

**TRAVEL AGENTS (AMENDMENT) ACT, 1978,
No. 42**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1978.

An Act to amend the Travel Agents Act, 1973, for the purposes of making further provision with respect to the licensing of travel agents, of requiring licensees to keep certain accounting records and of providing for the appointment of administrators in certain circumstances to administer the affairs and property of licensees and others, and for certain other purposes. [Assented to, 28th March, 1978.]

Travel Agents (Amendment).

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 "Travel Agents (Amendment) Act, 1978".

2. (1) Except as provided in this section, this Act shall commence on the date of assent to this Act. Commencement.

(2) Section 4 shall, in its application to a provision of Schedules 1-7, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1-7 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PARTS I AND II OF THE TRAVEL AGENTS ACT, 1973.

SCHEDULE 2.—AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PARTS IV AND V OF THE TRAVEL AGENTS ACT, 1973.

SCHEDULE 4.—INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT, 1973.

Travel Agents (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT, 1973.

SCHEDULE 6.—INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART VIII OF THE TRAVEL AGENTS ACT, 1973.

SCHEDULE 8.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment
of Act No.
71, 1973.

4. The Travel Agents Act, 1973, is amended in the manner set forth in Schedules 1–7.

Savings and
transitional
provisions.

5. Schedule 8 has effect.

Sec. 4.

SCHEDULE 1.

AMENDMENTS TO PARTS I AND II OF THE TRAVEL AGENTS ACT, 1973.

(1) Section 2—

(a) From the matter relating to Part II, omit “9”, insert instead “9A”.

(b) After the matter relating to Part V, insert :—

PART VA.—TRAVEL AGENTS’ ACCOUNTS—ss.
42A—42F.

Travel Agents (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO PARTS I AND II OF THE
TRAVEL AGENTS ACT, 1973—continued.**

- (c) Omit the matter relating to Part VI, insert instead :—

**PART VI.—TRAVEL AGENTS COMPENSATION
FUND—ss. 43A-60.**

- (d) After the matter relating to Part VI, insert :—

**PART VIA.—ADMINISTRATION OF AFFAIRS
AND PROPERTY OF LICENSEE, ETC.—ss.
60A-60R.**

- (2) (a) Section 4, definition of “fund”—

Omit “Fidelity Guarantee”, insert instead
“Compensation”.

- (b) Section 4, definition of “inspector”—

After the definition of “fund”, insert :—

“inspector” means an inspector appointed and
holding office under section 9;

- (c) Section 4, definition of “record”—

After the definition of “person”, insert :—

“record” includes any account, deed, writing
or document and any other record of
information however compiled, recorded
or stored, whether in printed or written
form or on microfilm or by electronic
process or other means;

Travel Agents (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PARTS I AND II OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

(d) Section 4, definition of “registrar”—

Omit the definition, insert instead :—

“registrar” means the person for the time
being appointed and holding office as
registrar under section 9 (1);

(e) Section 4, definition of “superintendent of
licenses”—

Omit “1912.”, insert instead “1912;”.

(f) Section 4, definition of “Supreme Court” or
“Court”—

After the definition of “superintendent of
licenses”, insert :—

“Supreme Court” or “Court” means the
Supreme Court of New South Wales.

(g) Section 4 (2)—

At the end of section 4, insert :—

(2) A reference in this Act to a licensee or
the holder of a licence includes a person referred
to in section 5 (2) who is lawfully carrying on
the business of a travel agent in respect of which
that licensee or holder holds or held a licence,
notwithstanding that the person so referred to is
not himself the holder of a licence.

Travel Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PARTS I AND II OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

(3) Section 9 (8), (9), (10), (11)—

After section 9 (7), insert :—

(8) The Board may appoint any officer (including the registrar and the deputy registrar) appointed and holding office under subsection (1) to be an inspector for the purposes of this Act.

(9) The Board shall issue to each inspector a certificate of authority authorising him to exercise the powers conferred on inspectors by or under this Act.

(10) Where an inspector seeks to exercise any power conferred on inspectors by or under this Act, he shall, if requested to do so by any person apparently in charge of the premises in relation to which, or as the case may be, by the person in relation to whom, the power is sought to be exercised, produce to that person his certificate of authority.

(11) Notwithstanding any other provision of this Act, an inspector does not have authority under this Act to enter residential premises without the consent of the occupier of those premises unless the business of a travel agent is carried on in those premises.

(4) Section 9A—

After section 9, insert :—

9A. (1) An inspector—

(a) may for the purpose of ascertaining whether a person is, or at any time has been, carrying on the business of a travel agent in

**Powers of
entry and
inspection.**

Travel Agents (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PARTS I AND II OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

contravention of this Act or whether a licensee is contravening or failing to comply with any provision of this Act or the regulations that is applicable to him, or has contravened or failed to comply with any such provision, inspect and make copies of—

- (i) any record, or any part of any record, kept by or on behalf of that person or licensee with respect to the carrying on by that person or licensee of the business of a travel agent;
 - (ii) any record, or any part of any record, kept by a banker so far as that record relates to any business referred to in subparagraph (i); and
 - (iii) where that person or licensee is a corporation which is being wound up, any record, or any part of any record, kept by the liquidator of that corporation; and
- (b) for that purpose may, subject to section 9, enter at any reasonable time any place at which that person or licensee carries on the business of a travel agent or at which that inspector has reasonable grounds for believing that any records referred to in paragraph (a) are kept.

Travel Agents (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO PARTS I AND II OF THE
TRAVEL AGENTS ACT, 1973—*continued.***

(2) For the purpose of and in connection with an inspection under subsection (1), an inspector may—

- (a) require any person apparently employed or engaged at any place entered pursuant to that subsection to produce to that inspector such records relating to the business of a travel agent carried on by the person or licensee in relation to whom the inspection is being conducted as are in the custody or under the control of the person apparently so employed or engaged;
- (b) examine with respect to matters under this Act or the regulations any person apparently employed or engaged at any place so entered; and
- (c) make such examination and inquiries as he thinks necessary to ascertain whether the provisions of this Act and the regulations are being or have been contravened or complied with.

(3) The expenses of and incidental to the conduct of an inspection under this section shall be paid out of the Travel Agents Administration Account.

(4) Where an inspector has made a copy of a record or of part of a record in the exercise of the powers conferred on him by this section, that copy shall, if certified by him as being a true copy of that record or part, be evidence of the contents of that record or part in the same way as the original record.

Travel Agents (Amendment).

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO PART III OF THE
TRAVEL AGENTS ACT, 1973.

(1) (a) Section 11 (3), (4)—

Omit the subsections, insert instead :—

(3) A licence shall be in force from the date of its issue or such later date as is specified in the licence until it is cancelled by or under this Act.

(4) Where the operation of a licence is suspended for any period under this Act, that licence is, for the purposes of this Act, deemed to be cancelled during that period.

(b) Section 11 (5)—

Omit "cease to be in force", insert instead "be deemed to be cancelled".

(2) Sections 12, 13, 14, 15, 15A, 15B, 15C, 15D, 15E—

Omit sections 12, 13, 14 and 15, insert instead :—

Applications
for licences.

12. (1) Any individual, firm or corporation who or which proposes to carry on the business of a travel agent may make an application to the Board for the issue of a licence on his or its own behalf.

(2) Any individual, firm or corporation who or which is the holder of a licence on his or its own behalf or who or which has made an application for such a licence (being an application which is pending) may make an application to the Board for the issue of a licence in respect of any individual who is nominated by him or it and who is or is to be in charge of a place at which he or it carries on or proposes to carry on the business of a travel agent.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(3) An application for a licence shall—

- (a) be in or to the effect of the prescribed form;
- (b) be made in the prescribed manner and within the prescribed period after the publication of the notice referred to in subsection (4); and
- (c) be accompanied by the prescribed fees and the prescribed initial contribution (except where the Board indicates that the initial contribution need not accompany the application).

(4) Before an application is made under this section, the applicant shall cause a notice of the application, in or to the effect of the prescribed form, to be published in a newspaper which circulates generally throughout New South Wales.

(5) On receipt of an application made under this section, the Board shall forward to the superintendent of licenses the prescribed particulars of the application, and the superintendent shall, on receipt of those particulars, inquire into such matters in relation to the application as may be prescribed, prepare a report on those matters and submit the report to the Board for its consideration in connection with the application.

(6) Any person may, within the prescribed period from the date on which notice of an application was published in accordance with subsection (4), lodge with the Board an objection in writing to the granting of the application.

Travel Agents (Amendment).

SCHEDULE 2—continued.
**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—continued.**

(7) An objection lodged under subsection (6) shall specify the grounds of the objection.

Grant or
refusal of
application
for licence.

13. (1) Where an application made under section 12 (1) or (2) complies with section 12 (3) and the applicant has complied with section 12 (4), the Board shall, except where the application is refused as provided by subsection (2), (3), (4), (5) or (6), grant the application as soon as reasonably practicable after—

- (a) the receipt of the report in respect of the application submitted to the Board under section 12 (5) or the expiration of the period for lodging objections under section 12 (6), whichever last occurs; or
- (b) if a hearing is required to be held in respect of the application as provided by subsection (7), the conclusion of the hearing,

and the registrar shall, on the granting of the application issue the licence applied for.

(2) An application made under section 12 (1) by an individual shall be refused if that individual—

- (a) has not attained the age of 18 years;
- (b) is disqualified from holding a licence;
- (c) is unable to satisfy the Board that he—

- (i) possesses sufficient experience and educational attainments to enable him to perform the duties generally performed by a travel agent;

Travel Agents (Amendment).

