

# **BUSINESS LICENCES ACT 1990 No. 72**

NEW SOUTH WALES



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SCHEDULE 1 - BUSINESS LICENCES TO WHICH ACT APPLIES  
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# **BUSINESS LICENCES ACT 1990 No. 72**

NEW SOUTH WALES



**Act No, 72, 1990**

An Act relating to business licences; to amend various Acts; and for other purposes. [Assented to 4 December 1990]

**The Legislature of New South Wales enacts:**

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Business Licences Act 1990.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Definitions**

3. (1) In this Act:

"**business licence**" means a licence to which this Act applies;

"**cancel**" a licence includes revoke the licence;

"**component licence**" means a business licence which is a component licence of a master licence;

"**Director**" means the Director of Business Licences under this Act;

"**grant**" a licence includes issue, give or otherwise grant the licence;

"**licence**" includes permit, authority, approval, consent, certificate of accreditation, certificate of registration, exemption and any other similar matter under an Act or statutory instrument;

"**licensing Act**" means the Act (other than this Act) or other statutory instrument which provides for the grant of the business licence concerned;

"**licensing authority**" means the body or person authorised under the licensing Act to determine whether a business licence should be granted;

"**master licence**" means a master licence under this Act;

"**renew**" a licence includes grant a further licence with effect from the expiration of the current licence.

- (2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and

- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**Objects of Act**

4. The objects of this Act are as follows:

- (a) to improve business efficiency and government administration and to reduce costs by the co-ordination and consolidation of business licensing systems;
- (b) to provide a centralised facility for business organisations to obtain licences required for the conduct of their businesses;
- (c) to avoid duplication by government agencies in the collection, storage and processing of licensing and other information;
- (d) to enable business organisations and government agencies to utilise the centralised licensing facility for the provision of services required to conduct businesses or for government administration;
- (e) to ensure that licensing authorities retain their principal responsibilities, such as their responsibility within the centralised licensing facility for determining whether particular licences should be granted and their responsibility for the enforcement of licensing requirements.

**PART 2 - BUSINESS LICENCES TO WHICH ACT APPLIES**

**Business licences to which Act applies**

5. (1) This Act applies to the licences referred to in Schedule 1 (in this Act called **business licences**).

(2) This Act applies to any such licence whether or not the activity licensed relates to the conduct of a business.

(3) The regulations may amend Schedule 1 by inserting, omitting or amending a reference to a licence granted under a statutory instrument (other than an Act).

**Grant etc. of business licences by Director under this Act instead of by licensing authority**

6. (1) A business licence may be granted only as a component licence of a master licence in accordance with this Act. Any such licence may be renewed only in accordance with this Act.

(2) This section applies despite anything to the contrary in the licensing Act.

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(3) This section does not affect the operation of section 39 of the Business Franchise Licences (Petroleum Products) Act 1987 or section 40 of the Business Franchise Licences (Tobacco) Act 1987 (Deemed grant of a licence on payment of the relevant fee for a further licence).

### **PART 3 - NATURE AND EFFECT OF MASTER AND COMPONENT LICENCES**

#### **Master licence comprises Component licences**

7. (1) A master licence is a licence under this Act which comprises 1 or more component licences.

(2) A master licence confers no authority other than that conferred by its component licence or licences.

(3) All the component licences included in a master licence must be granted to the same person or group of persons.

#### **Component licence to be regarded as business licence under licensing Act**

8. A component licence is taken to be, for all purposes, a relevant business licence under the licensing Act.

#### **Director acts on behalf of licensing authority**

9. The Director, in granting or exercising any other functions relating to a component licence, acts on behalf of the licensing authority, and anything done or omitted to be done by or in relation to the Director in connection with the component licence is taken to have been done or omitted by or in relation to the licensing authority.

### **PART 4 - GRANT ETC. OF LICENCES**

#### **Division 1 - Provisions relating to applications**

##### **Applications to Director for grant of licences**

10. Applications for the grant of business licences (as component licences of a new master licence) are to be made to the Director.

**Applications to Director for additional licences, renewals, transfers etc.**

**11. (1)** The holder of a master licence may apply to the Director for one or more of the following:

- (a) the grant of an additional component licence;
- (b) the renewal of all or any of the component licences;
- (c) the transfer of all or any of the component licences to another person or group of persons;
- (d) the amendment of particulars included in all or any of the component licences.

**(2)** An application for the renewal, or transfer or amendment of a component licence may be made only if the licence may be renewed, transferred or amended under the licensing Act.

**Form and lodgment of applications**

**12.** An application under this Part

- (a) is to be in the form approved by the Director; and
- (b) is to be lodged with the Director or with a person nominated by the Director.

**Application particulars etc.**

**13. (1)** An application under this Part is to contain such particulars and be accompanied by such documents as are required by the approved form of application.

**(2)** The particulars and documents required in or to accompany an application must include those required by the licensing Acts for each component licence concerned or by any arrangement under Part 5 with the licensing authority concerned.

**(3)** The Director may, before dealing with an application, require the applicant to furnish to the Director such additional particulars or documents as are necessary to enable the application to be dealt with.

**Applications to be dealt with in accordance with licensing Acts**

**14.** An application under this Part is to be dealt with (subject to this Act) in accordance with the provisions of the licensing Act relating to the grant, renewal, transfer or amendment of the relevant licence or licences.



**Applications to be dealt with by Director**

**15. (1)** An application under this Part is to be dealt with by the Director acting on behalf of the licensing authorities for the component licences concerned.

- (2)** The Director may
- (a)** approve the application; or
  - (b)** refuse the application,

but only if the Director is authorised to do so by the licensing authorities for the component licences concerned.

**(3)** The authority of the Director may be conferred by an arrangement under Part 5 or by a determination made by the licensing authority after the referral of the application by the Director.

**(4)** If an application is approved, the relevant component licence is to be granted, renewed, transferred or amended by the Director on behalf of the licensing authority.

**(5)** The Director may exercise such functions of the licensing authority as are necessary to enable the Director to deal with an application in accordance with this section.

**(6)** The Director may approve an application in respect of some of the component licences concerned and refuse the application in respect of the remainder of the component licences.

**(7)** The Director may deal with an application under this Part in respect of some of the component licences concerned and defer a decision in respect of the remainder of the component licences.

**(8)** The Director may decline to deal with an application that has not been duly completed or made under this Act,

**(9)** An applicant may, with the approval of the Director, amend the application before it is finally dealt with by the Director.

**Applications for renewal of licences**

**16. (1)** If (before the expiry of a component licence referred to in Part 2 of Schedule 1) the holder of a master licence pays the requisite fee and provides the requisite information to the Director:

- (a)** the holder is taken to have applied for the renewal of the component licence; and

(b) on the expiry of the current licence, the component licence is taken to have been renewed with effect from that expiry.

(2) For the purposes of this section:

(a) the requisite fee is the licence fee (if any) payable under this Act for the renewal of the licence; and

(b) the requisite information is information required by the Director on any change in the particulars of the component licence and information (if any) required 'under the licensing Act to accompany the licence fee.

(3) If the Director has required the holder of a component licence to pay the licence fee within a specified period before the expiry of the licence, the requisite fee for the licence includes any additional amount required because of the late payment of the fee.

(4) If the requisite fee or information is paid or provided after the expiry of the component licence (but within 3 months of that expiry), the Director may:

(a) accept the payment or information if authorised by an arrangement under Part 5 with the licensing authority concerned; and

(b) direct in writing that the component licence be renewed with effect from the date of the direction.

Any such direction has effect according to its tenor.

