may, on the application of the licensee or of any firm of which the licensee is or was a partner, exercise the like powers

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powers as may be exercised under this section where proceedings are taken for the recovery of any amount paid out of the fund for the expenses of the receivership pursuant to section 83Q of this Act, and the Court shall have power to entertain any such application, notwithstanding that the expenses of the receivership have not been paid to the receiver.

(3) No proceedings to obtain any relief under this section shall be taken after three months from the time when the expenses of the receivership have been paid, but the legal personal representative of a deceased licensee may take any such proceedings at any time within six months thereafter.

Power of Court to give general directions.
cf. Act No. 22, 1898, s. 65v.

83v. For carrying out the objects of this Division or the administration by a receiver of all or any property the Court may, without derogating from any other provisions of this Division, authorise the receiver to do such things as it thinks fit and may give directions accordingly.

Receiver not deemed to be personal representative.
cf. *Ibid.* s. 65w.

83w. Where a licensee dies, a receiver in the execution of his functions under this Division shall not be deemed or taken to be a personal representative of the licensee.

Property held by receiver to be free from execution or attachment.
cf. *Ibid.* s. 65x.
Returns by receiver.
cf. *Ibid.* s. 65y.

83x. Property held by a receiver under the provisions of this Division shall not be levied upon or taken or attached under any judgment.

83y. Subject to any directions given by the Court, every receiver shall at such times as the Court determines furnish to the Court and to the council a report of his receivership containing such information as the Court requires and upon the conclusion

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conclusion of his receivership shall forthwith lodge with the Court, in addition to his final report, all documents and writings in his possession or under his control relating to his receivership, and subject to any order of the Court for their destruction or otherwise, such documents and writings shall be kept in the custody of the Court. No. 84, 1967

(2) All moneys which immediately before the commencement of the amendments made by paragraphs (a), (b) and (c) of subsection one of this section stood to the credit of the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund or the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Account shall upon that commencement become and be respectively moneys standing to the credit of the Auctioneers and Agents Fidelity Guarantee Fund and the Auctioneers and Agents Fidelity Guarantee Account.

(3) All investments which immediately before the commencement of the amendments made by paragraphs (a), (b) and (c) of subsection one of this section were held by the council in connection with the Auctioneers, Stock and Station, Real Estate and Business Agents Guarantee Fund shall upon that day become and be investments held by the council in connection with the Auctioneers and Agents Fidelity Guarantee Fund.

9. The Principal Act is further amended—

Further
amendment
of Act No.
28, 1941.
(Part VII—
General.)

- (a) (i) by inserting in subsection one of section eighty-four after the words "real estate dealer" where firstly occurring the words "; as defined in section fifty-one of this Act,"; Sec. 84.
(Offences
in connec-
tion with
the sale of
allotments
of land.)

(ii)

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- (ii) by omitting from the same subsection the words "real estate dealer" where secondly occurring and by inserting in lieu thereof the words "any such real estate dealer";
- (iii) by omitting from paragraph (a) of the same subsection the words "false representation" and by inserting in lieu thereof the words "representation that is false or misleading (whether to his knowledge or not)";
- (iv) by inserting next after the same subsection the following new subsection :—

(1A) Without limiting the generality of paragraph (a) of subsection one of this section a representation shall, for the purposes of that subsection, be deemed to be false or misleading if it is of such a nature that it would reasonably tend to lead to a belief in the existence of a state of affairs that does not in fact exist, whether or not the representation indicates that that state of affairs does exist.

- (v) by omitting paragraphs (a) and (b) of subsection three of the same section and by inserting in lieu thereof the following words :—
 - (a) in relation to a representation, not being a representation referred to in subsection (1A) of this section, that he had reasonable grounds for believing and did in fact believe that the representation was true; or
 - (b) in relation to a representation referred to in subsection (1A) of this section that he had reasonable grounds for believing in the existence of the state of affairs first referred to in that subsection and did in fact believe that that state of affairs existed,

and that otherwise he acted innocently;

(b)

Auctioneers and Agents (Amendment).

(b) (i) by omitting from paragraph (b) of subsection one of section 84A the words "to his knowledge" and by inserting in lieu thereof the words "(whether to his knowledge or not)";

No. 84, 1967
 Sec. 84A.
 (Penalty for publishing false or misleading advertisements.)

(ii) by inserting next after the same subsection the following new subsection :—

(1A) Without limiting the generality of subsection one of this section a statement shall, for the purposes of that subsection, be deemed to be false or misleading if it is of such a nature that it would reasonably tend to lead to a belief in the existence of a state of affairs that does not in fact exist, whether or not the statement indicates that that state of affairs does exist.

