

Licensing Authorities (Amendment) Act 1989

No. 6 of 1989

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Victoria

No. 6 of 1989

Licensing Authorities (Amendment) Act 1989

[Assented to 2 May 1989]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose

1. The purpose of this Act is to amend the licensing authority provisions of the *Credit (Administration) Act* 1984, the *Motor Car Traders Act* 1986 and the *Travel Agents Act* 1986.

Commencement

2. (1) Parts 1 and 5 come into operation on the day on which this Act receives the Royal Assent.

(2) Part 2 comes into operation on a day to be proclaimed.

(3) Part 3 comes into operation on a day to be proclaimed.

(4) Part 4 comes into operation on a day to be proclaimed.

PART 2—AMENDMENT OF CREDIT (ADMINISTRATION) ACT 1984**Principal Act**

3. In this Part, the *Credit (Administration) Act 1984* is called the Principal Act.

No. 10091.
Amended by
Nos. 10246,
110/1986,
119/1986 and
45/1987.

Definitions

4. Section 4 of the Principal Act is amended as follows:

(a) For the definitions of “Chairman” and “Chairperson” substitute—

“Chairperson”—

(a) in Part III means the Chairperson of the Authority and includes a person acting as Chairperson; and

(b) in Part V means the Chairperson of the Tribunal and includes a person acting as Chairperson.’

(b) For the definition of “Deputy Chairperson” substitute—

“Deputy Chairperson”—

(a) in Part III means the Deputy Chairperson of the Authority and includes a person acting as a deputy chairperson; and

(b) in Part V means the Deputy Chairperson of the Tribunal and includes a person acting as a deputy chairperson.’

New Part III substituted

5. For Part III of the Principal Act substitute—

“PART III—CREDIT LICENSING AUTHORITY”**Authority**

“17. (1) There is established a Credit Licensing Authority which shall consist of a Chairperson and such number of Deputy Chairpersons and other members as are appointed by the Governor in Council.

(2) The other members shall be—

(a) persons with experience in the business of providing credit in connection with the supply of goods or services; and

(b) persons with experience in the business of supplying goods or services; and

(c) persons who do not have such experience but have knowledge of the interests of natural persons who obtain or seek to obtain credit from credit providers.

(3) The Chairperson may be referred to as the Chairman or the Chairwoman, as the case requires.

(4) The Deputy Chairperson may be referred to as the Deputy Chairman or the Deputy Chairwoman, as the case requires.”

Terms and conditions of appointment

“18. (1) A person who is the Chairperson holds office for a period of 5 years and upon such terms and conditions as the Governor in Council determines but is eligible for re-appointment.

(2) A person who is a Deputy Chairperson holds office for a period not exceeding 5 years and upon such terms and conditions as the Governor in Council determines but is eligible for re-appointment.

(3) A member of the Authority other than the Chairperson or a Deputy Chairperson holds office for a period of 3 years and upon such terms and conditions as the Governor in Council determines but is eligible for re-appointment.

(4) A member of the Authority is not, in respect of the office of member, subject to the *Public Service Act 1974*.”

Allowances

“19. A member of the Authority other than a member who is an officer of the public service must be paid such travelling and other allowances as are fixed for the time being by the Governor in Council.”

Resignation and termination

“20. (1) A member of the Authority may, by notice in writing signed by the member and delivered to the Governor in Council, resign the office of member.

(2) The Governor in Council may remove a member of the Authority from office if, in the opinion of the Governor in Council—

- (a) the member is unable, by reason of physical or mental illness, to perform the duties of the office; or
- (b) the member is incompetent; or
- (c) the member has misbehaved.

(3) The Governor in Council must remove a member of the Authority from office if the member—

- (a) becomes bankrupt; or
- (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (c) compounds with creditors; or
- (d) makes an assignment of remuneration for the benefit of creditors; or
- (e) is convicted of an offence punishable by imprisonment for 12 months or more.”

Acting Chairperson

“21. (1) If—

- (a) there is a vacancy in the office of Chairperson; or
- (b) the Chairperson is or is about to be absent or for any reason is unable to perform the functions of the office—

the Governor in Council may appoint a Deputy Chairperson or a person who is not a member of the Authority to act as the Chairperson until the filling of the vacancy or during the absence or inability.