(5) This section does not apply to the renewal of a component licence if the Director notifies the holder of the licence before its expiry that an application for renewal of the licence will be required. If the requisite fee has already been paid it must be refunded.

(6) The Director is to notify the holder of a component licence that an application for renewal will be required if the licensing authority concerned requests the Director to do so. Any such request must be made within the time and in the manner required by an arrangement under Part 5 with the licensing authority or, subject to any such arrangement, within the time and in the manner determined by the Director.

(7) A component licence which is renewed under this section expires on:

(a) the common expiry day for the licence next following its renewal; or

- (b) if the licence was granted or last renewed (as the case requires)  or a period that exceeded 1 year - the common expiry day for the licence next following the expiration of the same period after its renewal.

(8) This section does not operate to renew a licence that has been cancelled, suspended or surrendered.

(9) This section does not prevent the cancellation, suspension or surrender of a renewed licence.

(10) This section does not apply to a licence under the Business Franchise Licences (Petroleum Products) Act 1987 or the Business Franchise Licences (Tobacco) Act 1987.

## **Division 2 - Provisions relating to fees for licences etc.**

### **Types of fees**

17. (1) There are the following types of fees for the purposes of this Division:

- (a) application fees - being the fees required to accompany an application under this Part;
- (b) licence fees - being the fees payable for the grant or renewal of a component licence;
- (c) periodic licence fees - being the fees payable periodically by the holder of a master licence in order to maintain in force a component licence referred to in Part 1 of Schedule 1;
- (d) special fees - being the fees payable to the Director for duplicate licences or for any other matters for which a special fee may be required to be paid by this Act or the regulations.

(2) In this Division, a reference to a fee is a reference to any such application fee, licence fee, periodic licence fee or special fee.

(3) This Division does not apply to charges for services provided by the Director under Part 5 at the request of any person.

### **Fixing of fees by Ministerial order**

18. (1) The Minister may, by order published in the Gazette, determine:

- (a) the matters for which fees referred to in section 17 are payable; and

- (b) the amount of those fees or the method of calculating the amount of those fees; and
- (c) the time for payment of those fees; and
- (d) the circumstances in which any such fee (or any part of such fee) may be refunded or waived.

(2) The provisions of any order under this section relating to the fees for a component licence (other than special fees) are to be in accordance with the requirements notified by the licensing authority with the approval of the Minister administering the licensing Act.

(3) The Interpretation Act 1987 applies to an order under this section as if the order were a statutory rule within the meaning of that Act. Accordingly, the order is subject to disallowance by either House of Parliament.

(4) If any order under this section determines that a fee (other than a special fee) is payable under this Act, the order must fix

- (a) a separate fee in respect of each component licence concerned; or
- (b) a single fee in respect of a number of component licences concerned, together with the method by which the fee is to be divided among those component licences.

(5) An order may enable a periodic licence fee to be paid by instalments.

(6) An order may, in connection with the late payment of a licence fee or a periodic licence fee, require an additional amount to be paid as part of the fee.

### **Payment of application fees**

19. An application under this Part is to be accompanied by the relevant application fee (if any).

### **Payment of licence fees**

20. (1) A component licence is not to be granted or renewed unless the relevant licence fee (if any) has been paid to the Director.

(2) If the licence fee accompanied the application for the grant or renewal of the licence and the application is refused, the fee must be refunded.

**Payment of periodic licence fees for licences of indefinite duration**

**21. (1)** The holder of a component licence referred to in Part 1 of Schedule 1 is required to pay to the Director the periodic licence fee (if any) for the licence.

(2) The due date for payment of a periodic licence fee is 1 month (or such other time determined by the Director) before the beginning of the period in respect of which it is payable.

(3) The holder of a component licence must, when paying a periodic licence fee, provide the Director with information required by the Director of any change in the particulars of the component licence and information (if any) required under the licensing Act to accompany the periodic licence fee.

(4) If, 1 month after the beginning of the period in respect of which a periodic licence fee is payable:

(a) the fee (and any additional amount for late payment) has not been paid; or

(b) the requisite information has not been provided, the component licence is taken to be surrendered.

(5) If a periodic licence fee is authorised to be paid by instalments, the first instalment only is required to be paid by the due date for payment of the periodic licence fee. If a subsequent instalment is not paid (and any additional amount for late payment), the component licence is taken to be surrendered 1 month after the due date for payment.

(6) If the requisite fee or information is paid or provided after the component licence is taken to be surrendered under this section (but within 3 months after that time), the Director may

(a) accept the payment or information if authorised by an arrangement under Part 5 with the licensing authorities concerned; and

(b) direct in writing that the component licence be restored with effect from the date of the direction.

Any such direction has effect according to its tenor.

**Amendment of licences - adjustment of fees**

**22. (1)** If:

- (a) an application is made for the amendment of a component licence; and
- (b) an additional amount would have been payable as the licence fee or periodic licence fee (at the time the fee was last paid) if the licence had been amended at that time,

the licence is not to be amended unless the additional amount of the fee has been paid to the Director.

(2) If the additional fee accompanied the application for the amendment of the licence and the application is refused, the additional fee must be refunded.

**Payment of special fees**

23. Special fees are to be paid to the Director in accordance with the order under which they are determined.

**Disbursement of fees (other than special fees) to licensing authorities**

24. (1) Fees (other than special fees) paid in respect of component licences are to be forwarded by the Director to the licensing authorities which administer those licences.

(2) However, the Director may deduct from the fees to be forwarded to a licensing authority any commission or other amount authorised by an arrangement under Part 5.

(3) The Director may, subject to any such arrangement, forward fees to licensing authorities at such times, and in such manner, as the Director thinks fit.

**Fees under Business Franchise Licences Acts not affected**

25. (1) This Division does not apply to or in respect of a licence under the Business Franchise Licences (Petroleum Products) Act 1987 or the Business Franchise Licences (Tobacco) Act 1987.

(2) However, the provisions of this Part relating to special fees apply to any such licence.

### **Division 3 - Provisions relating to licenses**

#### **Form of master licence**

**26. (1)** A master licence is to be in the form approved by the Director.

**(2)** The particulars included in a master licence must include those required by the licensing Acts for each component licence concerned or by any arrangement under Part 5 with the licensing authority concerned.

**(3)** Common particulars, relating to component licences may be grouped together in a master licence.

**(4)** Particulars in a master licence that do not appear in a component licence are to be taken to be common particulars that apply to all the component licences included in that master licence.

**(5)** Two or more component licences may be set out in the same document.

#### **Person may hold more than 1 master licence**

**27. (1)** A person may be granted more than 1 master licence (whether alone or jointly with other persons).

**(2)** However, if 2 or more master licences are held by the same person alone or by the same persons jointly, the Director may require the person or persons to surrender all or any of those licences and apply for the grant of the component licences Concerned in a single master licence.

**(3)** If any such requirement is not complied with within the time determined by the Director, the Director may (if satisfied that there is no reasonable objection to the merger of the licences) cancel the master licences concerned and grant a single master licence.

**(4)** If the same person or persons who hold a master licence apply for component licences to be included in another master licence, the Director may refuse to deal with the application and require the person or persons to make, instead, an application for the grant of the additional component licences in connection with their existing master licence.

**(5)** If an application is made for the transfer of component licences to a person who already holds a master licence, the Director may

refuse to deal with the application and require the person to make, instead, an application for the grant of the licences concerned as additional component licences of the master licence.

### **Conditions of licences**

**28. (1)** Component licences are subject to such conditions as are imposed in accordance with the licensing Acts or this section.