SCHEDULE 2—*continued.*

**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.***

- (ii) has sufficient financial resources to enable him to carry on the business of a travel agent; and
 - (iii) is of good reputation and character and is otherwise a fit and proper person to hold a licence; or
 - (d) does not meet such other requirements as may be prescribed.
- (3) An application made under section 12 (1) by a firm shall be refused if—
- (a) any member of the firm has not attained the age of 18 years;
 - (b) the firm or any member of the firm is disqualified from holding a licence;
 - (c) the firm is unable to satisfy the Board that each member of the firm—
 - (i) possesses sufficient experience and educational attainments to enable him to perform the duties generally performed by a travel agent; and
 - (ii) is of good reputation and character and would be a fit and proper person to hold a licence if he were to apply for a licence,and that the firm has sufficient financial resources to enable it to carry on the business of a travel agent; or

Travel Agents (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

- (d) the firm, or any member of the firm, does not meet such other requirements as may be prescribed.
- (4) An application made under section 12 (1) by a corporation shall be refused if—
 - (a) any director of, or any person other than a director concerned in the management of the business of a travel agent carried on by, the corporation has not attained the age of 18 years;
 - (b) the corporation or any director of, or any person other than a director concerned in the management of the business of a travel agent carried on by, the corporation is disqualified from holding a licence;
 - (c) the corporation is unable to satisfy the Board that each director or other person concerned in the management of the business of a travel agent carried on by the corporation (including any director so concerned)—
 - (i) possesses sufficient experience and educational attainments to enable him to perform the duties generally performed by a travel agent; and
 - (ii) is of good reputation and character and would be a fit and proper person to hold a licence if he were to apply for a licence,and that the corporation has sufficient financial resources to enable it to carry on the business of a travel agent and is a fit and proper person to hold a licence;

Travel Agents (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

- (d) the corporation is unable to satisfy the Board that each director of the corporation who is not concerned in the management of the business of a travel agent carried on by the corporation is of good reputation and character; or
 - (e) the corporation or any director of, or any person other than a director concerned in the management of the business of a travel agent carried on by, the corporation does not meet such other requirements as may be prescribed.
- (5) An application made under section 12 (2) shall be refused if—
- (a) the individual in respect of whom the application is made has not attained the age of 18 years;
 - (b) that individual is disqualified from holding a licence;
 - (c) the applicant is unable to satisfy the Board that that individual—
 - (i) possesses sufficient experience and educational attainments to enable him to perform the duties generally performed by a travel agent; and
 - (ii) is of good reputation and character and would be a fit and proper person to hold a licence if he were to apply for a licence; or
 - (d) that individual does not meet such other requirements as may be prescribed.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(6) Without limiting subsections (2) to (5), an application made under section 12 (1) or (2) in respect of which an objection has been lodged in accordance with section 12 (6) shall be refused if the Board is of the opinion that the objection is sustained and is sufficiently serious to warrant the application being refused.

(7) An application made under section 12 (1) or (2) shall not be refused on any ground specified in subsection (2) (c) or (d), (3) (c) or (d), (4) (c), (d) or (e) or (5) (c) or (d) or under subsection (6) unless the Board has first held a hearing in accordance with section 15B in respect of the application and has afforded the applicant an opportunity to appear at that hearing and to inspect the report submitted to the Board in accordance with section 12 (5) in respect of the application.

(8) Where an application made under section 12 (1) or (2) is refused under this section or is withdrawn, there shall be refunded to the applicant, or to any other person who appears to the registrar to be entitled thereto, the fees (other than the fee referred to in section 16 (3)) and the initial contribution, if any, paid by the applicant under section 12 (3).

(9) Where an application made under section 12 (1) or (2) is refused under this section, the Board shall forthwith, by notice in writing served on the applicant, inform him of that refusal and of the ground for that refusal.

Travel Agents (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—continued.**

14. (1) A licence is subject to—
- (a) such conditions and restrictions as are prescribed; and
 - (b) subject to subsection (3), such conditions and restrictions as the Board imposes in accordance with the powers conferred on it by the regulations when granting the application for the licence or at any time during the currency of the licence.
- (2) Subject to subsection (3), the Board may, at any time, revoke or vary conditions or restrictions imposed by the Board under subsection (1) (b).
- (3) The Board shall not impose conditions or restrictions in respect of a licence, or vary conditions or restrictions applicable in respect of a licence, unless the Board has first held a hearing in accordance with section 15B with respect to the conditions or restrictions that are proposed to be imposed or varied, as the case may be, and has afforded the applicant for, or, as the case may be, the holder of, the licence an opportunity to appear at that hearing.
15. (1) Where a firm that is the holder of a licence—
- (a) is dissolved or otherwise terminated but the business of a travel agent carried on by the firm is continued by a new firm consisting of all or any of the members of the firm that is dissolved or otherwise terminated, together with one or more additional members; or
- Conditions and restrictions to which a licence is subject.**
- Variation of licence.**

Travel Agents (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

- (b) is reconstituted by the inclusion of one or more additional members without the firm being dissolved or otherwise terminated (whether any existing member ceases to be a member of the firm at the time of its reconstitution or not),

the new or reconstituted firm shall, within 7 days after the dissolution, termination or reconstitution, make an application to the Board to vary the licence by inserting the name or names of the additional member or members and, where appropriate, by omitting from the licence the name of any person who is not a member of the new or reconstituted firm.

Penalty : \$500.

(2) If a new or reconstituted firm referred to in subsection (1) does not make an application under that subsection to vary its licence within the period of 7 days after the inclusion of additional members of the firm or, having made such an application, withdraws the application before the expiration of that period, the licence is, by virtue of this subsection, cancelled at the expiration of that period.

(3) Where an application made by a new or reconstituted firm under subsection (1) to vary a licence—

- (a) is withdrawn after the expiration of the period of 7 days referred to in subsection (2); or
- (b) is refused by the Board,

Travel Agents (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—continued.**

the licence is, by virtue of this subsection, cancelled after the expiration of 7 days from the date on which the application is withdrawn, or, as the case may be, from the expiration of the period limited for appealing against the refusal or, where within the period so limited, an appeal against the refusal is made under section 42 and, on the hearing of the appeal, the refusal is confirmed, from the date on which the decision of the District Court confirming the refusal is notified to the firm, unless within the period of 7 days last referred to in this subsection, the additional member or members to whom the application relates ceases to be a member, or, as the case may be, cease to be members, of the firm.

(4) Where a firm that is the holder of a licence—

- (a) is dissolved or otherwise terminated but the business of a travel agent carried on by the firm is continued by a new or reconstituted firm consisting of some of the members of the firm that is dissolved or otherwise terminated or by an individual who was a member of that firm; or
- (b) is reconstituted as a result of any of its members ceasing to be members of the firm without the firm being dissolved or otherwise terminated,

the new or reconstituted firm or, as the case may be, the individual shall, within 7 days after the dissolution, termination or reconstitution, make an application to the Board to vary the licence by omitting from the licence the name of any person who is not a member

Travel Agents (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

of the new or reconstituted firm or, as the case may be, by omitting the names of persons other than the individual who made the application.

Penalty : \$100.

(5) A licensee who holds a licence in respect of an individual nominated as referred to in section 12 (2) may make an application to the Board to vary the licence by substituting for the name of that individual the name of another individual.

(6) Where with respect to a prescribed particular contained in a licence any prescribed circumstance occurs, the licensee may make an application to the Board to vary the licence in such manner as is prescribed.

(7) An application for the variation of a licence shall be—

- (a) in or to the effect of the prescribed form;
- (b) made in the prescribed manner and, where a notice of the application is required to be published as provided by subsection (8), within the prescribed period after the publication of the notice; and
- (c) accompanied by the licence and by the prescribed fees (if any).

(8) Where prescribed, before an application is made under this section, the applicant shall cause a notice of the application, in or to the effect of the prescribed form, to be published in a newspaper which circulates generally throughout New South Wales.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(9) On receipt of an application made under this section, the Board shall, where prescribed, forward to the superintendent of licenses the prescribed particulars of the application, and the superintendent shall, on receipt of those particulars, inquire into such matters in relation to the application as may be prescribed, prepare a report on those matters and submit the report to the Board for its consideration in connection with the application.

(10) Where prescribed, any person may, within the prescribed period from the date on which notice of an application was published in accordance with subsection (8), lodge with the Board an objection in writing to the granting of the application.

(11) An objection lodged under subsection (10) shall specify the grounds of the objection.

15A. (1) Where an application made under section 15 complies with section 15 (7) and the applicant has, where prescribed, complied with section 15 (8), the Board shall, except where the application is refused as provided by subsection (2), (3) or (4), grant the application as soon as reasonably practicable after—

Grant or refusal of application to vary licence.

- (a) the receipt of the report in respect of the application submitted to the Board under section 15 (9) or, where a person is entitled to lodge an objection to the granting of the application, the receipt of the report or the expiration of the period for lodging such objections, whichever last occurs; or
- (b) if a hearing is required to be held in respect of the application as provided by subsection (5), the conclusion of the hearing,

and the registrar shall, on the granting of the application, vary the licence in the manner applied for.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(2) Where a firm has made an application under section 15 (1) to vary a licence by the inclusion of the names of additional members, that application shall be refused if the Board would, on any of the grounds specified in section 13 (3) (a), (b), (c) or (d), have refused that application had it been an application made by that firm under section 12 (1) for the licence as varied.

(3) An application made under section 15 (5) in respect of an individual shall be refused if the Board would, on any of the grounds specified in section 13 (5) (a), (b), (c) or (d), have refused that application had it been an application made under section 12 (2) in respect of that individual.

(4) Without limiting subsections (2) and (3), an application made under section 15 in respect of which an objection has been lodged in accordance with section 15 (10) shall be refused if the Board is of the opinion that the objection is sustained and is sufficiently serious to warrant the application being refused.

(5) An application made under section 15 (1) or (5) shall not be refused on any ground specified in section 13 (3) (c) or (d) or, as the case may be, section 13 (5) (c) or (d) or under subsection (4) unless the Board has first held a hearing in accordance with section 15B in respect of the application and has afforded the applicant an opportunity to appear at that hearing and to inspect the report submitted to the Board in accordance with section 15 (9) in respect of the application.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(6) Where an application to vary a licence is refused under this section or is withdrawn, there shall be refunded to the applicant, or any other person who appears to the registrar to be entitled thereto, the fees (other than the fee referred to in section 16 (3)) paid by the applicant under section 15 (7).

(7) Where an application made under section 15 is refused under this section, the Board shall forthwith, by notice in writing served on the applicant, inform him of that refusal and of the ground for that refusal.

(8) A notice served under subsection (7) shall be accompanied by the applicant's licence.

15B. (1) A hearing referred to in section 13 (7), 14 (3) or 15A (5) shall be held as in open court at a meeting of the Board at which a quorum is present.

Hearings in respect of applications for licences and variations of licences, etc.

