

## BUSINESS LICENCES BILL 1990

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill 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.

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### PART 1 — PRELIMINARY

This Part contains:

- Clause 1** — short title;
- Clause 2** — commencement;
- Clause 3** — definitions; and
- Clause 4** — objects of proposed Act.

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

**Clause 5** provides that the proposed Act applies to the licences specified in Schedule 1.

**Clause 6** requires those licences to be granted and renewed as component licences of a master licence under the proposed Act.

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

**Clause 7** defines a master licence as a licence under the proposed Act which comprises 1 or more component licences.

**Clause 8** provides that a component licence is taken to be a licence under the relevant licensing Act.

**Clause 9** provides that the Director of Business Licences ("the Director") acts on behalf of the relevant licensing authority when granting or exercising other functions relating to a component licence.

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

**Division 1 — Provisions relating to applications**

**Clause 10** requires applications for the grant of component licences in a master licence to be made to the Director.

**Clause 11** enables applications to be made to the Director for the grant of additional component licences or the renewal, transfer or amendment of component licences.

**Clause 12** deals with the form and lodgment of applications.

**Clause 13** deals with the particulars and documents that are required to accompany an application.

**Clause 14** requires applications to be dealt with in accordance with the relevant licensing Act.

**Clause 15** provides that applications are to be dealt with by the Director. However, the Director may only grant or refuse an application if authorised to do so by the licensing authorities concerned, either generally or in the particular case.

**Clause 16** provides for the automatic renewal of component licences of fixed duration on payment of any relevant licence fee and the provision of any requisite information. An application for renewal is necessary in any case required by the relevant licensing authority.

**Division 2 — Provisions relating to fees for licences**

**Clause 17** specifies the types of fees payable under the proposed Act, namely

- (a) application fees; and
- (b) licence fees for the grant or renewal of component licences; and
- (c) periodic licence fees to maintain component licences of indefinite duration in force; and
- (d) special fees for particular services.

**Clause 18** authorises the Minister to fix, by order published in the Gazette, the matters for which fees are payable, the amount of those fees and other associated matters. However, any such order is to be in accordance with the requirements of the relevant licensing authorities and may be disallowed by either House of Parliament.

**Clause 19** requires the relevant application fee to accompany an application.

**Clause 20** requires the relevant licence fee to be paid for the grant or renewal of a licence.

**Clause 21** requires the relevant periodic licence fee to be paid and information supplied (in the case of a component licence of indefinite duration) in order to maintain the licence in force.

**Clause 22** provides for the adjustment of fees on the amendment of a licence.

**Clause 23** requires the payment of fees for certain special matters.

**Clause 24** provides that fees (other than special fees) collected by the Director are to be forwarded to the relevant licensing authorities.

**Clause 25** provides that the proposed Act does not apply to licence fees for petroleum or tobacco business franchise licences (those fees are to continue to be assessed and collected under the licensing Act).

**Division 3 — Provisions relating to licences**

**Clause 26** deals with the form of master licences.

**Clause 27** provides that a person may hold more than 1 master licence but enables the Director to ensure, in appropriate cases, that only 1 master licence is held.

**Clause 28** preserves the power conferred under a licensing Act for the imposition of conditions on component licences and authorises the Director to impose conditions relating to the centralised licensing facility.

**Clause 29** relates to the period during which a licence remains in force.

**Clause 30** ensures that component licences expire on a common day of a year or require the payment of periodic licence fees on a common day.

**Clause 31** enables the issue of master licences jointly to 2 or more persons.

**Clause 32** preserves any power conferred under a licensing Act for the cancellation or suspension of component licences.

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**Clause 33** enables master licences to be surrendered by notice to the Director.

**Clause 34** requires master licences to be returned to the Director if they are cancelled, suspended or expire or are to be replaced.

**Clause 35** requires the holders of master licences to furnish information to the Director about changes in the particulars of the licences.

**Clause 36** provides for the issue of duplicate master licences.

**Clause 37** provides for the issue of documents evidencing a component licence for the purpose of its exhibition, carriage or production by the holder of the licence.

**Clause 38** empowers a licensing authority to inspect the records held by the Director in relation to licences administered by the authority.

**Clause 39** makes it an offence to make false or misleading statements in or in connection with applications for licences.

**PART 5 — DIRECTOR OF BUSINESS LICENCES**

**Clause 40** provides that the Managing Director of Business and Consumer Affairs is to be the Director of Business Licences and is to be subject to Ministerial control.

**Clause 41** enables the Director to delegate his or her functions.

**Clause 42** enables the Director to use the staff or facilities of other government agencies.

**Clause 43** provides for arrangements between the Director and licensing authorities concerning the administration of business licences. The arrangements may, in particular, deal with the circumstances in which the Director is authorised to grant component licences and with the reimbursement of the Director's costs. In the absence of agreement as to reimbursement, the Director is authorised to determine the costs to be paid by licensing authorities.

**Clause 44** enables the Director to utilise the staff and facilities of the Director to provide commercial and other services to government agencies or other persons. The services include the administration of other licensing systems, the collection or storage of data and the use of information (such as mailing lists).

**Clause 45** enables the Director to contract for the supply of services required to exercise his or her functions.

**PART 6—MISCELLANEOUS**

**Clause 46** makes it an offence for the Director or others engaged in the administration of the proposed Act to unlawfully disclose information obtained under the proposed Act.

**Clause 47** authorises the exchange of information between the Director and licensing authorities in appropriate Circumstances.

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**Clause 48** provides that the proposed Act binds the Crown.

**Clause 49** enables the Director to recover fees etc owed to the Director.

**Clause 50** provides that proceedings for offences under the proposed Act are to be dealt with in a summary manner.

**Clause 51** empowers the making of regulations.

**Clause 52** is a formal provision which gives effect to the Schedule of savings and transitional provisions.

**Clause 53** is a formal provision which gives effect to the Schedule of amendments to other Acts.

**Schedule 1** lists the licences to which the proposed Act applies.

**Schedule 2** enacts savings and transitional provisions, including:

- (a) savings and transitional regulations (clause 1);
- (b) provision for licensing authorities to continue to administer licences under the licensing Act pending their incorporation into master licences under the proposed Act (clause 2);
- (c) provision for the continuation of existing licences (clause 3);
- (d) special provision relating to petroleum or tobacco business franchise licences.

**Schedule 3** contains consequential amendments to the following Acts:

Bread Act 1969  
Business Franchise Licences (Petroleum Products) Act 1987  
Business Franchise Licences (Tobacco) Act 1987  
Dangerous Goods Act 1975  
Factories, Shops and Industries Act 1962  
Motor Dealers Act 1974  
Motor Vehicle Repairs Act 1980  
Traffic Act 1909  
Travel Agents Act 1986.

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