**(2)** In addition to any other conditions which may be imposed under the licensing Acts, conditions may be imposed if the Director considers they are necessary for the effective operation of the centralised licensing facility under this Act (so long as any such condition does not limit the authority conferred by the component licences).

**(3)** Any such additional conditions:

- (a)** may be imposed when the licence is granted or renewed; and
- (b)** may be imposed or amended at any time by notice in writing given to the holder of the licence; and
- (c)** have the same effect as conditions imposed in accordance with the licensing Act.

**(4)** All the conditions imposed on a component licence are to be taken to have been imposed by the licensing authority concerned.

**(5)** Conditions may be set out in an annexure or separate document.

### **Duration of licences**

**29. (1)** The period during which a component licence remains in force is (subject to this Act) the period applicable in accordance with the licensing Act.

**(2)** It is not necessary that all component licences included in a master licence remain in force for the same period.

**(3)** When all the component licences comprised in a master licence cease to be in force, the master licence expires.

### **Common expiry day for component licences**

**30. (1)** The Director may determine for each master licence the common expiry day for component licences included in that master licence.



(2) The Director may determine that component licences referred to in Part 2 of Schedule 1 and included in a master licence are to expire on the common expiry day (whether in the same year or in different years).

(3) The Director may determine that the periods in respect of which periodic licence fees are payable for component licences referred to in Part 1 of Schedule 1 and included in a master licence are to end on the common expiry day (whether in the same year or in different years).

(4) Licensing authorities are required to comply with any determination of the Director under this section.

(5) The Director may, for the purposes of this section, make any necessary adjustments to the fees payable for component licences (including applying any excess fees paid in connection with a licence to the payment of future fees payable in respect of the licence).

(6) Any determination of the Director under this section is subject to the licensing Acts.

(7) This section does not apply to a licence under the Business Franchise Licences (Petroleum Products) Act 1987 or the Business Franchise Licences (Tobacco) Act 1987.

### **Joint licences**

**31. (1)** A master licence may be granted jointly to 2 or more persons if each component licence may be so granted under the licensing Acts.

(2) Anything which is authorised or required to be done under this Act by or in relation to the holder of a master licence or an applicant may, in the case of any such joint licence, be done by or in relation to any one or more of the holders of the licence or applicants.

### **Cancellation or suspension of component licences**

**32. (1)** A component licence may be cancelled or suspended (without affecting any other component licence included in the master licence):

- (a) by the licensing authority in accordance with the licensing Act;
- or
- (b) by the Director acting on behalf of the licensing authority in accordance with an arrangement under Part 5; or

(c) in accordance with any other law.

(2) When a licensing authority cancels or suspends a Component licence (or revokes any such suspension), it must notify the Director immediately of that fact.

(3) The Director may, if authorised by the licensing authority, give the holder of the relevant licence notice of the cancellation or suspension on behalf of the licensing authority (together with notice of the reasons for the decision or any other matter required by the licensing Act).

### **Surrender of master or component licence**

33. The holder of a master licence may, by notice in writing to the Director, surrender the master licence or any of the component licences.

### **Return of licence**

34. (1) If a master licence (or any component licence) has been duly cancelled, suspended or surrendered or has expired, the holder of the licence must return the master licence to the Director within 7 days or within such other time as the holder is required to do so by the Director or by a licensing authority on behalf of the Director.

Maximum penalty 25 penalty units.

(2) The Director may require the holder of a master licence to return the licence to the Director, within such time as the Director requires, so that the Director may incorporate any changes in the particulars of the licence. The holder must comply with any such requirement.

Maximum penalty 25 penalty units.

(3) A master licence may be returned personally to an office of the Director or by post or in such other manner as may be determined by the Director.

(4) A specified part of a master licence, instead of the whole licence, is to be returned under this section in any case required by the Director.

### **Furnishing of information by licensees**

35. (1) The holder of a component licence is required to provide the Director with such information relating to any change in the particulars

of the licence as the Director requires by notice given to the holder of the licence.

Maximum penalty 25 penalty units.

(2) The information is to be provided in such manner and within such time as the Director specifies in the notice.

(3) In this section, "**particulars**" of a licence include particulars shown in a register of such licences kept under the licensing Act.

### **Duplicate master licences**

**36. (1)** The Director may issue a duplicate master licence if the Director is satisfied that the original licence has been lost or destroyed.

(2) A duplicate licence has the same effect as the original licence.

### **Copy of licence for exhibition, carriage or production**

**37. (1)** The Director may issue to the holder of a master licence a certificate relating to any component licence included in the master licence.

(2) The exhibition, carriage or production of any such Certificate is sufficient for the purpose of complying with any requirement of a licensing Act or other law for the exhibition, carriage or production of the component licence.

(3) The holder of a master licence must, if the Director requires the holder to do so, return any such certificate to the Director within such time as is specified by the Director.

Maximum penalty 25 penalty units.

(4) Any such notification may be returned personally or by post or in such other manner as may be determined by the Director.

### **Licensing authority may inspect relevant records held by Director**

**38. (1)** A licensing authority is entitled to inspect at any reasonable time the records of the Director relating to the component licences administered by the licensing authority.

(2) In the case of computerised or similar records, the Director must give the licensing authority access to the information contained in the records.

**Offence - false or misleading statements**

39. A person who makes, in or in connection with an application under this Part or when furnishing information under this Part, a statement which the person knows to be false or misleading is guilty of an offence.

Maximum penalty 25 penalty units.

**PART 5 - DIRECTOR OF BUSINESS LICENCES**

**Director of Business Licences**

40. (1) The Managing Director of Business and Consumer Affairs is to be the Director of Business Licences.

(2) The Director is, in the exercise of the Director's functions under this or any other Act, subject to the control and direction of the Minister.

**Delegation of functions by Director**

41. (1) The Director may delegate to an authorised person any of the Director's functions under this or any other Act, other than this power of delegation.

(2) The Director may sub-delegate to an authorised person any function delegated to the Director under this or any other Act, subject to any condition of the delegation to the Director.

(3) In this section:

"authorised person" means:

- (a) a member of the staff assisting the Director, or
- (b) a licensing authority or a member of the staff of a licensing authority; or
- (c) any other person or class of persons authorised by the regulations.

**Use of staff and facilities of other agencies by Director**

42. The Director may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a licensing authority, a government department or a public or local authority.

**Arrangements with licensing authorities for purposes of licence Administration**

**43. (1)** The Director may enter into arrangements in writing with a licensing authority in connection with any matter that is authorised by this or any other Act to be dealt with by such an arrangement or that is necessary or convenient to be so dealt with for the purposes of this Act.

- (2)** Without limiting subsection (1), an arrangement may
- (a)** set out the circumstances in which the Director is authorised to grant or renew a component licence; or
  - (b)** provide for the payment to licensing authorities of fees collected on their behalf by the Director; or
  - (c)** provide for the reimbursement of the Director for the costs incurred in the administration of this Act; or
  - (d)** provide for the notification to licensing authorities or the Director of decisions or other matters affecting component licences.

**(3)** Arrangements for the reimbursement of the Director may include an arrangement for the deduction of commission or other amounts from fees collected by the Director on behalf of a licensing authority.

**(4)** Pending the making of an arrangement for the reimbursement of the Director, the amount payable by a licensing authority may be determined by the Director.

**(5)** A licensing authority is authorised to enter into an arrangement under this section.

**Other functions of Director**

**44. (1)** The Director may utilise the services of any staff assisting the Director or any of the Director's facilities to provide commercial and other services to licensing authorities and other persons or on their behalf (whether or not in connection with business licences).