(iii) by inserting in paragraph (d) of subsection two of the same section after the word "transmission" the words "or television";

(iv) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) It shall be a sufficient defence for a person charged with an offence against this Act arising under paragraph (b) of subsection one of this section if that person proves that—

(a) he took all reasonable precautions against committing the offence;

(b) in relation to a statement—

(i) not being a statement referred to in subsection (1A) of this section, he had reasonable grounds for believing and did in fact believe that the statement was true; or

(ii) referred to in subsection (1A) of this section, he had reasonable grounds for believing in

the

Auctioneers and Agents (Amendment).

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the existence of the state of affairs first referred to in that subsection and did in fact believe that that state of affairs existed; and

(c) he had no reason to suspect that the statement was false or misleading.

Sec. 86A.
(Members or officers of council not to disclose information.)

- (c) (i) by omitting from subsection one of section 86A the words "to publish" and by inserting in lieu thereof the words ", except for the purposes of the administration of this Act or the regulations, to make publicly known or to make available to any person or court";
- (ii) by inserting in the same subsection after the words "section fifty-five of this Act" the words "or by an audit made under the provisions of section 38D of this Act";
- (iii) by omitting from paragraph (c) of the same subsection the words "Auctioneers, Stock and Station and Real Estate Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

Sec. 86B.
(Service of writs, etc.)

- (d) (i) by omitting from section 86B the words ", real estate dealer or real estate salesman" wherever occurring and by inserting in lieu thereof the words "or real estate dealer";
- (ii) by inserting at the end of the same section the following new subsection :—

(2) All writs, summonses, notices or other documents required or authorised to be served on or given to the holder of a certificate of registration under Part IV of this Act shall be deemed to be duly served or given if left at his registered address with an inmate apparently over the age of fourteen years or if

sent

Auctioneers and Agents (Amendment).

sent by registered post, postage prepaid, No. 84, 1967
addressed to the holder of such a certificate at
his registered address.

- (e) by omitting from subsection four of section eighty-seven the words "or police"; Sec. 87.
(Offences
against
Act.)
- (f) (i) by inserting in section 87A after the word "Act" the words "(other than section eighty-eight of this Act)"; Sec. 87A.
(Time for
laying in-
formation.)
- (ii) by omitting from the same section the words "twelve months" and by inserting in lieu thereof the words "three years";
- (g) (i) by inserting in paragraph (a) of section eighty-eight after the word "use" the words "or to the use of any other person"; Sec. 88.
(Wrongful
conversion
and false
accounts.)
- (ii) by inserting in subparagraph (i) of the same paragraph after the word "agent" where secondly occurring the words "or a business agent";
- (iii) by inserting in subparagraph (iii) of paragraph (c) of the same section after the word "agent" where secondly occurring the words "or a business agent";
- (h) by inserting in section eighty-nine after the words "real estate salesman" the words ", trainee auctioneer, business salesman or stock and station salesman". Sec. 89.
(Document
under hand
of registrar
to be prima
facie
evidence.)
- 10. (1) The Principal Act is further amended—** Further
amendment
of Act No.
28, 1941.
- (a) by omitting from the matter relating to Division 4 of Part III in section two the words "*and Business Subagents*"; Sec. 2.
(Division
into
Parts.)
- (b)

Auctioneers and Agents (Amendment).

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Sec. 3.
(Definitions.)

- (b) (i) by omitting from the definition of "Business agent" in subsection one of section three the words ", but does not include a business subagent in his capacity as such";
- (ii) by omitting from the same subsection the definition of "Business subagent";
- (iii) by omitting from the definition of "Licensee" in the same subsection the words "but does not include the holder of a business subagent's license";
- (iv) by omitting from paragraph (a) of subsection eight of the same section the words ", not being a business subagent's license";
- (v) by omitting from paragraph (b) of the same subsection the words "business subagent,";
- (vi) by omitting from the same paragraph the words "the place of residence of the applicant for a business subagent's license or";
- (vii) by omitting from paragraph (c) of the same subsection the words ", place of residence";
- (viii) by omitting from paragraph (d) of the same subsection the words ", place of residence";

Sec. 20.
(No person or partner in a firm to act without a license.)

- (c) (i) by omitting paragraph (b) of subsection (2A) of section twenty;
- (ii) by omitting from subsection three of the same section the words "A corporation shall not act as or carry on the business of a business subagent.";

Sec. 22.
(Licenses.)