(2) The Governor in Council—

- (a) may, subject to this Act, determine the terms and conditions of appointment of an acting chairperson of the Authority; and
- (b) may at any time terminate such an appointment.

(3) The appointment of an acting chairperson of the Authority made in anticipation of the absence or inability of the Chairperson has effect from and including the day on which the absence or inability commences.

(4) The appointment of an acting chairperson of the Authority ceases to have effect if the acting chairperson resigns the appointment by writing signed by the acting chairperson and delivered to the Governor in Council.

(5) While the appointment of an acting chairperson of the Authority remains in force, the acting chairperson has and may exercise all the powers and perform all the functions of the Chairperson.”

Acting members

“22. (1) If a member (other than the Chairperson or a Deputy Chairperson) of the Authority is or is about to be absent or for any reason is unable to perform the duties of the office, the Governor in Council may appoint a person qualified to be appointed as that member to act as the member during the absence or inability.

(2) Where a person has been appointed under this section to act as a member during the absence or inability of a member and that member ceases to hold office without having resumed duty, the period of appointment of the person so appointed is deemed to continue until it is terminated by the Governor in Council or until the expiration of 12 months from the date on which the absent member ceases to hold office, whichever first happens.”

Proceedings of Authority not invalid by reason of vacancy etc.

“23. Subject to section 27, an act or determination of the Authority is not invalid by reason only—

- (a) of a vacancy in the office of Chairperson or Deputy Chairperson or of any other member; or

- (b) of a defect or irregularity in or in connection with the appointment of a member; or
- (c) in the case of a person appointed to act as Chairperson, Deputy Chairperson or a member, that the occasion for so acting had not arisen or had ceased."

Chairperson or Deputy Chairperson may give directions

"24. The Chairperson or Deputy Chairperson may, subject to any decision of the Authority, give directions and do whatever is necessary for the expeditious and just hearing and determination of any proceedings before the Authority."

Use of experts

"25. The Chairperson may, subject to the approval of the Minister, retain experts to advise the Authority in respect of any proceedings before the Authority."

Fixing time and place for hearings

"26. (1) The Chairperson or in the absence of the Chairperson, the Deputy Chairperson, must fix the time and place of proceedings before the Authority.

(2) The Licensing Registrar must give notice to each party to proceedings of the time and place for the hearing of the proceedings."

Constitution of Authority

"27. (1) Subject to sub-sections (2) and (3), an application for a licence under section 39 or an inquiry under section 59 shall be determined by—

- (a) the Chairperson or a Deputy Chairperson; and
- (b) one member selected by the Chairperson or a Deputy Chairperson who is a person referred to in section 17 (2) (a) or (b); and
- (c) one member selected by the Chairperson or a Deputy Chairperson who is a person referred to in section 17 (2) (c).

(2) If notice of objection to the granting of a licence has not been given under section 43, an application for a licence under section 39 may be determined by—

- (a) the Licensing Registrar in accordance with section 44 (1); or
- (b) if the Licensing Registrar refers the application to the Authority—
 - (i) by the Chairperson or a Deputy Chairperson sitting alone; or

- (ii) by the Chairperson or a Deputy Chairperson and two members selected as mentioned in sub-sections (1) (b) and (c).

(3) All other applications or proceedings before the Authority may be determined by—

- (a) the Chairperson or a Deputy Chairperson sitting alone; or
- (b) the Chairperson or a Deputy Chairperson and two members selected as mentioned in sub-sections (1) (b) and (c)."

Determination of questions before the Authority

"28. A question before the Authority must be decided according to the opinion of a majority of the members constituting the Authority."

Appearance

"29. (1) If the Authority holds a hearing, a licensee, an applicant for a licence or a person who lodges an objection to the holding of a licence may appear and be heard—

- (a) personally; or
- (b) by a duly qualified legal practitioner; or
- (c) if the party is a body corporate—by a director, secretary or other officer of the body corporate; or
- (d) if the Authority determines that there are special circumstances in a particular case—by a person specified by the Authority.