**(2)** Without limiting the generality of subsection (1), the Director may provide any of the following services:

- (a)** services relating to the exercise of the functions of the licensing authority under a licensing Act in connection with business licences or other matters;

- (b) services relating to the grant or administration of licences other than business licences;
- (c) services relating to the receipt and processing of information required to be furnished under an Act or statutory instrument;
- (d) services relating to the storage of data;
- (e) services relating to the use of information obtained by the Director under this Act, such as the provision of mailing lists.

(3) The charges for a service and other conditions on which a service is provided are to be as agreed between the Director and the authority or person for whom the service is provided.

(4) The Director must not disclose, in connection with a service provided under this section, information which a licensing authority requires the Director to keep confidential.

#### **Arrangements for supply of services to Director**

**45. (1)** The Director may contract with any suitable person or body for the supply to the Director of any services required for the exercise of the Director's functions under this Act.

- (2) Such services include:
- (a) the provision of a centralised facility for payment of money or settlement of accounts; and
  - (b) the collection and processing of information; and
  - (c) the dissemination of information.

### **PART 6 - MISCELLANEOUS**

#### **Secrecy**

**46. (1)** This section applies to a person who is or has been:

- (a) the Director; or
- (b) a member of the staff assisting the Director; or
- (c) a person who has been given access to information obtained by the Director under this Act.

(2) A person to whom this section applies must not disclose any information concerning the affairs of any other person obtained in the administration of this Act unless the disclosure is made:

- (a) with the consent of the other person; or
  - (b) in connection with the administration of this Act or a licensing Act; or
  - (c) for the purposes of any legal proceedings.
- Maximum penalty 50 penalty units.

### **Exchange of information between Director and licensing authorities**

47. (1) Information obtained by the Director in the administration of this Act may be disclosed to a licensing authority for the purposes of the administration of a licensing Act. For the purposes of the licensing Act, that information is to be taken to have been obtained in the administration of the licensing Act.

(2) Information obtained by a licensing authority in the administration of a licensing Act may (despite anything to the contrary in the licensing Act) be disclosed to the Director for the purposes of the administration of this Act.

(3) However, the Director is not authorised to disclose particular information relating to a component licence to another licensing authority or other person if the licensing authority administering the licence has requested the Director to keep that particular information confidential

### **Act binds the Crown**

48. This Act binds the Crown.

### **Recovery of fees etc. by Director**

49. Any fee, charge or money due to the Director may be recovered by the Director as a debt due to the Crown in any court of competent jurisdiction.

### **Proceedings for offences**

50. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **Regulations**

51. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required

or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

### **Savings, transitional and other provisions**

52. Schedule 2 has effect.

### **Amendment of other Acts**

53. Each Act specified in Schedule 3 is amended as set out in that Schedule.

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## **SCHEDULE 1 - BUSINESS LICENCES TO WHICH ACT APPLIES**

(Sec. 5)

### **Part 1 - Licences of indefinite duration**

1. Licence under the Motor Vehicle Repairs Act 1980 to carry on the business of repairing motor vehicles.
2. Authority under the regulations made under the Traffic Act 1909 to use premises for the purposes of conducting inspections of motor vehicles to determine whether they are suitable for safe use or comply with the requirements of that Act or regulations.
3. Dealer's licence, auto-dismantler's licence, wholesaler's licence, motor vehicle parts reconstructor's licence, car market operator's licence, motor vehicle consultant's licence or prescribed licence under the Motor Dealers Act 1974.
4. Travel agent's licence under the Travel Agents Act 1986.
5. Hairdresser's licence under the Factories, Shops and Industries Act 1962.
6. Operative baker's certificate under the Bread Act 1969.



SCHEDULE 1 - BUSINESS LICENCES TO WHICH ACT  
APPLIES - *continued*

**Part 2 - Licences of fixed duration**

1. Petroleum products, retailer's licence, petroleum products wholesaler's licence or group licence under the Business Franchise Licences (Petroleum Products) Act 1987.
2. Tobacco retailer's licence, tobacco wholesaler's licence or group licence under the Business Franchise Licences (Tobacco) Act 1987.
3. Licence under the Dangerous Goods Act 1975:
  - (a) to keep dangerous goods in or on premises; or
  - (b) authorising the carriage of dangerous goods; or
  - (c) authorising the importation of authorised explosives into the State; or
  - (d) authorising the manufacture of explosives in or on premises; or
  - (e) authorising the sale of explosives.
4. Certificate of registration under the Occupational Health and Safety (Pest Control) Regulation 1988 of the business of a pest controller.
5. Pest control operator's licence or trainee pest control operator's permit under the Occupational Health and Safety (Pest Control) Regulation 1988.
6. Asbestos removal contractor's licence under the Occupational Health and Safety (Asbestos Removal Contractors) Regulation 1988.
7. Certificate of accreditation as a provider of rehabilitation services under the Workers Compensation (General Rehabilitation Programmes) Regulation 1988.

**SCHEDULE 2 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

(Sec. 52)

**Part 1 - Regulations**

**Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or on a licence becoming a business licence.

(2) Any such provision may, if the regulations *so* provide, take effect from the date of assent to this Act.

(3) To the extent to which such a provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

**Part 2 - Other provisions**

**Transitional arrangement - grant etc. of business licences by licensing authority**

2. (1) A licensing authority may administer business licences, or any class of business licences, under the licensing Act (and not under this Act) if the licensing authority is authorised to do so:

- (a) by a provision of this Schedule or the regulations under this Act; or
- (b) by order of the Minister published in the Gazette; or
- (c) in the case of a particular business licence - by an approval in writing given by the Director to the authority.

(2) An authorisation under this clause is subject to such conditions as are specified or referred to in the relevant provision, order or approval.

SCHEDULE 2 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - continued

(3) For the purposes of the administration of business licences under this clause, the relevant licensing Act is to be construed as if it had not been amended by this Act.

(4) In this clause, "**administration**" of a business licence includes the grant, renewal, transfer, amendment or surrender of the licence.

**Continuation or termination of licences on their becoming business licences under this Act**

3. (1) A licence referred to in Schedule 1 which is in force immediately before it becomes a business licence under this Act continues in force, subject to this Act and the licensing Act.

(2) Any such licence (unless it sooner ceases to have effect) is to cease to have effect on such date after it becomes a business licence as the Director determines. On its ceasing to have effect in accordance with such a determination, the Director is to grant a corresponding component licence to the former holder subject to and in accordance with this Act.

(3) Until any such licence ceases to have effect, the licensing authority may administer the licence in accordance with clause 2.

(4) Subclauses (2) and (3) do not apply to a licence to which clause 4 applies.

**Special provision relating to existing Business Franchise Licences**

4. (1) This clause applies to a licence under the Business Franchise Licences (Petroleum Products) Act 1987 or the Business Franchise Licences (Tobacco) Act 1987, being a licence in force immediately before it becomes a business licence under this Act.

(2) A licence to which this clause applies is to be taken to be a component licence granted in accordance with this Act,

(3) Section 39 of the Business Franchise Licences (Petroleum Products) Act 1987 and section 40 of the Business Franchise Licences (Tobacco) Act 1987 continue to apply to any licences to which this clause applies.

(4) The Director may issue to a person who the Director is satisfied is the holder of a licence to which this clause applies the appropriate

**SCHEDULE 2 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued***

form of master licence. The issue of any such form to a person is not evidence or an admission that the person does in fact hold such a licence

**Use of existing signs showing licence number**

5. (1) If the holder of a component licence is required under the licensing Act to display any sign or notice which shows the relevant licence number, the holder satisfies that requirement if the sign or notice displays the licence number of the business licence before it became a component licence.