(2) At any such hearing—

- (a) the applicant or, as the case may be, the licensee who is entitled to appear at the hearing may appear personally or by a barrister, solicitor or other agent appointed by him;
- (b) the objector (if any) may appear personally or by a barrister, solicitor or other agent appointed by him; and

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SCHEDULE 2—*continued.***AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*****(c) the Board—**

- (i)** shall permit evidence relevant to the hearing to be adduced by or on behalf of the objector (if any), and to be adduced by or on behalf of the applicant or, as the case may be, the licensee, with respect to any matters relating to the determination of the hearing, whether that evidence would be admissible in proceedings before a court of law or not;
- (ii)** may receive any submission, whether written or verbal, made by or on behalf of the objector (if any), or made by or on behalf of the applicant or, as the case may be, the licensee, with respect to any such matters and may, where the hearing is in respect of an application made under section 12 (1) or (2) or under section 15, take into account the report submitted to the Board in respect of the application in accordance with section 12 (5) or, as the case may be, section 15 (9);
- (iii)** may, subject to section 13 of the Oaths Act, 1900, require evidence at the hearing to be given on oath; and
- (iv)** may, from time to time, adjourn the hearing to such time and place as it may specify.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*

**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.***

(3) Any such hearing may be held in the absence of the applicant or, as the case may be, the licensee who is entitled to appear at the hearing if the Board is satisfied that the applicant or, as the case may be, the licensee was served with notice of the time and place of the hearing.

(4) The Board may, on its own motion or on the application of the objector (if any), and shall, on the application of the applicant or, as the case may be, the licensee who is entitled to appear at the hearing, issue a subpoena in or to the effect of the prescribed form requiring the person to whom it is addressed—

- (a) to attend as a witness at any such hearing;
or
- (b) to attend and produce at that hearing any records in his possession or under his control relating to any matter relevant to that hearing and specified in the subpoena.

(5) Where a subpoena is issued under subsection (4), the registrar shall serve the subpoena on the person to whom it is addressed.

(6) Where—

- (a) a person is served with a subpoena under subsection (5);
- (b) an amount that is sufficient to defray his travelling and out-of-pocket expenses in attending the hearing specified in the subpoena and producing anything required by the subpoena to be produced is tendered to him at the time of the service; and

Travel Agents (Amendment).

SCHEDULE 2—continued.
**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—continued.**

- (c) without reasonable cause, he refuses or fails to comply with the subpoena,

he is guilty of an offence and is liable on conviction to a penalty not exceeding \$200.

(7) A person on whom a subpoena is served under subsection (5) is entitled to receive—

- (a) where the subpoena was issued by the Board on its own motion or on the application of an objector (being the superintendent of licenses or other member of the police force, an inspector or an officer of the Public Service), from the Board;
- (b) where the subpoena was issued by the Board on the application of the applicant or licensee who is entitled to appear at the hearing, from that applicant or licensee, as the case may be; or
- (c) where the subpoena was issued by the Board on the application of an objector (not being an objector referred to in paragraph (a)), from that objector,

his reasonable costs, including any loss of earnings, incurred by him in complying with the subpoena, calculated in accordance with the scales relating to subpoenas issued out of the District Court.

Annual fees
and
statement.

15C. (1) A licensee shall, in each year at the time when or during the period within which he is required to lodge a statement referred to in subsection (2) with the Board, pay to the Board the prescribed annual fees.

Travel Agents (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—continued.**

(2) A licensee shall, on a prescribed date in each year or within a prescribed period after that date, lodge with the Board, in respect of each year or part of a year during the currency of the licence, a statement containing such information as is prescribed.

(3) The Board, in its discretion, may, on the application of a licensee, extend or further extend the time for paying a fee under subsection (1) or lodging a statement under subsection (2).

15D. (1) Where—

(a) an individual who is, or a member of a firm that is, the holder of a licence, or any individual in respect of whom a licence is held—

(i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or any part of his property for their benefit;

(ii) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958. or a person under detention under Part VII of that Act; or

Cancellation
and
suspension
of licences.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

- (iii) is convicted of an offence involving fraud or dishonesty that is punishable by imprisonment for a period of or exceeding 3 months;
- (b) a corporation that is the holder of a licence—
 - (i) is commenced to be wound up, is under official management or has ceased to carry on business; or
 - (ii) has entered into a compromise or scheme of arrangement with its creditors;
- (c) a receiver and manager has been appointed, whether by the Supreme Court or otherwise, in respect of the property of a corporation that is the holder of a licence; or
- (d) any director or other person concerned in the management of the business of a travel agent carried on by, a corporation is convicted of an offence involving fraud or dishonesty punishable by imprisonment for a term of 3 months or more,

the Board may cancel the licence.

(2) Where the holder of a licence fails to comply with any provision of section 15C, the Board may cancel the licence.

(3) If in a case to which subsection (1) applies the Board considers it desirable to do so, the Board may, instead of cancelling the licence, suspend the licence for a specified period and may at any time remove such a suspension.

Travel Agents (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—continued.**

(4) Where a licence is cancelled or suspended under this section, the Board shall forthwith, by notice in writing served on the person who was the holder of the licence, inform him of that cancellation or suspension and of the ground for that cancellation or suspension.

15E. Where a licence held by a person on his or its own behalf is cancelled or suspended, any licence held by that person in respect of an individual is deemed to be cancelled or, as the case may be, suspended.

Cancellation, etc., of licence held by licensee on behalf of an individual.

(3) Section 16 (1), (2), (3)—

Omit "or renewal" wherever occurring.

(4) Section 19—

Omit the section. insert instead :—

19. (1) The Board may, by notice in writing served on the holder of a licence, require that holder to deliver that licence to the Board within such period as may be specified in the notice.

Failure to deliver up licence.

(2) The holder of a licence shall not, without reasonable excuse, fail to comply with a notice served on him under subsection (1).

Penalty : \$500.

Travel Agents (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(3) A reference in this section to a licence includes a reference to a licence that is cancelled or suspended under this Act and, in relation to any such licence, a reference in this section to the holder of a licence is a reference to the person whose licence was cancelled or suspended.

(5) (a) Section 22 (1) (b)—

Omit the paragraph, insert instead :—

(b) whose application for a licence has been refused (otherwise than pursuant to section 13 (2) (a), (c) (i) or (ii) or (d)), unless such an application has been subsequently granted.

(b) Section 22 (5)—

After section 22 (4), insert :—

(5) For the purposes of this section, an individual who holds office as a director of a corporation that is the holder of a licence is deemed to be employed by the corporation notwithstanding that he would not, but for this subsection, be an employee of the corporation.

(6) Section 30 (3) (a) (ii)—

Omit "renewals,".

Travel Agents (Amendment).

SCHEDULE 3.

Sec. 4.

**AMENDMENTS TO PARTS IV AND V OF THE TRAVEL AGENTS
ACT, 1973.**

(1) Section 34 (b)—

Omit the paragraph, insert instead :—

- (b) he contravenes or fails to comply with a condition or restriction applicable in respect of the licence.

(2) Section 35 (c)—

Omit “nominated pursuant to section 10 (2), (3) or (4)”, insert instead “in respect of whom a licence is held”.

(3) Section 37 (2)—

Omit “or a person employed by the Board as an inspector in his capacity as such a member or inspector”, insert instead “by an inspector in his capacity as such”.

(4) Section 38 (1), (3)—

After “in this Part” wherever occurring, insert “and Part V”.

(5) (a) Section 39 (2) (a)—

Omit “and”.

Travel Agents (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PARTS IV AND V OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

(b) Section 39 (2) (b), (c)—

Omit section 39 (2) (b), insert instead :—

(b) particulars of the grounds upon which the defendant is required to show cause may be presented by a barrister or solicitor instructed by the Board or by a member of the police force or an inspector so instructed; and

(c) the Board—

- (i) shall permit evidence relevant to the inquiry to be adduced by the person instructed by the Board as referred to in paragraph (b), and to be adduced by or on behalf of the defendant, with respect to the grounds upon which the defendant is required to show cause and with respect to any related matters, whether or not that evidence would be admissible in proceedings before a court of law;
- (ii) may receive any submission, whether written or verbal, made by the person so instructed, or made by or on behalf of the defendant, with respect to those grounds and related matters and, where the defendant is an individual referred to in section 35 (c) or is a director of a corporation or a member of a firm

Travel Agents (Amendment).

SCHEDULE 3—continued.

**AMENDMENTS TO PARTS IV AND V OF THE
TRAVEL AGENTS ACT, 1973—continued.**

referred to in section 35 (e), any written submission made in answer to the notice served on the defendant under section 38 (1) or (3) by the holder of the licence in respect of the defendant, the corporation of which the defendant is a director or the firm of which the defendant is a member, as the case may be;

(iii) may, subject to section 13 of the Oaths Act, 1900, require evidence at the inquiry to be given on oath; and

(iv) may, from time to time, adjourn the inquiry to such time and place as it may specify.

(6) (a) Section 40 (1)—

Omit "books, papers or writings", insert instead "records".

(b) Section 40 (3)—

Omit "a District", insert instead "the District".

(7) Section 41 (1) (c)—

Omit "not exceeding the unexpired term of the licence", insert instead "specified by the Board not exceeding 3 years".

Travel Agents (Amendment).

 SCHEDULE 3—*continued.*

 AMENDMENTS TO PARTS IV AND V OF THE
 TRAVEL AGENTS ACT, 1973—*continued.*

(8) Section 42—

Omit the section, insert instead :—

Right of
 appeal to
 District
 Court.

42. (1) Where the Board refuses an application for a licence on any ground specified in section 13 (2) (c) or (d), (3) (c) or (d), (4) (c), (d) or (e) or (5) (c) or (d) or under section 13 (6), an appeal against the decision of the Board refusing the application may be made to the District Court by the applicant.

(2) Where the Board imposes a condition or restriction under section 14 (1) (b), an appeal against the decision of the Board imposing that condition or restriction may be made to the District Court by the applicant for, or, as the case may be, the holder of, the licence in respect of which the condition or restriction is imposed.

(3) Where the Board refuses an application to vary a licence on any ground specified in section 13 (3) (c) or (d) (as referred to in section 15A (2)) or in section 13 (5) (c) or (d) (as referred to in section 15A (3)) or under section 15A (4), an appeal against the decision of the Board refusing the application may be made to the District Court by the licensee who made the application.

C

Travel Agents (Amendment).

SCHEDULE 3—*continued.*

**AMENDMENTS TO PARTS IV AND V OF THE
TRAVEL AGENTS ACT, 1973—*continued.***

(4) Where the Board grants an application for a licence or an application to vary a licence and an objection to the granting of the application was lodged in accordance with section 12 (6) or, as the case may be, section 15 (10), an appeal against the decision of the Board granting the application may be made to the District Court by the objector.

(5) Where the Board refuses an application made under section 23 or imposes any condition under that section in relation to any such application, an appeal against the decision refusing the application or imposing the condition, as the case may be, may be made to the District Court by the licensee who made the application.

(6) Where the Board makes a determination under section 41 (1) (paragraph (a) excepted), an appeal against the determination may be made to the District Court by any of the following persons :—

- (a) the defendant in respect of whom the determination is made;
- (b) where the defendant is an individual in respect of whom a licence is or was held, the licensee or former licensee, as the case may be;
- (c) where the defendant is a director of a corporation, or member of a firm, that is or was the holder of a licence, that corporation or firm.