- (d) (i) by omitting paragraph (e) of subsection one of section twenty-two;
- (ii) by omitting from paragraph (b) of subsection three of the same section the words ", except in the case of a business subagent's license,";

(e)

Auctioneers and Agents (Amendment).

- (e) (i) by omitting from paragraph (d) of subsection **No. 84, 1967** two of section twenty-three the words “, except where the application is for a business subagent’s license,”; Sec. 23. (Procedure.)
- (ii) by omitting subsection (10B) of the same section;
- (f) by omitting paragraph (fii) of subsection one of section twenty-five; Sec. 25. (Fees payable for license.)
- (g) by omitting subsection four of section twenty-nine; Sec. 29. (Cancellation of license.)
- (h) by inserting in paragraph (a) of subsection one of section 29A after the words “business subagent’s license” the words “issued under this Act as in force at any time before the commencement of section ten of the Auctioneers and Agents (Amendment) Act, 1967”; Sec. 29A. (Disqualification of former licensees, etc.)
- (i) (i) by omitting from subsection one of section thirty-one the words “or the holder of a business subagent’s license,”; Sec. 31. (Appeal.)
- (ii) by omitting from paragraph (b) of subsection four of the same section the words “, or holder of a business subagent’s license”;
- (j) by omitting from section thirty-two the words “, a business agent or a business subagent” and by inserting in lieu thereof the words “or a business agent”; Sec. 32. (Effect of disqualification on membership, etc., of corporation.)
- (k) (i) by omitting subsections (3A) and (3B) of section thirty-four; Sec. 34. (Registered office and address.)
- (ii) by omitting from subsection four of the same section the words “or the holder of the business subagent’s license, as the case may be,”;

(iii)

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(iii) by omitting from subsection five of the same section the words "or if any licensed business subagent acts or carries on as a business subagent";

Sec. 38c.
(Statement of employees, subagents, etc., and their wages to be kept by business agents.)

(l) by omitting from paragraph (a) of subsection one of section 38c the words "or a subagent";

Sec. 39.
(Certain persons not to be employed by licensees.)

- (m) (i) by omitting from subsection one of section thirty-nine the words ", and the holder of a business subagent's license shall not, except with such approval and subject to any such conditions, knowingly employ in any way whatever in connection with his work as a business subagent,";
- (ii) by omitting from subsection two of the same section the words "or in the work of a business subagent";
- (iii) by omitting from subsection four of the same section the words "or any holder of a business subagent's license";

Sec. 39A.
(Licensee not to share commission, etc., with certain persons.)

- (n) (i) by omitting from subsection one of section 39A the words "or a holder of a business subagent's license";
- (ii) by omitting from the same subsection the words "or in his work as a licensed business subagent";
- (iii) by omitting from the same subsection the words "or the holder of such a license";
- (iv) by omitting from the same subsection the words "or holder of a business subagent's license,";

Sec. 40.
(Production of license.)

(o) by omitting subsection two of section forty;

(p)

Auctioneers and Agents (Amendment).

- (p) by omitting from section forty-one the words "or holder of a business subagent's license"; **No. 84, 1967**
Sec. 41.
 (Licensee not to lend license.)
- (q) (i) by omitting from paragraph (d) of subsection one of section forty-two the words "or business subagent"; **Sec. 42.**
 (Provisions as to commission, etc.)
- (ii) by omitting from the same paragraph the words "or of a business subagent's license, as the case may be,";
- (r) by omitting from the heading to Division 4 of Part III the words "*and Business Subagents*"; **Div. 4.**
 (Heading.)
- (s) by omitting from section 50A the words "business subagent" and by inserting in lieu thereof the words "business salesman, as defined in section fifty-one of this Act,"; **Sec. 50A.**
 (Misrepresentation by business agent or subagent.)
- (t) (i) by omitting from subsection one of section 50B the words "and business subagent"; **Sec. 50B.**
 (Record to be kept by business agent.)
- (ii) by omitting from subsection two of the same section the words "or business subagent";
- (u) by omitting section 50C; **Sec. 50C.**
 (Business agent not to employ unlicensed subagent.)
- (v) by omitting section 50E; **Sec. 50E.**
 (Business subagent acting for business agent to be authorised by him.)
- (w) by omitting section 50F; **Sec. 50F.**
 (Saving as to licensed business subagents, etc.)

(x)

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(x) by omitting section 50G;

Sec. 50G.

(Disposal of moneys received by business subagent.)

Sec. 50H.

(Liability on principal for certain acts, etc., of subagents.)

(y) by omitting section 50H;

Sec. 84A.

(Penalty for publishing false or misleading advertisements.)