(2) This clause applies only to a sign or notice which was erected before the business licence became a component licence.

(3) The regulations may exclude from the application of this clause any sign or notice of a class prescribed by the regulations.

**SCHEDULE 3 - AMENDMENT OF OTHER ACTS**

(Sec. 53)

**BREAD ACT 1969 No. 54**

(1) Section 4 (Definitions):

Omit the definition of "certificate" from section 4 (1), insert instead:

**'certificate'** means an operative baker's certificate which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

**'Director of Business Licences'** means the Director of Business Licences under the Business Licences Act 1990;

(2) Section 13 (**Operative bakers' certificates**):

(a) Omit section 13 (3)-(4A), insert instead:

(3) An application for a certificate is to be made to the Director of Business Licences in accordance with the Business Licences Act 1990.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(4) A certificate remains in force until duly cancelled or surrendered.

(b) In section 13 (5) (a), before "grant", insert "authorise the Director of Business Licences to".

(3) Section 32 (Regulations):

From section 32 (1) (c) and (f), omit "and certificates" wherever occurring.

**BUSINESS FRANCHISE LICENCES (PETROLEUM PRODUCTS)  
ACT 1987 No. 94**

(1) Section 3 (**Definitions**):

(a) In section 3 (1), after the definition of "diesel fuel", insert "**Director of Business Licences**" means the Director of Business Licences under the Business Licences Act 1990;

(b) Omit the definition of "licence" from section 3(1), insert instead:  
"**licence**" means a retailer's licence, wholesaler's licence or group licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

(2) Section 35 (**Grant of licences**):

Omit section 35 (1), insert instead:

(1) The Chief Commissioner shall:

(a) on application being duly made to the Director of Business Licences; and

(b) on receipt by the Chief Commissioner of the particulars mentioned in section 36; and

(c) on payment to the Chief Commissioner of the fee assessed under this Part,

authorise that Director to grant the applicant a licence.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(3) Section 37:

Omit the section, insert instead

**Licensed premises**

37. (1) A licence must specify all the premises which are to be used for the business in respect of which the licence is granted.

(2) Premises may be added to or deleted from a licence in accordance with an application made by or on behalf of the licensee under the Business Licences Act 1990.

(4) Section 48:

Omit the section, insert instead

**Surrender of licences**

48. (1) The holder of a licence who has ceased to carry on the business authorised by the licence must, within 30 days of ceasing to carry on the business:

- (a) surrender the licence in accordance with the Business Licences Act 1990; and
- (b) notify the Director of Business Licences in writing when surrendering the licence of the address of the premises where records relating to that business will in future be kept.

Maximum penalty: 2 penalty units.

(2) The Director of Business Licences must notify the Chief Commissioner immediately of any such surrender and of the relevant address.

(5) Section 49 (**Appeal against failure or refusal to grant licence**):

(a) Omit section 49 (1) and (2), insert instead:

(1) If an application for a licence is refused or not dealt with, the applicant may appeal to the District Court.

(2) If the District Court is satisfied that a licence ought to have been granted, it may order the licence to be

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

granted on receipt by the Chief Commissioner of the licence fee.

(6) Section 63 (**False or misleading statements**):

Omit section 63 (1)(a), insert instead:

- (a) in connection with an application for a licence or any other application under this Act make a statement; or

**BUSINESS FRANCHISE LICENCES (TOBACCO) ACT 1987 No. 93**

(1) Section 3 (**Definitions**):

- (a) In section 3 (1), after the definition of "Chief Commissioner", insert:

**'Director of Business Licences'** means the Director of Business Licences under the Business Licences Act 1990;

- (b) Omit the definition of "licence" from section 3 (1), insert instead:

**"licence"** means a retailer's licence, wholesaler's licence or group licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

(2) Section 36 (**Grant of licences**):

Omit section 36 (1), insert instead

(1) Except as provided by subsection (2), the Chief Commissioner shall:

- (a) on application being duly made to the Director of Business Licences; and  
(b) on receipt by the Chief Commissioner of the particulars mentioned in section 37; and

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(c) on payment to the Chief Commissioner of the fee assessed under this Part,  
authorise that Director to grant the applicant a licence.

(3) Section 38:

Omit the section, insert instead:

**Licensed premises**

38. (1) A licence must specify all the premises which are to be used for the business in respect of which the licence is granted.

(2) Premises may be added to or deleted from a licence in accordance with an application made by or on behalf of the licensee under the Business Licences Act 1990.

(4) Section 49:

Omit the section, insert instead

**Surrender of licences**

49. (1) The holder of a licence who has ceased to carry on the business authorised by the licence must, within 30 days of ceasing to carry on the business:

- (a) surrender the licence in accordance with the Business Licences Act 1990; and
- (b) notify the Director of Business Licences in writing when surrendering the licence of the address of the premises where records relating to that business will in future be kept.

Maximum penalty 2 penalty units.

(2) The Director of Business Licences must notify the Chief Commissioner immediately of any such surrender and of the relevant address.



SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(5) Section 51 (**Appeal against failure or refusal to grant licence**):

Omit section 51 (1) and (2), insert instead:

(1) If an application for a licence is refused or not dealt with, the applicant may appeal to the District Court.

(2) If the District Court is satisfied that a licence ought to have been granted, it may order the licence to be granted on receipt by the Chief Commissioner of the licence fee.

(6) Section 70 (**False or misleading statements**):

Omit section 70 (1) (a), insert instead:

(a) in connection with an application for a licence or any other application under this Act make a statement; or

**DANGEROUS GOODS ACT 1975 No. 68**

(1) Section 4 (**Definitions**):

(a) After the definition of "director", insert:

**"Director of Business Licences"** means the Director of Business Licences under the Business Licences Act 1990;

(b) Omit the definition of "licence", insert instead:

**"licence"** means:

- (a) a licence to keep dangerous goods in or on premises; or
- (b) a licence authorising the carriage of dangerous goods; or
- (c) a licence authorising the importation of authorised explosives into the State; or
- (d) a licence authorising the manufacture of explosives in or on premises; or

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(e) a licence authorising the sale of explosives, which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

(2) Section 5 (**Savings and relationship to other laws**):

In section 5 (3), after "by or under", insert "the Business Licences Act 1990,".

(3) Section 8 (**Licensing of premises**):

- (a) In section 8 (1), before "issue", insert "authorise the Director of Business Licences to".
- (b) From section 8 (2), omit "The Chief Inspector shall not issue a licence", insert instead "A licence is not to be issued".

(4) Section 10 (**Licensing of vehicles and vessels**):

- (a) In section 10 (1), before "issue", insert "authorise the Director of Business Licences to".
- (b) From section 10 (2), omit "The Chief Inspector shall not issue a licence", insert instead "A licence is not to be issued".

(5) Section 17 (**Import licences and permits**):

- (a) In section 17 (1), before "issue", insert "authorise the Director of Business Licences to".
- (b) From section 17 (3), omit "The Chief Inspector shall not issue a licence or permit", insert instead "A licence or permit is not to be issued".

(6) Section 19 (**Licences or permits to manufacture explosives**):

- (a) In section 19(1), before "issue", insert "authorise the Director of Business Licences to".

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(b) After section 19 (1), insert:

(1A) The Chief Inspector may issue permits authorising the manufacture of explosives in or on premises if the explosives are to be used in or on those premises by the persons to whom the permits are issued.

(c) From section 19 (2), omit "The Chief Inspector shall not issue a licence", insert instead "A licence or permit is not to be issued".

(d) From section 19 (3), after "licence" wherever occurring, insert "or permit".