Travel Agents (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PARTS IV AND V OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

(7) Where the Board makes a determination referred to in section 41 (1) (a) and the inquiry in relation to which the determination was made resulted from a complaint made under section 35 or 36, an appeal against the determination may be made to the District Court by the complainant.

(8) An appeal under this section shall not be dealt with unless it is made within the prescribed period in accordance with the rules of court of the District Court.

(9) An appeal made under this section shall be dealt with by way of rehearing in accordance with the rules of court of the District Court.

(10) Notice of an appeal made under this section shall be given to such persons as may be prescribed by rules of court of the District Court or as the District Court may direct and those persons shall, together with the appellant, be the parties to the hearing of the appeal.

(11) At the hearing of an appeal made under this section, the District Court may admit in evidence any statement, submission or other evidence which was or could have been adduced in the proceedings before the Board which gave rise to the appeal, notwithstanding that that statement, submission or evidence might not normally be admitted in evidence in a court of law.

Travel Agents (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PARTS IV AND V OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

(12) The District Court may, in deciding an appeal made under this section—

- (a) confirm the decision or determination of the Board appealed against; or
- (b) substitute for that decision or determination any decision or determination that the Board had jurisdiction to make.

(13) The decision of the District Court in respect of an appeal made under this section shall be final and shall be deemed to be the decision or determination of the Board.

(14) Where the decision of the District Court in respect of an appeal made under subsection (6) confirms a determination cancelling or suspending the licence of a person or the decision of that Court in respect of an appeal made under subsection (6) or (7) is a determination cancelling or suspending a licence and the licence is not already in the possession of the Board, the person in possession of that licence shall, forthwith after being notified of the decision of the Court, lodge the licence with the Board.

Penalty for an offence against this subsection :
\$500.

Travel Agents (Amendment).

Sec. 4.

SCHEDULE 4.

 INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
 1973.

Part VA—

After Part V, insert :—

PART VA.

TRAVEL AGENTS' ACCOUNTS.

 Accounts
 to be kept
 by a
 licensee.

42A. (1) A licensee shall—

- (a) keep such accounting records as correctly record and explain the transactions and financial position of the business of a travel agent carried on by him;
- (b) keep his accounting records in such a manner as will enable true and fair profit and loss accounts and balance sheets to be prepared from time to time; and
- (c) keep his accounting records in such a manner as will enable profit and loss accounts and balance sheets of the business of a travel agent carried on by him to be conveniently and properly audited.

 Penalty : \$1,000 or imprisonment for a term of
 6 months.

 (2) A licensee shall be deemed not to have
 complied with subsection (1) in relation to accounting
 records unless those records—

- (a) are kept in the English language or in such
 manner as will enable them to be readily
 converted into writing in the English
 language;

Travel Agents (Amendment).

SCHEDULE 4—continued.

**INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—continued.**

- (b) are kept in sufficient detail to show particulars of—
 - (i) all money received or paid by the licensee, including money paid to, or disbursed from, a trust account;
 - (ii) all income received from commissions and other sources, and all expenses, commissions and interest paid, by the licensee; and
 - (iii) all the assets and liabilities (including contingent liabilities) of the licensee;
- (c) are kept in sufficient detail to show separately particulars of every transaction of the licensee; and
- (d) specify the day on which, or the period within which, each transaction by the licensee took place.

(3) Without affecting the operation of subsection (2), a licensee shall keep accounting records in sufficient detail to show separately particulars of all transactions by the licensee with, or for the account of—

- (a) clients of the licensee, excluding in the case of a licensee that is a firm, the members of the firm;
- (b) the licensee himself, and, where the licensee is a firm, the members of the firm;

Travel Agents (Amendment).

SCHEDULE 4—*continued.*INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- (c) other licensees;
- (d) travel agents carrying on business outside New South Wales; and
- (e) employees of the licensee.

Penalty : \$500.

(4) An entry in the accounting records of a licensee required to be kept in accordance with this section shall, until the contrary is proved, be deemed to have been made by the licensee or with his approval or authority.

(5) Where an accounting record required by this section to be kept is not kept in writing in the English language, the licensee shall, if required to convert the record into writing in the English language by a person entitled to examine the record, comply with the requirement within a reasonable time.

Penalty : \$500.

(6) Notwithstanding any other provision of this section, a licensee shall be deemed not to have failed to keep an accounting record referred to in subsection (1) by reason only that the record is kept as a part of, or in conjunction with, the records relating to any business carried on by him other than that of a travel agent.

(7) If a licensee keeps accounting records at a place outside New South Wales, he shall cause to be sent to and kept at a place in New South Wales such

Travel Agents (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

particulars with respect to the business dealt with in those records as will enable true and fair profit and loss accounts and balance sheets to be prepared.

Penalty : \$500.

42B. (1) In this section and in section 42C, Licensee's "client", in relation to a licensee, means a person from whom or on whose account the licensee receives money as referred to in subsection (3). ^{trust} _{accounts.}

(2) A licensee shall open at and maintain with a bank or banks in New South Wales one or more current or deposit accounts designated as a trust account or, as the case may be, as trust accounts.

(3) Subject to subsections (4) and (5), where money is received by a licensee from or on account of a person for whom he is acting in relation to the receipt of that money in the course of his carrying on the business of a travel agent and is money to or in respect of which a person other than the licensee or a person prescribed by the Board under subsection (8), or a person belonging to a class of persons so prescribed, is entitled or has a claim, the licensee shall pay that money into a trust account maintained by him under subsection (2), not later than the next day on which the bank at which that account is maintained is open for business after the day on which he received that money.

(4) Where money which would, but for this subsection, be required under subsection (3) to be paid into a trust account is received by a licensee at a place outside New South Wales, the licensee may pay that money into a trust account maintained by the licensee in that place.

Travel Agents (Amendment).

 SCHEDULE 4—*continued.*

 INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
 1973—*continued.*

(5) Subsection (3) does not apply to and in relation to a cheque, bank cheque, bank draft or money order made payable to or to the order of a specified person or bearer (not being a cheque, bank cheque, bank draft or money order in which the payee is the licensee or a member of a firm that is the licensee) received from or on account of a client with instructions, express or implied, that the cheque, bank cheque, bank draft or money order is to be delivered to the person to whom it is payable.

(6) A licensee who fails to comply with subsection (2) or (3) is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

(7) A licensee who, with intent to defraud, fails to comply with subsection (2) or (3) is guilty of an offence and is liable on conviction to a penalty not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years, or both.

(8) On the application of a licensee made in or to the effect of the prescribed form, the Board may, by order in writing, prescribe a person or class of persons for the purpose of subsection (3) if, but only if, it is satisfied that the person or class of persons does not require the protection of that subsection.

Purposes
for which
money may
be with-
drawn from
a trust
account.

42c. (1) A licensee shall not, without the prior written approval of the Board, withdraw money received from or on account of a client and paid into a trust account as required by section 42B(3) except for the purpose of—

- (a) paying an amount properly payable to the client or properly payable on behalf of the client in respect of the provision of travel

Travel Agents (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- on a conveyance, hotel or other accommodation or other services ordinarily provided for travellers;
- (b) satisfying a debt properly due to the licensee from the client in respect of commission or other charges;
 - (c) reimbursing the licensee for money properly expended by him on behalf of the client in respect of the provision of travel on a conveyance, hotel or other accommodation or other services ordinarily provided for travellers;
 - (d) paying in New South Wales an amount to another licensee in accordance with an authority in writing given by the client; or
 - (e) paying an amount that is otherwise authorised by the regulations to be paid.

Penalty : \$1,000 or imprisonment for a term of 6 months.

(2) Subsection (1) does not prohibit a licensee from withdrawing from a trust account maintained in accordance with section 42B (2) money to which he is entitled, being money which was paid into that account but which was not required to be so paid.

(3) Except as otherwise provided in this Part, money held in a trust account is not available for payment of the debts of a licensee or liable to be taken in execution under the order or process of a court.

Travel Agents (Amendment).

 SCHEDULE 4—*continued.*

 INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
 1973—*continued.*

(4) Nothing in this Part takes away or affects a lawful claim or lien that a person has against or on any money received from the sale of any tickets entitling an individual to travel, or from arranging for an individual a right of passage, on any conveyance (not being a prescribed conveyance) or from selling to, or arranging or making available for, any individual rights of passage to, or hotel or other accommodation at, any place.

Licensee's
accounts.

42D. (1) In this section—

“financial year”, in relation to a licensee,
means—

- (a) where the licensee is an individual or firm, the period of 12 months ending on 30th June; and
- (b) where the licensee is a corporation, the financial year of the corporation within the meaning of the Companies Act, 1961;

“prescribed day”, in relation to a financial year
of a licensee, means—

- (a) where the licensee is an individual or firm, the day that is 2 months after the end of that financial year;
or
- (b) where the licensee is a corporation, the day that is 3 months after the end of that financial year.

Travel Agents (Amendment).

SCHEDULE 4—continued.

**INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—continued.**

or where, in either case, an extension of time is approved pursuant to subsection (3), the day on which the extended time expires.

(2) A licensee shall, in respect of each financial year, other than a financial year that ended before the commencement of Schedule 4 to the Travel Agents (Amendment) Act, 1978, or ended on or after that commencement but before the date on which the licensee commenced to carry on the business of a travel agent, prepare a true and fair profit and loss account and balance sheet on the basis of such accounting principles (if any) and containing such information and matters as are prescribed and lodge them with the Board before the prescribed day for that financial year, together with an auditor's report containing the prescribed information and matters.

(3) The Board may approve an extension of the period of 2 months or, as the case may require, the period of 3 months, referred to in the definition of "prescribed day" in subsection (1) where an application for the extension is made by the licensee and his auditor, and such an approval may be given subject to such conditions, if any, as the Board thinks fit to impose.

(4) A licensee who fails to comply with subsection (2), or with any condition imposed under subsection (3), is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

Travel Agents (Amendment).

SCHEDULE 4—*continued.*INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

Power of
Supreme
Court to
restrain
dealings
with
licensee's
bank
accounts.