(2) The Director, either personally, by an officer or by a duly qualified legal practitioner, may appear in any hearing by the Authority.

(3) A person may be summoned at the direction of the Authority or at the request of a person who is a licensee, an applicant for a licence or who has lodged an objection to the holding of a licence, to appear before the Authority, to give evidence at a hearing and to produce such records (if any) as are referred to in the summons.

(4) A summons to appear before the Authority shall be issued by the Licensing Registrar and may be served upon the person to whom it is directed—

- (a) by delivering a true copy of the summons to that person; or
- (b) by leaving a true copy for that person at that person's last or most usual place of residence or of business with a person who appears to reside at that residence or to be employed at that place of business and to be not less than 16 years of age.

(5) A person summoned to appear before the Authority must be paid such fees and allowances as are prescribed.

(6) A person is not excused from answering any question or producing any document on the ground that the answer or document

might tend to incriminate the person but if the person claims, before answering the question or producing the document, that the answer or document might tend to incriminate the person, the answer or document is not admissible in evidence against the person in criminal proceedings, other than proceedings in respect of the falsity of the answer or document.”

Evidence

“30. (1) Evidence at a hearing by the Authority—

- (a) may be given orally or in writing; and
- (b) if the Authority so requires, shall be given on oath or on affirmation or declaration instead of an oath where permitted by law.

(2) The Chairperson or a Deputy Chairperson may administer an oath, take an affirmation or receive a declaration for the purpose of taking and receiving evidence at an inquiry.”

Costs

“31. Costs must not be allowed to or against any party to proceedings before the Authority.”

Procedure of Authority

“32. (1) Subject to this section, proceedings before the Authority must take place in public.

(2) If the Authority is satisfied that it is desirable to do so by reason of the existence of special circumstances, the Authority may direct that the proceedings before the Authority take place in private.

(3) The Authority may order that the name of a person who is a party to or gives evidence in proceedings before the Authority must not be published.

(4) The Authority may proceed in the absence of a party or interested person who has had reasonable notice of the proceedings.

(5) Subject to this Part and the regulations—

- (a) the procedure of the Authority is in its discretion; and
- (b) the manner of convening, conducting and adjourning the proceedings of the Authority is in its discretion.”

Reasons for determination

“33. (1) Any person may request a copy in writing of the reasons for a determination of the Authority—

- (a) before or within 14 days after the Authority made the determination in a matter; and
- (b) on payment to the Licensing Registrar of the prescribed fee (if any).

(2) The Authority must comply with a request made under sub-section (1)."

Director to give effect to determination

"34. The Director must take such action (if any) as is necessary to give effect to a determination of the Authority."

Authority may request Director to investigate matters

"35. The Authority may request the Director to investigate a matter that has arisen in or in relation to a hearing by the Authority and, if the Minister consents, the Director must investigate that matter."

Extension of time

"36. The Authority—

(a) on the application of—

(i) the Director; or

(ii) a party; or

(b) on its own motion—

may extend any time limit fixed by the Authority, this Act or the *Credit Act 1984* for doing any act or taking any proceeding or waive compliance with any procedural requirement."

Operation of determination

"36A. (1) A determination of the Authority comes into operation 28 days after the determination is made.

(2) If the Authority is satisfied that the determination will not adversely affect the ability of a credit provider to continue to carry on the business of providing credit, the Authority may order that the determination comes into operation on its making."

Amendment of documents

"36B. (1) The Authority—

(a) on the application of—

(i) the Director; or

(ii) a party; or

(b) on its own motion—

may at any time order that any document in the proceedings be amended subject to any order for adjournment or otherwise that the Authority thinks fit.

(2) The Authority may at any time correct a clerical mistake in an order or an error arising in an order from an accidental slip or omission."

Contempt of Authority

“36C. A person must not—

- (a) insult a member in the performance of functions or the exercise of powers as a member at a hearing before the Authority; or
- (b) interrupt a hearing before the Authority; or
- (c) create a disturbance before or take part in creating or continuing a disturbance, in or near a place where the Authority is holding a hearing; or
- (d) do any other act that would, if the Authority were a court of record, constitute contempt of that court.