(7) Section 21 (**Sale licence**):

(a) In section 21 (1), before "issue", insert "authorise the Director of Business Licences to".

(b) From section 21 (2), omit "The Chief Inspector shall not issue a licence", insert instead "A licence is not to be issued".

(8) Section 27 (**Licences generally**):

(a) In section 27 (1), before "renew", insert "authorise the Director of Business Licences to".

(b) In section 27 (2), before "issue", insert "authorise the Director of Business Licences to".

(9) Section 28 (**Suspension or cancellation**):

Omit section 28 (3) (c), insert instead:

(c) surrenders the licence to the Director of Business Licences or surrenders the permit to the Chief Inspector.

(10) Section 29 (**Appeals**):

Omit section 29 (5), insert instead

(5) For the purposes of this section, an application for the issue, renewal or transfer of a licence or permit is taken

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

to be refused if the application has not been granted within 1 month (or, if another period is prescribed by the regulations, within that other period) after the application is duly made.

(11) Section 30 (**Offences relating to licences and permits**):

Omit section 30 (1), insert instead:

(1) A person must not make a statement to an inspector or police officer, in or in connection with an application for the issue, renewal or transfer of a licence or permit, that the person knows to be false or misleading in a material particular.

(12) Section 40 (**Evidence**):

After section 40 (2), insert:

(3) A certificate under subsection (2) (a) (i) may also be signed by the Director of Business Licences.

(13) Section 41 (**Regulations**):

- (a) From section 41 (1) (a), omit "therefor", insert instead "for permits".
- (b) From section 41 (1) (a), omit "they", insert instead "permits and licences".

**FACTORIES, SHOPS AND INDUSTRIES ACT 1962 No. 43**

(1) Section 104 (**Definitions**):

- (a) After the definition of "Council", insert:

**"Director of Business Licences"** means the Director of Business Licences under the Business Licences Act 1990.

- (b) Omit the definition of "Licence", insert instead:

**"Licence"** or **"hairstylist's licence"** means a hair-dresser's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(2) Section 108 (**Hairdressers to be licensed**):

(a) From section 108 (1) (a), omit "granted under this Division".

(b) Omit section 108 (2)-(4), insert instead:

(2) An application for a hairdresser's licence is to be made to the Director of Business Licences in accordance with the Business Licences Act 1990.

(3) A hairdresser's licence remains in force until duly cancelled or surrendered.

(3) Section 109 (**Grant, refusal, cancellation etc. of licence**):

In section 109 (1) (a), before "grant", insert "authorise the Director of Business Licences to".

(4) Section 112 (**Regulations**):

Omit section 112 (b).

**MOTOR DEALERS ACT 1974 No. 52**

(1) Section 4 (**Definitions**):

(a) Omit the definition of "auto-dismantler's licence" from section 4 (1), insert instead:

**"auto-dismantler's licence"** means an auto-dismantler's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

(b) Omit the definition of "car market operator's licence" from section 4 (1), insert instead:

**"car market operator's licence"** means a car market operator's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

(c) Omit the definition of "dealer's licence" from section 4 (1), insert instead

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

**"dealer's licence"** means a dealer's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

- (d) Before the definition of "District Court", in section 4 (1), insert:

**"Director of Business Licences"** means the Director of Business Licences under the Business Licences Act 1990;

- (e) After the definition of "inspection report" in section 4 (1), insert:

**"joint licence"** means a licence which is granted jointly to 2 or more persons;

- (f) Omit the definition of "motor vehicle consultant's licence" from section 4 (1), insert instead:

**"motor vehicle consultant's licence"** means a motor vehicle consultant's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

- (g) Omit the definition of "motor vehicle parts reconstructor's licence" from section 4 (1), insert instead

**"motor vehicle parts reconstructor's licence"** means a motor vehicle parts reconstructor's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

- (h) Omit the definition of "prescribed licence" from section 4 (1), insert instead

**"prescribed licence"** means a licence prescribed under section 7 (b) which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

- (i) Omit the definition of "wholesaler's licence" from section 4 (1), insert instead:

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

**"wholesaler's licence"** means a wholesaler's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

(2) Section 5 (**Approved forms**):

Omit the section.

(3) Section 7 (**Governor may prescribe a class of business**):

From section 7 (b), omit "and a fee to be paid therefor".

(4) Section 9 (**Offences**):

Omit section 9 (10).

(5) Section 10 (**Application for licence**):

(a) From section 10 (1), omit "to the Commissioner".

(b) Omit section 10 (2) and (3), insert instead:

(2) An application for a licence is to be made to the Director of Business Licences in accordance with the Business Licences Act 1990.

(3) Two or more persons intending to carry on business in partnership may (but are not required to) apply for the grant of a joint licence.

(c) Omit section 10(4) (e) and (f).

(d) Omit section 10 (5)-(8).

(6) Section 12 (**Grant or refusal of licence**):

(a) Omit section 12 (1), insert instead:

(1) Subject to this section, the Commissioner is required to authorise the Director of Business Licences to grant an application for a licence.

(b) From section 12 (2) (f1), omit "or the applicant has not complied with a requirement referred to in section 10(6);", insert instead "; or".

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

- (c) From section 12 (2) (g), omit "licence; or", insert instead "licence".
  - (d) Omit section 12 (2) (h).
  - (e) In section 12 (4) (h), after "personally;", insert "or".
  - (f) From section 12 (4) (i), omit "fairly; or", insert instead "fairly".
  - (g) Omit section 12 (4) (j).
  - (h) From section 12 (5), omit "(h), (i) or (j)", insert instead "(h) or (i)".
  - (i) After section 12 (5), insert:

(5A) In the case of an application for a joint licence, the application is to be refused if a separate application by any one of the applicants would be required to be refused. However, in determining the financial resources and expertise of an applicant, the Commissioner must take into account the combined financial resources and expertise of all the joint applicants.
  - (j) Omit section 12 (7), insert instead:

(7) If an application for a licence is refused, the applicant is to be informed, by notice in writing, of the refusal and of the ground on which the refusal is based. Any such notice may be served by the Director of Business Licences on behalf of the Commissioner or by the Commissioner.
  - (k) Omit section 12 (8) and (9).
  - (l) From section 12 (10), omit "refrain from granting", insert instead "refrain from authorising the Director of Business Licences to grant".
- (7) **Section 13 (Grant of approval for licence):**
- (a) In section 13 (1) and (4), before "grant the application" wherever occurring, insert "authorise the Director of Business Licences to".



SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(b) From section 13 (4), omit", subject to section 12 (8),".

(c) After section 13(4), insert:

The Director of Business Licences may grant, on behalf of the Commissioner, an approval for a licence under this section if authorised to do so by the Commissioner.

(8) Section 15 (Name under which holder of licence may operate):

Omit section 15 (3), insert instead:

(3) An authority under subsection (1) is to be conferred by an endorsement on the licence.

(4) The Commissioner may, on the application under the Business Licences Act 1990 of the holder of a licence, authorise the Director of Business Licences to amend the licence by adding or amending any such endorsement,

(9) Section 16 (**Form of licence**):

Omit the section.

(10) Section 16A:

Before section 17, insert:

**Transfer of licence if partners change**

16A. (1) The Commissioner may, on the application under the Business Licences Act 1990 of the holder of a licence, authorise the Director of Business Licences to transfer the licence if it is proposed:

(a) to include a partner or an additional partner as the joint holder of the licence; or

(b) to exclude a partner from being a joint holder of the licence.

(2) An application under this section is to be refused if an application for the transferred licence would be refused.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(11) Section 17 (**Change of address of holder of licence**):

- (a) Omit section 17 (1) and (2).
- (b) From section 17 (5), omit "Commissioner", insert instead "Director of Business Licences".