42E. (1) Where the Board proves to the satisfaction of the Supreme Court—

- (a) that there are reasonable grounds for believing that there is a deficiency in a trust account of a person who is or has been a licensee;
- (b) that there has been undue delay, or unreasonable refusal, on the part of a person who is or has been a licensee, in paying, applying or accounting for trust money as required by this Act;
- (c) that a person who is or has been a licensee has not paid money into a trust account as provided by section 42B; or
- (d) where the business of a travel agent is carried on, was carried on or was last carried on, as the case may be, by a person otherwise than as a member of a firm that is the holder of a licence—
 - (i) that the licence of that person has been cancelled or suspended;
 - (ii) that that person, being an individual, is incapable, by reason of physical or mental infirmity, of managing his affairs;
 - (iii) that that person has ceased to carry on the business of a travel agent; or

Travel Agents (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- (iv) that that person, being an individual,
has died,

the Court may make an order restraining dealings in respect of all or any of the bank accounts of that person, subject to such terms and conditions as the Court thinks fit to impose.

- (2) Where an order made under subsection (1) is directed to a banker, the banker shall—

- (a) disclose to the Board every account kept at the bank in the name of the person to whom the order relates, and any account that the banker reasonably suspects is held or kept at the bank for the benefit of that person;
and
- (b) permit the Board to make a copy of any account of the person to whom the order relates or any of the records relating to that person that are in the custody of or under the control of the banker or to make a copy of any part of any such account or records.

- (3) Where an order is made under subsection (1), the Supreme Court may, on the application of the Board or of a person affected by the order, make further orders—

- (a) dealing with such ancillary matters as the Court considers necessary or desirable;

Travel Agents (Amendment).

SCHEDULE 4—*continued.*INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- (b) directing that all or any of the money in an account affected by an order so made be paid by the bank to the Board or a person nominated by the Board, subject to such terms and conditions as the Court thinks fit to impose; and
- (c) discharging or varying the order.

(4) An order made under subsection (3) (b) may include a direction requiring the Board or person nominated by the Board to cause the money paid to the Board or that person in accordance with the order to be paid into a separate trust account and a direction authorising the Board or that person—

- (a) where that money is sufficient to pay all proved claims, to prepare a scheme for the distribution of that money to those claimants who, during the period of 6 months after that money is received by the Board or that person, satisfy the Board or that person that they are entitled to that money or to any part of it; or
- (b) where the money is insufficient to pay all proved claims, to prepare a scheme for the apportionment of that money in proportion to the claims of those claimants who, during the period of 6 months after that money is received by the Board or that person, satisfy the Board or that person that they are entitled to that money or to any part of it and for the distribution to those claimants of the money so apportioned.

Travel Agents (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(5) When a scheme has been prepared in accordance with a direction included in an order pursuant to subsection (4), the Board or person nominated by the Board shall make an application to the Supreme Court for the approval of the scheme, and, on the hearing of any such application, the Court may approve or disapprove the scheme and, if it approves the scheme, give such directions as it thinks fit as to—

- (a) the money held in a separate trust account pursuant to a direction so included;
- (b) the persons to whom and in what amounts that money or any part of that money shall be paid; and
- (c) the disposal of the balance of that money (if any) remaining after the amounts referred to in paragraph (b) have been paid.

(6) On the approval of a scheme under subsection (5), the Board or person nominated by the Board shall distribute the money in accordance with the scheme and any directions given by the Supreme Court under that subsection.

42F. (1) A bank does not incur liability or obligation to any person by reason only that it has failed to secure that any provision of this Part, or of the regulations, with respect to the keeping of trust accounts and the withdrawal of money from any such account has been complied with. Protection
of banks
from
liability.

Travel Agents (Amendment).

SCHEDULE 4—continued.
**INSERTION OF PART VA INTO THE TRAVEL AGENTS ACT,
1973—continued.**

(2) A bank at which a licensee keeps a trust account shall not, in respect of any liability of the licensee to the bank (not being a liability in connection with that account), have any recourse or right, whether by way of set-off, counterclaim, charge or otherwise, against money standing to the credit of that account.

 Sec. 4.

SCHEDULE 5.
**AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973.**

(1) Part VI, heading—

Omit "FIDELITY GUARANTEE", insert instead "COMPENSATION".

(2) Section 43A—

Before section 43, insert :—

Interpre-
tation:
Pt. VI.

43A. (1) In this Part, except so far as the context or subject-matter otherwise indicates or requires—

"failure to account" means a failure by a licensee to account for money or other valuable property entrusted to the licensee, or to any employee or agent of the licensee, in the

D

Travel Agents (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

course of the business of a travel agent carried on by the licensee, which arises from any act or omission of the licensee or of his employee or agent, being an act or omission which occurred after the commencement of Schedule 5 to the Travel Agents (Amendment) Act, 1978;

“pecuniary loss” or “loss” includes—

- (a) all costs (including the legal costs and disbursements of making and proving a claim), charges and expenses which a claimant has suffered or incurred as a direct consequence of a failure to account; and
- (b) all interest on money or other valuable property which a claimant would have received but for a failure to account for the money or other property, calculated to the date on which the Board determines the claimant's claim to, or a judgment is recovered against the Board in relation to the fund in respect of, that money or other property.

(2) For the purpose of the definition of “failure to account” in subsection (1), a reference in that definition to an employee of a licensee includes

Travel Agents (Amendment).

SCHEDULE 5—continued.
**AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—continued.**

a reference to a person who has the apparent control or charge for the time being of the business of a travel agent carried on by the licensee or of any office at which that business is carried on.

(3) Sections 43, 44—

Omit "Fidelity Guarantee" wherever occurring, insert instead "Compensation".

(4) Section 51—

Omit the section, insert instead :—

**Application
of fund.**

51. (1) Subject to this Part, the fund shall be held and applied for the purpose of compensating any person who may suffer or incur pecuniary loss by reason of a failure to account.

(2) A person who claims to have suffered or incurred pecuniary loss by reason of a failure to account may make a claim against the fund in respect of that failure to account, but only if the claim is made in writing to the Board within 6 months after the person has become aware of that failure to account or within a period of 2 years from the date of that failure to account, whichever period first expires.

Travel Agents (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(3) A person who carries on a business which comprises or includes the provision of means of transport for the conveyance of passengers, or the provision of hotel or other accommodation, or who carries on the business of a travel agent, shall not have a claim against the fund in respect of any pecuniary loss suffered or incurred in connection with that business by reason of a failure to account.

(5) (a) Section 52 (1)—

Omit “commission of the theft or fraudulent misapplication”, insert instead “failure to account”.

(b) Section 52 (2)—

After “balance of the”, insert “pecuniary”.

(c) Section 52 (4), (4A), (4B)—

Omit section 52 (4), insert instead :—

(4) Subject to subsection (5), the aggregate sum which may be applied in compensating all persons who suffer or incur pecuniary loss by reason of a failure to account, or of related failures to account, by a licensee shall not exceed such sum as is for the time being prescribed for the purpose of this subsection.

Travel Agents (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(4A) Where—

- (a) a sum has been applied in compensating persons who have suffered or incurred pecuniary loss by reason of a failure to account, or of related failures to account, by a licensee;
- (b) other persons have made claims against the fund in respect of a subsequent failure to account, or of subsequent failures to account, by that licensee; and
- (c) the Board is satisfied that that subsequent failure to account was not, or, as the case may be, those subsequent failures to account were not, connected with the first mentioned failure or related failures to account,

subsection (4) shall, if the Board so determines, apply to and in respect of that subsequent failure or those subsequent failures as if no part of that sum had been so applied.

(4B) A reference in subsections (4) and (4A) (a) to a failure to account, or to related failures to account, by a licensee includes a reference to theft or fraudulent misapplication committed after the commencement of this Part

Travel Agents (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

but before the commencement of Schedule 5 to the Travel Agents (Amendment) Act, 1978, by that licensee or by an employee of that licensee in the course of his employment with that licensee or by any person having the apparent control or charge of any office or business of that licensee of any money or other valuable property entrusted to that licensee or to that employee or other person in the course of the business of a travel agent carried on by that licensee.

(6) Section 60—

Omit the section, insert instead :—

60. (1) For the purpose of safeguarding the fund, the chairman or any 2 members of the Board may, by instrument in writing, appoint an accountant—

Examination
of records
of licensee,
etc., by
accountant.

- (a) to examine the records kept by or on behalf of a licensee specified in the instrument of appointment, or a person so specified who, at any time within the period of 3 years preceding the date of appointment, has been the holder of a licence which has since been cancelled or suspended, so far as those records relate to the business of a travel agent carried on by that licensee or, as the case may be, formerly carried on by that person (in this section subsequently referred to as a "former licensee"); and

Travel Agents (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(b) to prepare a confidential report as to any irregularity or alleged or suspected irregularity in those records which may be disclosed by that examination, or as to any other matter which, in the opinion of the accountant so appointed, should, in the interests of safeguarding the fund, be further investigated and to submit that report to the Board.

(2) An appointment made under subsection (1) shall be in writing signed by the registrar and the chairman or the members of the Board who made the appointment.

(3) The Board, by notice in writing served on the licensee or former licensee in respect of whom an accountant has been appointed under subsection (1), may—

- (a) advise the licensee or former licensee of that appointment;
- (b) fix a date for the holding of an examination of the records kept by or on behalf of the licensee or former licensee in connection with the business of a travel agent carried on or, as the case may be, formerly carried on by him; and
- (c) require the licensee or former licensee to ensure that he or another person authorised by him is in attendance on that date at the office or place of business of the licensee or former licensee specified in the notice for

Travel Agents (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

the purpose of producing to the accountant or to any assistant of the accountant such of the records kept by or on behalf of the licensee or former licensee in connection with the business of a travel agent carried on or, as the case may be, formerly carried on by him as the accountant or his assistant may wish to examine.

(4) A licensee or former licensee shall not refuse or fail to comply with a requirement contained in a notice served on him under subsection (3) so far as it is within his power so to comply.

Penalty : \$500.

(5) A licensee or former licensee in respect of whom an accountant has been appointed under subsection (1), or, in the absence of that licensee or former licensee, any person having the apparent control or charge for the time being of the business of a travel agent carried on by that licensee or, as the case may be, formerly carried on by that former licensee or of any office or place at which that business is or was formerly carried on, shall, on being required to do so by that accountant and on production by that accountant of his instrument of appointment—

(a) produce to that accountant or to any assistant of that accountant such of the records kept by or on behalf of that licensee or former licensee in connection with the business of a travel agent carried on or, as the case may be, formerly carried on by him as the accountant or his assistant may wish to examine;

Travel Agents (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

- (b) provide the accountant or his assistant with such information relating to that business and those records as the accountant or his assistant may reasonably require; and
- (c) provide the accountant or his assistant with any authority or order that may be required to enable the accountant or his assistant to have access to and examine any records maintained by a banker of the licensee or former licensee in connection with that business or any records kept by any other person on behalf of the licensee or former licensee, as the case may be, in connection with that business.

