

REFERRAL SELLING ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 102, 1974.

An Act to prohibit the practice known as referral selling;
and for purposes connected therewith. [Assented to, 13th
December, 1974.]

BE it enacted by the Queen's Most Excellent Majesty, by
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. This Act may be cited as the "Referral Selling Act, Short
1974". title.

2.

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No. 102, 1974 2. (1) This section and section 1 shall commence on the date of assent to this Act.

Commence-
ment.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Interpre-
tation.

3. (1) In this Act "services" includes, without limiting the generality of that expression, the rights or benefits that are provided under an agreement for—

- (a) the performance of work (otherwise than under a contract of service) whether with or without the supply of goods;
- (b) the provision of, or the use or enjoyment of, facilities for amusement, recreation or instruction;
- (c) the conferring of rights or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;
- (d) insurance; or
- (e) the provision of finance or credit.

(2) For the purposes of this Act a person shall be taken to have been induced by representations to buy or hire goods, or to avail himself of services, notwithstanding that in doing so he may also have been influenced by other representations or considerations.

Certain
representa-
tions
prohibited.
W.A.
Act No. 86,
1973, s. 6.

4. (1) Subject to this section, a person shall not induce another person to buy or hire goods or to avail himself of services by representing that that other person will, after the contract for the sale or hiring of the goods or the rendering of the services is made, receive a rebate, commission or other benefit in return for—

- (a) giving the first-mentioned person the names of prospective customers for the sale or letting on hire of goods or the rendering of services; or

(b)

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- (b) otherwise assisting the first-mentioned person to ^{No. 102, 1974} obtain orders from other persons for the sale or letting on hire of goods or the rendering of services,

if receipt of the rebate, commission or other benefit is contingent on an event occurring after that contract is made.

Penalty : \$1,000.

(2) Subsection (1) does not apply to or in relation to the purchase or hiring of goods by, or the rendering of services to, a person—

- (a) who is to use those goods, or to avail himself of those services, in the course of a trade or business carried on by him, or by him and any other person or persons; or
- (b) who acquires those goods for re-sale or letting on hire.

5. Where an offence against this Act committed by a corporation is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the corporation, he, as well as the corporation, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly. ^{Offences by corporations.}

6. (1) Proceedings for an offence against this Act may— ^{Proceedings.}

- (a) be taken and prosecuted by any person acting with the authority of the Minister; and
- (b) be disposed of summarily before an industrial magistrate appointed under the Industrial Arbitration Act, 1940, or a stipendiary magistrate.

(2) In proceedings for any such offence, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature.

SECTION 6

(3)

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(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply to proceedings before an industrial magistrate or a stipendiary magistrate for offences against this Act as if the proceedings under this Act were proceedings under that Act.

(4) In proceedings for an offence against this Act the informant may conduct his case himself, or by his counsel or attorney, or by an agent authorised by him in writing, or by an officer in the Public Service.

(5) Any such proceedings shall be commenced by information laid at any time within twelve months after the time when the offence is alleged to have been committed.

ROYAL