(12) Section 18 (**Register of holders of licences**):

- (a) Omit section 18 (1) and (2), insert instead
  - (1) For the purposes of this Act, a register of licences is to be kept which includes particulars of each licence and any other prescribed particulars.
  - (2) The register is to be kept either by the Commissioner or by the Director of Business Licences (on behalf of the Commissioner) pursuant to an arrangement with the Commissioner under the Business Licences Act 1990.
  - (2A) The register is to be kept in such form as the Commissioner determines or as is specified in any such arrangement.
- (b) At the end of the section, insert:
  - (5) If under an arrangement under the Business Licences Act 1990 the register is kept by the Director of Business Licences, the Director may issue a certificate under subsection (3) and charge a special fee under that Act instead of the fee prescribed by subsection (4).

(13) Section 19 (**Term of, and authority conferred by, licence**):

- (a) From section 19 (1), omit "until, pursuant to the provisions of this Act, it is", insert instead "until it is duly".
- (b) From section 19(2), omit "(together with any person whose name is specified in an endorsement on the licence referred to in section 16 (c))".
- (c) In section 19 (3), after "shall not", insert "(subject to section 16A)".

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(d) Omit section 19(4), insert instead:

(4) A person whose licence is suspended continues to be liable to pay any periodic licence fee or to supply information under the Business Licences Act 1990 or this Act, but is not otherwise taken to be the holder of the licence (except for the purpose of its surrender).

(e) Omit section 19(5).

(14) Section 20:

Omit the section, insert instead:

**Supply of information**

20. (1) The regulations may make provision for or with respect to the information to be supplied by a licensee.

(2) Any such information may be required to be supplied at the time of the payment of any periodic licence fee under the Business Licences Act 1990.

(15) Section 20A (**Surrender of licence**):

Omit the section.

(16) Section 20B (**Dealer's licence and car market licence not to be held by same person**):

From section 20B (3), omit "the Commissioner", insert instead "the Director of Business Licences".

(17) Section 20C (**Duplicate licence**):

Omit the section.

(18) Section 20D (**Notices to show cause**):

After section 20D (3), insert:

(4) The matters referred to in any paragraph of subsection (1) (except paragraph (h)) are taken to be established, in the case of a joint licence, if those matters apply to any holder of that licence.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(19) Section 20E (**Determination of disciplinary measures by the Commissioner**):

Omit section 20E (5).

(20) Section 20F (**Appeals**):

From section 20F (1), omit "grant an application for, or suspends or cancels, a licence", insert instead "authorise the grant of an application for a licence or for the transfer of a licence, or suspends or cancels a licence,".

(21) Section 20H (**Endorsement of condition etc. of licence**):

Omit "Commissioner" where secondly occurring, insert instead "Director of Business Licences".

(22) Section 22EA (**Separate registers for each licence etc.**):

At the end of the section, insert

(2) In the case of a joint licence, a single register shall be kept in respect of the business which is carried on pursuant to the authority conferred by the licence.

(23) Section 39 (**Motor Dealers Compensation Fund**):

After section 39 (4), insert

(5) In this section, a reference to fees paid under this Act by the holders of particular licences includes a reference to fees paid by those holders under the Business Licences Act 1990 and forwarded to the Commissioner.

**MOTOR VEHICLE REPAIRS ACT 1980 No. 71**

(1) Section 4 (**Definitions**):

(a) After the definition of "Council" in section 4 (1), insert:

**"Director of Business Licences"** means the Director of Business Licences under the Business Licences Act 1990;

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

- (b) From the definition of "holder" in section 4 (1), omit "or deemed under section 20 (8) (d) to be granted".
- (c) From section 4 (1), omit the definition of "licence", insert instead:
  - "**licence**" means a repairer's licence under this Act which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;
- (2) Section 6 (**Approved forms**):
  - In section 6 (1), after "Act", insert "(other than an application made to the Director of Business Licences)".
- (3) Section 16 (**Application for grant of licence**):
  - (a) Omit section 16 (1) (a), insert instead:
    - (a) be made to the Director of Business Licences in accordance with the Business Licences Act 1990; and
  - (b) From section 16 (5), omit "shall be lodged with the Council", insert instead "must be made",
- (4) Section 17 (**Disposal of applications**):
  - (a) From section 17 (2), omit "On payment of the appropriate fee the", insert instead "The".
  - (b) Omit section 17 (5), insert instead
    - (5) A reference in this section to the Council granting a licence is a reference to the Council authorising the Director of Business Licences to grant the licence.
- (5) Section 18 (Refusal of application for grant of licence):
  - After section 18 (3), insert:
    - (4) A reference in this section to the Council not granting a licence is a reference to the Council authorising the Director of Business Licences not to grant the licence.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(6) Section 18A:

After section 18, insert:

**Grant of approval for licence**

18A. (1) If the Council would, but for the inability of the applicant for a licence to satisfy the Council as to any matter relating to the proposed place of business, authorise the Director of Business Licences to grant the licence, the Council may defer consideration of the application and grant the applicant an approval for the licence in such form as may be determined by the Council.

(2) An approval for a licence does not authorise the person to whom the approval is granted to carry on business pursuant to the authority that would be conferred by the licence applied for by the applicant if that licence were granted.

(3) An approval for a licence remains in force for such period as is specified in the approval.

(4) If, during the period an approval is in force, the applicant satisfies the Council:

- (a) as to the matter referred to in subsection (1); and
- (b) that no change material to the applicant's application for the licence has occurred since the application was last considered by the Council,

the Council is to authorise the Director of Business Licences to grant the application.

(5) The Director of Business Licences may grant, on behalf of the Council, an approval for a licence under this section if authorised to do so by the Council.

(7) Section 19 (**Form of licence**):

- (a) Omit "A licence shall be in the form approved by the Minister and, without prejudice to the inclusion in the licence of any other particulars, shall", insert instead "A licence must".

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(b) Omit section 19 (a).

(8) Section 20 (**Amendment of licence**):

(a) Omit section 20 (1) (d).

(b) Omit section 20 (2) and (3), insert instead:

(2) If an application to which this section applies is duly made under the Business Licences Act 1990, the application is to be granted and the licence amended accordingly.

(3) However, the application is not to be granted if the Council is satisfied that an application for the licence (as proposed to be amended) would be refused.

(c) Omit section 20 (8) (d) and "or" where lastly occurring in section 20 (8) (c).

(9) Section 20A:

After section 20, insert:

**Transfer of licence if partners change**

20A. (1) The Council may, on the application under the Business Licences Act 1990 of the holder of a licence, authorise the Director of Business Licences to transfer the licence if it is proposed

(a) to include a partner or an additional partner as the joint holder of the licence; or

(b) to exclude a partner from being a joint holder of the licence.

(2) An application under this section is to be refused if an application for the transferred licence would be refused.

(10) Section 21:

Omit the section, insert instead:

**Duration of licence**

21. (1) Except while it is suspended, a licence continues in force until it is duly surrendered, cancelled or revoked.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(2) A person whose licence is suspended continues to be liable to pay any periodic licence fee or to supply information under the Business Licences Act 1990 or this Act, but is not otherwise taken to be the holder of the licence (except for the purpose of its surrender).

(11) Section 34 (**Notice of refusal**):

(a) After "amendment" wherever occurring, insert "or transfer".

(b) At the end of the section, insert:

(5) A notice of refusal may be given by the Director of Business Licences on behalf of the Council

(6) A reference in this section to the Council refusing to grant a licence or an application for the amendment or transfer of a licence is a reference to the Council authorising the Director of Business Licences to refuse to grant the licence or application for the amendment.