(6) Any licensee, former licensee or person who refuses or fails to comply with subsection (5) so far as it is within his power so to comply, or any person who, without reasonable excuse (the burden of proof of which is on him), obstructs, hinders or delays an accountant appointed under subsection (1), or any assistant of any such accountant, in the conduct of an examination under this section, is guilty of an offence against this Act.

(7) Where the registrar—

- (a) is satisfied that—
 - (i) the licensee or former licensee in respect of whom an accountant has been appointed under subsection (1) cannot be located or has left New South Wales; or

Travel Agents (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(ii) that licensee or former licensee, or any person having the apparent control or charge for the time being of the business of a travel agent carried on by that licensee or, as the case may be, formerly carried on by that former licensee or of any office or place at which that business is or was formerly carried on, has refused or failed to comply with a requirement made to him by an accountant in accordance with subsection (5) to provide an authority or order referred to in paragraph (c) of that subsection; and

(b) has reason to believe that that licensee or former licensee, as the case may be, has deposited any money in an account kept with a banker or that any other person is in possession of any records kept in connection with the business of a travel agent carried on by that licensee or, as the case may be, formerly carried on by that former licensee,

the registrar may, by instrument in writing in or to the effect of the prescribed form, give a certificate as to those matters and require that banker to produce to that accountant or any assistant of that accountant for examination the records of the bank so far as they relate to that account or, as the case may be, require that other person to produce to that accountant or to any assistant of that accountant any records in his possession so far as they relate to the business of

Travel Agents (Amendment).

SCHEDULE 5—*continued.***AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.***

a travel agent carried on by that licensee or, as the case may be, formerly carried on by that former licensee.

(8) On the service on a banker or other person of an instrument referred to in subsection (7), that banker or person shall comply with any requirement specified in the instrument so far as it is within his power so to comply.

Penalty : \$500.

(9) The Board shall cause a copy of a report submitted to it by an accountant under this section to be sent forthwith to the licensee or former licensee to whom the report relates.

(10) An accountant appointed to make an examination of records for the purpose of this section shall not, without the consent of the licensee or former licensee in respect of whom he is appointed, communicate the fact of his appointment to any person other than any person assisting him, that licensee or former licensee or any employee or agent of that licensee or former licensee or communicate any matter which may come to his knowledge in the course of that examination to any person except in the course of his report to the Board or for the purposes of or in connection with any proceedings before any court or tribunal exercising judicial functions.

Travel Agents (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(11) An assistant of an accountant appointed to make an examination of records for the purpose of this section shall not, without the consent of the licensee or former licensee in respect of whom the accountant is appointed, communicate the fact of the appointment to any person other than that licensee or former licensee or any employee or agent of that licensee or former licensee or communicate any matter which may come to his knowledge in the course of that examination to any person other than that accountant or the Board except for the purposes of or in connection with any proceedings before any court or tribunal exercising judicial functions.

(12) Any accountant who contravenes subsection (10), or any assistant of an accountant who contravenes subsection (11), is, in addition to any other proceedings, penalty or punishment to which he may be liable, guilty of an offence against this Act.

(13) A court which finds a licensee, former licensee or person guilty of an offence of refusing or failing to comply with subsection (5) (a) or (c) may, whether or not it convicts the licensee, former licensee or person of the offence and whether or not it imposes a penalty for the offence, order that licensee, former licensee or person to produce the records referred to in subsection (5) (a), or, as the case may be, to provide the authority or order referred to in subsection (5) (c), to the accountant appointed in respect of that licensee or former licensee within such period as may be specified in the order.

Travel Agents (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE TRAVEL AGENTS ACT,
1973—*continued.*

(14) A court which finds a banker or person guilty of an offence of failing to comply with subsection (8) may, whether or not it convicts the banker or person of the offence and whether or not it imposes a penalty for the offence, order that banker or person to comply with any requirement specified in the instrument served on that banker or person under subsection (7) within such period as may be specified in the order.

(15) If a licensee, former licensee or person in respect of whom an order is made under subsection (13), or a banker or person in respect of whom an order is made under subsection (14), refuses or fails to comply with the order so far as it is within his power so to comply, that licensee, former licensee, banker or person is guilty of an offence and is liable on conviction to a penalty not exceeding \$50 for each day during which the offence continues.

Travel Agents (Amendment).

SCHEDULE 6.

Sec. 4.

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973.

Part VIA—

After Part VI, insert :—

PART VIA.

ADMINISTRATION OF AFFAIRS AND PROPERTY OF
LICENSEE, ETC.

60A. (1) In this Part, except so far as the context or subject-matter otherwise indicates or requires—

Interpreta-
tion:
Pt. VIA.

“administrator” means an administrator appointed and holding office under this Part;

“affairs”, in relation to a licensee or a person whose licence is cancelled or suspended, means the affairs relating to the carrying on by him of the business of a travel agent;

“failure to account” has the meaning ascribed to that expression by section 43A;

“property”, in relation to a licensee or a person whose licence is cancelled or suspended, means—

- (a) money or other property which was, in the course of or in connection with the business of a travel agent carried on by that licensee or person, entrusted to or received on behalf

Travel Agents (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VI_A INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- of any other person by that licensee or person or by any employee or agent of that licensee or person, or by any other licensee with whom that licensee or person shares remuneration, and which has not been paid or delivered by that licensee or person to the person entitled or in accordance with directions of the person entitled or otherwise according to law;
- (b) money or other property which would, but for the appointment of an administrator of the affairs and property of that licensee or person, be receivable by that licensee or person on behalf of any other person after that appointment;
- (c) money received by an administrator of the affairs and property of that licensee or person, being interest, dividends or other income arising from any property of that licensee or person held by that administrator under this Part; and
- (d) any records kept by or on behalf of that licensee or person in connection with the business of a travel agent carried on by that licensee or person.

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(2) A reference in this Part to a licensee in respect of whom an administrator is or was appointed includes, where the context so requires, a reference to a person who was, at the time of the appointment of that administrator, the holder of a licence but who has for any reason subsequently ceased to be the holder of that licence.

60B. (1) The Supreme Court may, on the application of the Board, make an order appointing an administrator of the affairs and property of a licensee on the ground—

Power of
Supreme
Court to
appoint an
administra-
tor in
certain
cases.

- (a) that any failure to account has occurred in relation to any trust account or trust fund of the licensee; or
- (b) that any person is unable for any reason to obtain from the licensee payment or delivery of money or other property to which that person is entitled.

(2) Where the Board has cancelled or suspended the licence of any person under this Act, the Supreme Court may, on the application of the Board made not later than 12 months after the date on which the cancellation or suspension took effect and, in the case of a suspension, before the removal of, or the expiry of the period of, the suspension, make an order appointing an administrator of the affairs and property of that person on being satisfied that the appointment is necessary or desirable in order to protect the interests of clients of that person.

Travel Agents (Amendment).

 SCHEDULE 6—*continued.*

 INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
 1973—*continued.*

Hearing of application for appointment of administrator.

60C. Where the Board makes an application under section 60B for the appointment of an administrator of the affairs and property of a licensee or a person whose licence has been cancelled or suspended, that licensee or person is—

- (a) unless the Supreme Court dispenses with service, entitled to be served with a copy of the originating process; and
- (b) entitled to appear and be heard at the hearing of the application, either personally or by his counsel or solicitor.

Copy of order appointing administrator to be served on licensee, etc.

60D. As soon as practicable after the Supreme Court has made an order appointing an administrator, the Board shall, unless the licensee or person in respect of whom that administrator is appointed or the representative of that licensee or person appeared in the proceedings in the course of which that order was made or the Court dispenses with service, serve a copy of the order on that licensee or person and shall serve a copy of the order on any other person to whom the Court directs notice of the appointment to be given.

Duty of administrator to administer the affairs and property of licensee, etc.

60E. (1) On the appointment of an administrator taking effect, the administrator shall—

- (a) subject to and in accordance with any directions given to him by the Supreme Court, administer the affairs of the licensee or person in respect of whom he was appointed until the appointment is terminated; and

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- (b) subject to this Part, acquire or take into his possession and administer all property to which that licensee or person is or appears to be entitled.

(2) If—

- (a) the licensee or person in respect of whom the administrator was appointed, on being required by the administrator to transfer or deliver to the administrator, or to permit the administrator to acquire or take possession of, any such property that is in his possession or at his disposal or under his control, does not comply with the requirement; or
- (b) it appears to the administrator that that licensee or person, on being so required, has not fully complied with the requirement,

the administrator may, in his own name or in the name of that licensee or person, make an application to the Supreme Court for an order for the transfer or delivery to him of that property, and, on the hearing of any such application, the Court may, subject to such conditions (if any) as it thinks fit to impose, make the order applied for.

(3) If it appears to an administrator that an order made by the Supreme Court under subsection (2) is not complied with, the Court may, on the application of that administrator, by further order authorise a member of the police force, or that administrator or some other person and a member of the police force—

- (a) to enter any premises or other place specified in the order;

Travel Agents (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- (b) to search for any property which the administrator is entitled to acquire or take into his possession; and
- (c) to seize any such property and remove it to such place as the administrator thinks fit.

(4) Any person who, without reasonable excuse (the burden of proof of which is on him), obstructs, hinders or delays any member of the police force, the administrator or other person, in the exercise of a power conferred by an order made under subsection (3) is guilty of contempt of the Supreme Court and may be punished accordingly.

(5) Subject to subsection (6), an administrator—

- (a) may deal with any property which he has acquired or of which he has taken possession under this section in any manner in which the licensee or person in respect of whom he is appointed might lawfully have dealt with that property; and
- (b) shall, as soon as practicable after acquiring or taking possession of that property, deliver that property to such persons as appear to him to be lawfully entitled to it.

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(6) An administrator shall apply the property acquired and held by him, or in his possession, in his capacity as administrator in the following order for the following purposes :—

- (a) firstly, in reimbursing the Board in respect of all amounts paid out of the fund in settlement in whole or in part of claims made against the fund in respect of a failure to account by the licensee or person in respect of whom he is appointed;
- (b) secondly, in satisfying or partially satisfying the amounts of claims against that licensee or person with respect to the business of a travel agent carried on by that licensee or person to the extent that those claims have not otherwise been fully satisfied; and
- (c) thirdly, in paying the amounts incurred by him as expenses of the administration,

and, if after that application, any such property remains, he shall hold that property in trust for that licensee or person.

(7) Amounts referred to in a paragraph of subsection (6) shall rank equally between themselves and shall be paid in full unless the property referred to in that subsection is insufficient for those amounts to be paid, in which case they shall abate in equal proportions between themselves.