- (z) (i) by omitting from subsection one of section 84A the words “, or the holder of a business subagent’s license who publishes or causes to be published in connection with any matter in which he is acting as a business subagent,”;
- (ii) by omitting from paragraph (a) of the same subsection the words “or holder of a business subagent’s license”;
- (iii) by omitting from subsection three of the same section the words “or the holder of a business subagent’s license” wherever occurring.

(2) The amendments made by subsection one of this section shall commence upon the expiration of the period referred to in subsection one of section 56A of the Principal Act, as amended by this Act.

(3) Upon the commencement of the amendments made by subsection one of this section, a person who immediately before that commencement was the holder of a business subagent’s license shall be deemed to be registered as a business salesman under Part IV of this Act and that license shall be deemed to be a certificate of registration issued to that person and the provisions of the Principal Act, as amended by this Act, apply to that person in his capacity as a business salesman and to and in respect of that certificate accordingly.

(4) Any proceedings under this Act that had been commenced against a person referred to in subsection three of this section before the commencement of the amendments made

(x)

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made by subsection one of this section may be continued and completed in all respects as if at the time the proceedings were commenced those amendments had been in force and that person were the holder of a certificate of registration as a business salesman under Part IV of the Principal Act, as amended by this Act. No. 84, 1967

11. The registrar may, on an application in writing made at any time during the period referred to in subsection one of section 56A of the Principal Act, as amended by this Act, by a person who at the time of the making of the application is the holder of a certificate of registration as a real estate salesman or of a business subagent's license, endorse on that certificate or that license, as the case may be, the name of a person by whom that holder is, or is to be, employed—

Endorsement of name of employer on certain certificates of registration.

- (a) where the holder is the holder of a certificate of registration as a real estate salesman—as a real estate salesman; or
- (b) where the holder is the holder of a business subagent's license—as a business salesman,

and the person whose name is so endorsed shall be deemed to be the registered employer of that holder.

12. The Public Accountants Registration Act, 1945, as amended by subsequent Acts, is amended by omitting from section 28A the words "which is required to be furnished pursuant to any regulation made under the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts" and by inserting in lieu thereof the words ", or report, which is required to be furnished pursuant to the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts, or any regulation made thereunder".

Amendment of Act No. 18, 1945. Sec. 28A. (Registered public accountant to add certain words after his signature on certain documents.)

Auctioneers and Agents (Amendment).

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Sec. 1.

SCHEDULE.

PART I.

Column 1. Provision of Act.	Column 2. Date of commencement.
Section 4 (b) (i)	31st March, 1968
Section 4 (b) (vi)	31st March, 1968
Section 6 (c) (xviii)	The date that is the first anniversary of the day upon which the assent of Her Majesty to the Act is signified
Section 6 (o)	31st March, 1968
Section 7 (b) (i)	31st March, 1968

PART II.

Section 4 (a) (i)
 Section 4 (a) (ii)
 Section 4 (b) (ii)
 Section 4 (b) (v)
 Section 4 (b) (viii), except so much thereof as inserts a new subsection (3) in section three
 Section 5 (b) (ii) to (ix) inclusive
 Section 6 (a) (i)
 Section 6 (b) (i) to (iv) inclusive
 Section 6 (c) (i) to (xiii) inclusive
 Section 6 (c) (xv)
 Section 6 (d) (i) to (iii) inclusive
 Section 6 (e)
 Section 6 (f) (i) to (iv) inclusive
 Section 6 (g)
 Section 6 (h) (i)
 Section 6 (h) (vi)
 Section 6 (h) (viii)
 Section 6 (j)
 Section 6 (k) (ii)
 Section 6 (k) (iii)

SCHEDULE

*Auctioneers and Agents (Amendment).***SCHEDULE—continued.**

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PART II—continued.

Section 6 (k) (v)
Section 6 (m)
Section 6 (n)
Section 6 (u) (iii) to (v) inclusive
Section 7 (a)
Section 7 (b) (ii)
Section 7 (b) (iii)
Section 7 (d)
Section 7 (e)
Section 7 (f)
Section 7 (g) (i) to (v) inclusive
Section 7 (g) (vii) to (xi) inclusive
Section 7 (h) (i)
Section 7 (i)
Section 7 (j) (i)
Section 7 (j) (ii)
Section 7 (j) (iv) to (vi) inclusive
Section 7 (k) (i) to (v) inclusive
Section 7 (l) (i)
Section 7 (l) (iii)
Section 7 (l) (iv)
Section 7 (m)
Section 9 (h).

GOVERNMENT