(12) Section 35 (**Surrender of certificate**):

Omit "licence or" wherever occurring, and " , as the case may be,".

(13) Section 36 (**Refund of fees**):

(a) Omit "licence or" and "licences or" wherever occurring.

(b) Omit "or for the amendment of a licence".

(14) Section 37 (**Duplicate licence**):

Omit "licence or" wherever occurring.

(15) Section 38 (**Registers of licences and certificates**):

(a) Omit section 38 (1) and (2), insert instead

(1) For the purposes of this Act:

(a) a register of licences is to be kept which includes particulars of licences and other prescribed particulars; and



SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

- (b) a register of certificates is to be kept which includes particulars of certificates and other prescribed particulars.
  - (2) A register is to be kept either by the Council or by the Director of Business Licences (on behalf of the Council) pursuant to an arrangement with the Council under the Business Licences Act 1990.
  - (2A) A register is to be kept in such form as the Council determines or as is specified in any such arrangement.
- (b) From section 38 (3) and (4), omit "The register" wherever occurring, insert instead "A register".
- (c) At the end of the section, insert:
  - (5) If under an arrangement under the Business Licences Act 1990 a register is kept by the Director of Business Licences:
    - (a) the Director may certify a document under subsection (4) as a true copy of an entry in the register; and
    - (b) a special fee (if any) under that Act is payable under subsection (3) (b) instead of the fee prescribed under subsection (3) (b).
- (16) Section 39:

Omit the section, insert instead

**False or misleading statements in applications for certificates**

39. A person must not, in an application for a certificate, make any statement which the person know to be false or misleading in a material particular.

Penalty \$500.
- (17) Section 50 (**Appeals**):
  - (a) In section 50 (1) and (2)1 after "amendment" wherever occurring, insert "or transfer".

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(b) At the end of the section, insert:

(13) A reference in this section to the Council refusing to grant a licence or an application for the amendment or transfer of a licence is a reference to the Council authorising the Director of Business Licences to refuse to grant the licence or application.

(18) Section 61 (**General Fund**):

In section 61 (1)(a), after "this Act", insert "or the Business Licences Act 1990".

**TRAFFIC ACT 1909 No. 5**

Section 3 (**Regulations**):

After section 3 (1) (g2) (x), insert:

(xi) for the issue of an authority referred to in subparagraph (i) or (ii) as a component licence of a master licence under the Business Licences Act 1990;

**TRAVEL AGENTS ACT 1986 No. 5**

(1) Section 3 (**Definitions**):

(a) After the definition of "director" in section 3 (1), insert:

**"Director of Business Licences"** means the Director of Business Licences under the Business Licences Act 1990;

(b) From section 3 (1), omit the definition of "licence", insert instead:

**"licence"** or **"travel agent's licence"** means a travel agent's licence which is a component licence of a master licence under the Business Licences Act 1990, being a component licence that is in force;

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(2) Section 8 (**Application for licence**):

(a) From section 8(1), omit "to the Commissioner".

(b) Omit section 8 (2), insert instead:

(2) An application for a licence is to be made to the Director of Business Licences in accordance with the Business Licences Act 1990.

(c) Omit section 8 (3).

(d) From section 8 (5), omit "to the Commissioner", insert instead "to the Director of Business Licences".

(e) Omit section 8 (6)-(8)

(3) Section 10(**Grant or refusal of licence**):

(a) In section 10 (1), after "the Commissioner shall", insert "authorise the Director of Business Licences to".

(b) Omit section 10 (6), insert instead:

(6) If an application for a licence is refused, the applicant is to be informed, by notice in writing, of the refusal and of the ground on which the refusal is based. Any such notice may be served by the Director of Business Licences on behalf of the Commissioner or by the Commissioner.

(c) Omit section 10(7).

(d) From section 10(8), omit "refrain from granting", insert instead "refrain from authorising the Director of Business Licences to grant".

(4) Section 11 (**Conditions of, and restrictions on, licence**):

From section 11 (5), omit "Commissioner" wherever occurring, insert instead "Director of Business Licences".

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(5) Section 13 (**Form of licence**):

Omit the section.

(6) Section 14:

Omit the section, insert instead:

**Licence to include address of place of business etc.**

14. (1) A licensee is not to carry on business as a travel agent at any place unless the licence specifies:

- (a) the address of that place of business; and
- (b) if the licensee has more than one place of business, the principal place at which the licensee carries on business; and
- (c) the name and address, and such other particulars as may be prescribed, of the person in charge of each place of business in compliance with section 36 (Supervision of conduct of business).

(2) If, during the currency of a licence, there is a change in the particulars referred to in subsection (1), the licensee does not contravene that subsection if the licensee applies to the Director of Business Licences, within 14 days after the change, for the Director to make the necessary amendments to the particulars specified in the licence.

(3) A licensee must, within 14 days after ceasing to carry on business as a travel agent at any place, apply to the Director of Business Licences for an appropriate amendment of the licence or surrender the licence, as the case requires.

Penalty 20 penalty units.

(7) Section 15 (**Register of licences**):

- (a) Omit section 15 (1) and (2), insert instead:

(1) For the purposes of this Act, a register of licences is to be kept which includes particulars of each licence and any other prescribed particulars.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(2) The register is to be kept either by the Commissioner or by the Director of Business Licences (on behalf of the Commissioner) pursuant to an arrangement with the Commissioner under the Business Licences Act 1990.

(2A) The register is to be kept in such form as the Commissioner determines or as is specified in any such arrangement.

(b) After section 15 (4), insert:

(5) If under an arrangement under the Business Licences Act 1990 the register is kept by the Director of Business Licences, the Director may issue a certificate under subsection (3) and charge a special fee under that Act instead of the fee prescribed by subsection (4).

(8) Section 16 (**Term of, and authority conferred by, licence**):

(a) From section 16 (1) omit "until, pursuant to the provisions of this Act it is", insert instead "until it is duly".

(b) Omit section 16 (4), insert instead

(4) A person whose licence is suspended continues to be liable to pay any periodic licence fee or to supply information under the Business Licences Act 1990 or this Act, but is not otherwise taken to be the holder of the licence (except for the purpose of its surrender).

(9) Section 17:

Omit the section, insert instead:

**Supply of information by licensees**

17. (1) The regulations may make provision for or with respect to the information to be supplied by a licensee.

(2) Any such information may be required to be supplied at the time of the payment of any periodic licence fee under the Business Licences Act 1990.

SCHEDULE 3 - AMENDMENT OF OTHER ACTS - *continued*

(10) Section 18 (**Surrender of licence**):

Omit the section.

(11) Section 19 (**Duplicate licence**):

Omit the section.

(12) Section 20 (**Notices to show cause**):

In section 20 (1)(c), after "Act", insert "or the Business Licences Act 1990".

(13) Section 21 (**Determination of disciplinary measures by Commissioner**):

Omit section 21 (6).

(14) Section 27 (**Endorsement of conditions etc. of licence**):

Omit "Commissioner" where thirdly occurring, insert instead "Director of Business Licences".

(15) Section 43 (**Delegation by Commissioner**):

In section 43 (1), after "public servant", insert "(including the Director of Business Licences)".

(16) Section 51 (**Evidence**):

In section 51 (1), after "Commissioner", insert "or Director of Business Licences".

(17) Section 57 (**Regulations**):

Omit section 57 (4).

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*[Minister's second reading speech made in -  
Legislative Assembly on 13 November 1990  
Legislative Council on 22 November 1990]*