Travel Agents (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(8) Without restricting any power conferred on an administrator by this section, he may, in his own name or in the name of the licensee or person in respect of whom he is appointed—

- (a) prove, grant, claim and draw a dividend in respect of any debt due to that licensee or person in connection with the business of a travel agent carried on by that licensee or person;
- (b) take or defend proceedings relating to any matter concerning the business of a travel agent carried on by that licensee or person before any court for the recovery of damages or for any other remedy, whether for a tort, a breach of contract or any other cause of action, which could have been taken or defended by that licensee or person;
- (c) employ a barrister or solicitor or other agent to give advice or take or defend proceedings with respect to any matter concerning the business of a travel agent carried on by that licensee or person or otherwise to act for him in relation to the administration of the affairs and property of that licensee or person;
- (d) for the purpose of providing sufficient money to make any reimbursement, or to satisfy or pay any amount, referred to in subsection (6), sell, lease or hire any property that he has acquired or of which he has taken possession under this section; and

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(e) give receipts for money received by him in the course of and in connection with the administration of the affairs and property of that licensee or person.

(9) A receipt given under subsection (8) (e) shall effectively discharge the person paying the money from all responsibility with respect to the application of that money.

(10) Property held by or in the possession of an administrator in his capacity as such shall not be levied upon or taken or attached under any judgment.

60F. (1) Where an administrator 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 person in respect of whom the administrator is appointed, he may serve on the bank a notice in writing, accompanied by a copy of the order appointing him, prohibiting, otherwise than with the authority of the administrator, the withdrawal of money from, or any dealing (including the completion of any dealing commenced before the service of the notice) with, that account. Power of administrator to prohibit withdrawal of money from bank.

(2) Without preventing any other mode of service, service of a notice under subsection (1) may be effected by leaving the notice and the copy of the order accompanying the notice with the manager of, or the person apparently in charge of, the branch of the bank at which an account referred to in that subsection is kept.

Travel Agents (Amendment).

SCHEDULE 6—continued.

**INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—continued.**

(3) The bank on which a notice under subsection (1) is served shall not permit the withdrawal of money from, or any dealing (including the completion of any dealing commenced before the service of the notice) with, any account to which the notice relates except with the authority of the administrator.

(4) Any bank that contravenes subsection (3) is liable to the administrator in respect of any loss sustained by reason of that contravention and the amount of that loss may be recovered by the administrator in proceedings taken against the bank in a court of competent jurisdiction.

(5) The administrator may withdraw from an account referred to in subsection (1) all or any of the money held in that account and pay that money into a special account or special accounts in his own name and may operate, and otherwise deal with, that account or those accounts according to law.

Power of
administra-
tor to
invest
money.

60G. (1) An administrator may invest any money acquired by him or of which he has taken possession under section 60F in any manner in which a trustee is authorised by law to invest funds in respect of which he is the trustee.

(2) Any income accruing from the investment of any money by an administrator under subsection (1) and any profit resulting from the sale of any such investment shall be added to, and shall form part of, the property held by him or in his possession in his capacity as administrator.

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

60H. (1) An administrator may require any person who is in possession of information concerning property in respect of which he has been appointed administrator to provide him with that information. Power of administrator to require information to be given.

(2) A person to whom a requirement has been made under subsection (1) and who, without reasonable excuse (the burden of proof of which is on him), refuses or fails to comply with that requirement is guilty of an offence against this Act.

60I. Any person who, without reasonable excuse (the burden of proof of which is on him), obstructs, hinders or delays an administrator in the exercise of any power conferred, or the performance of any duty imposed, on him by this Part is guilty of an offence against this Act. Obstruction, etc., of administrator.

60J. (1) Any person who, with the intention of defeating the purposes of this Part— Improper withdrawal of money, etc.

(a) withdraws money from, or makes any payment out of, any account kept by or on behalf of a licensee or a person whose licence is cancelled or suspended; or

(b) destroys or conceals, or removes from one place to another, or delivers into the possession or control of any other person, any property in relation to which an administrator is subsequently appointed,

is guilty of an offence and is liable on conviction to a penalty not exceeding \$2,000 or to imprisonment for a period not exceeding 12 months, or both.

Travel Agents (Amendment).

 SCHEDULE 6—*continued.*

 INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
 1973—*continued.*

(2) Any person who, after being notified or becoming aware of the appointment of an administrator—

- (a) withdraws money from, or makes any payment out of, any account kept by or on behalf of a licensee or person in respect of whom the administrator is appointed; or
- (b) destroys or conceals, or removes from one place to another, or delivers into the possession or control of any other person, any property in relation to which the administrator has been appointed,

without the authority of the administrator, is guilty of an offence and is liable on conviction to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months, or both.

Application
to Supreme
Court for
directions.

60k. (1) Where an administrator has been appointed and has not vacated his office—

- (a) that administrator;
- (b) the licensee or person in respect of whom that administrator is appointed; or
- (c) any person who has submitted a claim to that administrator in relation to any property being administered by him,

may make an application to the Supreme Court for directions as to the manner in which that administrator is required to exercise the powers conferred, or to perform the duties imposed, on him by this Part, either generally or with respect to any particular matter specified in the application.

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(2) On the hearing of an application made under subsection (1), the Supreme Court may, by order, give such directions as it considers to be appropriate in the circumstances of the case.

60L. (1) An administrator may serve on any person (including the licensee or person in respect of whom he is appointed) a notice to the effect that, if that person has any claim in respect of any property held by or in the possession of the administrator in his capacity as such, that claim will not be entertained unless full particulars of the property claimed and the grounds of the claim are submitted to the administrator within such period, being not less than 30 days from the service of the notice, as is specified in the notice.

Claims against property administered by administrator.

(2) Where a notice under subsection (1) has been served on a person, the administrator may disregard any claim made by that person otherwise than in compliance with the terms of the notice.

60M. (1) On the application of an administrator, the Supreme Court may order any person (including the licensee or person in respect of whom that administrator is appointed) to appear before the Court to be examined on oath with respect to any property that is being administered by the administrator or that the administrator is entitled to administer.

Power of Supreme Court to order person to attend before Court for examination.

(2) On any such examination before the Supreme Court, the Court may put or allow to be put to the person being examined such questions as it thinks fit.

Travel Agents (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(3) A person examined pursuant to an order made under this section is not excused from answering a question put to him on the ground that the answer might incriminate him, but, where that person claims, before answering the question, that the answer might incriminate him, neither the question nor the answer is admissible in evidence against him in criminal proceedings other than proceedings in relation to the making of a false statement on oath in respect of the answer.

(4) A person attending for examination under this section is entitled to be paid such expenses (if any) as the Supreme Court may allow.

(5) Expenses allowed under subsection (4) shall be paid by the administrator and shall form part of the expenses of the administration.

Termination
of appoint-
ment of
adminis-
trator.

60N. (1) For the purposes of this section, an administrator vacates his office as such if—

- (a) he dies;
- (b) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration as administrator, or his estate, for their benefit;
- (c) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

- (d) he is convicted in New South Wales of a crime or an offence punishable by imprisonment for a term of 3 months or more, or he is convicted elsewhere than in New South Wales of a crime or an offence, which if committed in New South Wales, would be a crime or an offence so punishable;
- (e) his appointment is revoked by the Supreme Court under subsection (2); or
- (f) his appointment is revoked by the Supreme Court under subsection (6).

(2) The Supreme Court may, on the application of an administrator or on the application of the Board, make an order revoking the appointment of the administrator.

(3) Where, on making an order under subsection (2), the Supreme Court is of the opinion that the purpose for which the administrator was appointed has been fulfilled, the Court may, on its own motion or on the application of the applicant for that order, make a further order vesting in or transferring to the licensee or person in respect of whom that administrator was appointed any property which that administrator holds in trust for that licensee or person by virtue of section 60E (6).

(4) Where an administrator has vacated his office as referred to in subsection (1) (paragraph (f) excepted), the Supreme Court may, on the application of the Board and on being satisfied that the purpose for which that administrator was appointed has not yet been fulfilled, make an order appointing another person as administrator of the affairs and property of the licensee or person in respect of whom the first mentioned administrator was appointed.

Travel Agents (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

(5) An order made under subsection (4) shall provide for the vesting in or transfer to the person appointed by that order of all property held by or in the possession of the administrator who has vacated his office as referred to in that subsection.

(6) The Supreme Court may, on the application of a licensee or person in respect of whom an administrator was appointed, make an order revoking the appointment of the administrator if on the hearing of the application it is satisfied that the purpose for which that administrator was appointed has been fulfilled.

(7) Where—

- (a) an administrator has vacated his office as referred to in subsection (1) (paragraph (f) excepted), no order under subsection (3) has been made in relation to property held by that administrator as referred to in that subsection and that vacancy is not filled within 14 days after it has occurred; or
- (b) the appointment of an administrator is revoked by an order made under subsection (6),

the Supreme Court may, on the application of the licensee or person in respect of whom that administrator was appointed, make an order vesting in or transferring to that licensee or person any property which that administrator holds in trust for that licensee or person by virtue of section 60E (6).

Travel Agents (Amendment).

SCHEDULE 6—continued.

**INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—continued.**

(8) Except where the licensee or person in whose favour an order under subsection (3) or (7) is made has previously paid the amounts incurred by the administrator as expenses of the administration, the order shall provide for that licensee or person to pay those amounts to the administrator or, if those amounts have been paid to the administrator out of the fund as provided in section 600 (1), to the Board.

(9) Where an application is made under subsection (2) or (4), the licensee or other person in respect of whose affairs and property an administrator was appointed is—

- (a) unless the Supreme Court dispenses with service, entitled to be served with a copy of the originating process; and
- (b) entitled to appear and be heard at the hearing of the application, either personally or by his counsel or solicitor.

(10) Where an application is made under subsection (6) or (7), the Board is entitled—

- (a) to be served with a copy of the originating process; and
- (b) to appear and be heard at the hearing of the application, either by any of its officers or by its counsel or solicitor.

Travel Agents (Amendment).

 SCHEDULE 6—*continued.*

 INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
 1973—*continued.*

Expenses
of
adminis-
trator.

60o. (1) All amounts incurred by an administrator in the course of his administration (including money payable to him as remuneration for his services and the costs of bringing or defending or otherwise participating in legal proceedings in the course of and in connection with his administration) shall, to the extent that they have not otherwise been paid to the administrator or met under this Part, be paid to him by the Board out of the fund.

(2) Any amounts paid or payable to an administrator out of the fund as expenses of the administration (including any reimbursement made pursuant to section 60p) shall be recoverable in the Supreme Court by the Board from the licensee or person in respect of whom the administrator was appointed as a debt due from that licensee or person to the Board.

(3) The Board and an administrator may enter into an agreement as to the amount to be paid to the administrator as his remuneration, and in default of any such agreement, the Supreme Court may, on the application of the Board or of the administrator, determine the amount of remuneration to be paid to the administrator.

(4) The Supreme Court may, on the application of a licensee or person in respect of whom an administrator has been appointed made within the prescribed period, re-open any agreement entered into under subsection (3) with respect to the remuneration paid or to be paid to that administrator and

Travel Agents (Amendment).

SCHEDULE 6—*continued.*

INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
1973—*continued.*

determine the amount of remuneration that, in the opinion of the Court, ought, in fairness to that licensee or person, to have been agreed to, and, where the amount of remuneration agreed to has been paid to that administrator and that amount exceeds the amount determined by the Court, order the excess to be refunded to that licensee or person.

(5) Where, in the course of proceedings under subsection (2) taken against a licensee or person in respect of whom an administrator has been appointed, it appears to the Supreme Court that the amounts sought to be recovered from that licensee or person in respect of the expenses of administration are excessive, the Court may—

- (a) by order, direct that an account be taken between the Board and the administrator; and
- (b) by further order or orders, relieve that licensee or person from payment of any amount in excess of the amount which is adjudged by the Court as being fairly payable by that licensee or person in respect of those expenses, and, if any such excess amount has been paid to or allowed in account by the Board to the administrator, direct that excess amount to be refunded by the administrator.

60P. If any claim or charge is made by any person against an administrator for any act or omission committed in good faith by the administrator, or by any employee or agent of the administrator, and in execution or purported execution of the powers conferred, Claim or charge against administrator may be paid from fund.

Travel Agents (Amendment).

 SCHEDULE 6—*continued.*

 INSERTION OF PART VIA INTO THE TRAVEL AGENTS ACT,
 1973—*continued.*

or the duties imposed, on him by or under this Part, the Board shall reimburse the administrator out of the fund in respect of any costs, charges, expenses or damages which he has reasonably incurred in relation to the claim or charge.

Power of
Supreme
Court to
make
certain
orders.

60Q. For the purpose of enabling an administrator to administer the affairs and property of the licensee or person in respect of whom he is appointed, the Supreme Court may, on the application of that administrator and without derogating from any other provision of this Part, make orders authorising that administrator to do such things as the Court thinks fit.

Reports,
etc., by
administra-
tor.

60R. Subject to any orders made or directions given by the Supreme Court under this Part, an administrator shall, at such times as the Court determines, provide the Court and the Board with a report of his administration containing such information as the Court requires, and on the conclusion of that administration, he shall forthwith lodge with the Court, in addition to his final report, all records in his possession or under his control relating to that administration, and subject to any order of the Court directing the destruction or other disposal of those records, those records shall be kept in the custody of the Court for such period as the Court may determine.

Travel Agents (Amendment).

SCHEDULE 7.

Sec. 4.

AMENDMENTS TO PART VIII OF THE TRAVEL AGENTS ACT,
1973.

(1) (a) Section 67 (a)—

After “obtained”, insert “and who is entitled to give that consent”.

(b) Section 67 (c)—

Omit the paragraph, insert instead :—

- (c) for the purposes of or in connection with proceedings before any court or any tribunal exercising judicial functions or of any report of any such proceedings; or

(2) Section 69 (b)—

Omit the paragraph, insert instead :—

- (b) where it is addressed to a licensee or an applicant for a license—

- (i) by delivering it to the place of residence or business of that licensee or applicant last known to the Board and by leaving it for that licensee or applicant with a person who apparently resides or, as the case may be, is apparently employed at that place, being a person who has apparently attained the age of 16 years; or
- (ii) by sending it by certified mail in a duly stamped and properly addressed envelope to that licensee or applicant at his place of residence or business last known to the Board,

Travel Agents (Amendment).

SCHEDULE 7—continued.
**AMENDMENTS TO PART VIII OF THE
TRAVEL AGENTS ACT, 1973—continued.**
(3) Section 73 (3)—

After “(other than section 74)”, insert “or of the regulations”.

(4) Section 74A—

After section 74, insert :—

74A. Any person who, without reasonable excuse (the burden of proof of which is on him)—

- (a) obstructs, hinders or delays an inspector in the exercise by him of any power conferred on inspectors by this Act;
- (b) refuses or delays the admission to any place of an inspector in the exercise by him of the power of entry conferred by section 9A;
- (c) fails to comply with a request of an inspector made pursuant to the exercise by him of any power conferred by section 9A;
- (d) conceals from an inspector any person whom the inspector wishes to examine or prevents any such person from being examined by an inspector or attempts so to conceal or prevent any person; or
- (e) conceals from an inspector, or destroys, mutilates or alters, any record that an inspector is empowered by section 9A to inspect,

is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

Offence to
obstruct,
etc.,
inspector.

Travel Agents (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART VIII OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

(5) (a) Section 78 (2) (d)—

Omit the paragraph, insert instead :—

- (d) prescribe conditions and restrictions to which licences or any class of licences are or is to be subject and prescribe conditions and restrictions that the Board is empowered to impose when granting an application for a licence and during the currency of a licence;

(b) Section 78 (2) (g)—

Omit “paragraph (e).”, insert instead “paragraph (e);”.

(c) Section 78 (2) (h), (i), (j)—

After section 78 (2) (g), insert :—

- (h) prescribe the records to be kept by a licensee (in addition to those required to be kept by virtue of Part VA) and the form and manner of keeping records so prescribed;
- (i) require licensees to appoint auditors, prescribe the duties and privileges of auditors so appointed, provide for the payment of the fees and expenses of any such auditors, and provide for the resignation and removal of any such auditors;
- (j) provide for the disposal of unclaimed money held by a licensee in a trust account kept by him, being unclaimed money to which the Unclaimed Moneys Act, 1917, does not apply; and

Travel Agents (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART VIII OF THE
TRAVEL AGENTS ACT, 1973—*continued.*

- (k) regulate the publication of advertisements offering, or notifying the availability of, the services of travel agents and prescribe the form and content of those advertisements.
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SCHEDULE 8.

Sec. 5.

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpreta-
tion.

1. In this Schedule—

“Board” means the Travel Agents Registration Board constituted under the Principal Act;

“Principal Act” means the Travel Agents Act, 1973.

Licences.

2. (1) A licence which, immediately before the commencement of Schedule 2, was in force under the Principal Act shall be deemed to be a licence issued under section 13 of that Act (as in force after that commencement) and shall continue in force until cancelled under that Act (as so in force).

(2) Where, before the commencement of Schedule 2, an application for a licence has been made under section 12 of the Principal Act (as in force immediately before that commencement) and that application has not been granted, refused or withdrawn before that commencement, that application shall be deemed to be an application made under that section (as in force after that commencement) and shall be dealt with accordingly.

(3) Where, before the commencement of Schedule 2, an application for the renewal of a licence has been made under section 12 of the Principal Act (as in force immediately before that commencement) before the date on which that licence would, but for subsection (6) of that section (as so in force), have expired and the application has not been granted, refused or withdrawn before that commencement, the provisions of that Act relating to the renewal of licences (as so in force) shall continue to apply in respect of that application as if Schedule 2 had not commenced and if, pursuant to those provisions, the licence is renewed, that licence shall be deemed to be a licence issued under section 13 of the Principal Act (as in force after that commencement) and shall continue in force until cancelled under that Act (as so in force).

Travel Agents (Amendment).

SCHEDULE 8—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(4) Where, before the commencement of Schedule 2, an application for the restoration of a licence has been made under section 14 of the Principal Act (as in force immediately before that commencement) and that application has not been granted, refused or withdrawn before that commencement, that application shall be deemed to be an application made under section 12 of the Principal Act (as in force after that commencement) and shall be dealt with accordingly.

(5) Where, before the commencement of Schedule 2, an application to vary a licence has been made under section 15 of the Principal Act (as in force immediately before that commencement) and that application has not been disposed of before that commencement, the provisions of that Act relating to applications to vary licences (as so in force) shall continue to apply in respect of that application as if that Schedule had not commenced.

(6) Where a licence is continued in force by virtue of this clause and the form of that licence does not conform to the form of a licence that would be issued under section 13 of the Principal Act (as in force after the commencement of Schedule 2), the Board may, by notice in writing served on the holder of that licence, require that holder to deliver that licence to the Board within such period as may be specified in the notice.

(7) On the delivery to the Board of a licence in accordance with subclause (6) of this clause, the Board may make such amendments to the form of the licence as may be necessary to make it conform to the form of a licence that would be issued under section 13 of the Principal Act (as in force after the commencement of Schedule 2) or, if the board considers it necessary or expedient to do so, substitute for that form of licence a form of licence that would be issued under that section (as so in force).

(8) A substitution made under subclause (7) of this clause does not interrupt or otherwise affect the continuity of the original licence.

Travel Agents (Amendment).

SCHEDULE 8—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(9) If the holder of a licence fails to comply with a notice served on him under subclause (6) of this clause within the period specified in the notice, the Board may cancel the licence and, on so doing, shall cause a notice of that cancellation to be served on the person who was the holder of that licence.

Disciplinary provisions.

3. Any proceeding taken under Part IV of the Principal Act before the commencement of Schedule 3 and not disposed of before that commencement shall be disposed of as if that Schedule had not commenced.

Appeals.

4. Any appeal made under Part V of the Principal Act before the commencement of Schedule 3 and not disposed of before that commencement shall be disposed of as if that Schedule had not commenced.

Travel Agents Fidelity Guarantee Fund.

5. All money forming part of the Travel Agents Fidelity Guarantee Fund established under section 43 of the Principal Act (as in force immediately before the commencement of Schedule 5), shall, on and after that commencement, form part of the Travel Agents Compensation Fund established under that section (as in force after that commencement).

Claims against Travel Agents Fidelity Guarantee Fund.

6. Where, immediately before the commencement of Schedule 5—

- (a) any claim has been made under Part VI of the Principal Act (as in force immediately before that commencement) but has not been finally determined by the Board in accordance with that Part (as so in force); or
- (b) any claim could have been made to the Board under that Part (as so in force) but has not been so made,

Travel Agents (Amendment).

SCHEDULE 8—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

that claim may be determined by, or, as the case may be, that claim may be made to, and received and determined by, the Board as if it were a claim that could be made under that Part (as in force after that commencement), and that Part (as so in force), so far as applicable and with any necessary modifications, shall apply in respect of that claim accordingly.