Penalty: 10 penalty units or imprisonment for three months.”

Registrar and staff of Authority

‘36D. (1) Subject to the *Public Service Act* 1974, there is appointed a Licensing Registrar of the Authority who must be a duly qualified legal practitioner and such number of Deputy Licensing Registrars and other staff as are necessary for the purposes of this Part.

(2) The Licensing Registrar must keep a register in the prescribed form containing particulars of all applications to and proceedings before the Authority under this Act or the *Credit Act* 1984 and of the determinations made by the Authority under this Act or the *Credit Act* 1984.

(3) The Authority may from time to time delegate to the Licensing Registrar such functions and powers of the Authority as may under this Part be performed or exercised by the Chairperson or a Deputy Chairperson alone.

(4) The Licensing Registrar may from time to time delegate to one or more Deputy Licensing Registrars such functions and powers of the Licensing Registrar (other than this power of delegation and the power to grant a licence) as may under this Part be performed or exercised by the Licensing Registrar.

(5) A delegation under sub-section (3) or (4) may be made either generally or in relation to specified functions and powers and either for a specified period or until revoked by the Authority or Licensing Registrar, as the case may be.

(6) A certificate under the hand of the Licensing Registrar certifying as to any matter relating to the contents of the Register of Credit Providers is to be received in all courts as evidence of the matter certified.

(7) All courts must take judicial notice of the official signature of a person who is or has been the Licensing Registrar and of the fact that that person is or was the Licensing Registrar.

(8) In this section, “court” includes a person authorised by law or by consent of parties to receive evidence.’

Secrecy

“36E. (1) This section applies to every person who is or has been a member of the Authority, the Licensing Registrar, a Deputy Licensing Registrar or a member of the other staff assisting the Authority.

(2) Subject to this section, a person to whom this section applies must not either directly or indirectly, except in legal proceedings or in the performance of a duty under or in connection with this Act, make a record of, or divulge or communicate to any person, any information concerning the affairs of any person acquired by reason of the office or employment under or for the purposes of this Act or the *Credit Act* 1984.

Penalty: 5 penalty units.”.

Miscellaneous amendments

6. The Principal Act is amended as follows:

- (a) In section 38 (1) (g), for “1976” substitute “1986”;
- (b) In section 48, after “person” insert “who”;
- (c) In section 56 (5), for “statment” substitute “statement”.

Repeal of section 85M

7. Section 85M of the Principal Act is repealed.

New sections 89A, 89B, 89C and 89D inserted

8. After section 89 of the Principal Act insert—

Production of records

“89A. (1) If a record is produced in any proceedings before the Authority or the Tribunal, the Authority or the Tribunal (as the case may be)—

- (a) if it considers it necessary for the purpose of the proceedings, may keep the record for any period it considers necessary; and
- (b) may make copies of the record or any part of the record; and
- (c) may give to the person who has produced the record a copy of the record which has been certified by a member of the Authority or of the Tribunal (as the case may be) to be a true copy of the record.

(2) If—

- (a) the Authority or the Tribunal makes a copy of a record produced in the proceedings; and

(b) a member of the Authority or of the Tribunal (as the case may be) certifies the copy to be a true copy of the record—the certified copy is admissible in evidence in any proceedings as if it were the record of which it is certified to be a copy.”

False or misleading statements

“89B. (1) A person must not in, or in relation to, an application for a licence or an objection to the granting or holding of a licence, give information or make a statement that is false or misleading by reason of the inclusion of any false or misleading matter or the omission of any material matter.

Penalty: 50 penalty units.

(2) It is a defence to a prosecution of a person for an offence under sub-section (1) if the person proves that, when the information was given or the statement made, the person—

- (a) believed on reasonable grounds—
 - (i) that the false matter was true; or
 - (ii) that the misleading matter was not misleading; or
- (b) in the case of an omission—
 - (i) believed on reasonable grounds that no material matter had been omitted; or
 - (ii) did not know that the omitted matter was material.”

Protection for things done under the Act

“89C. An action does not lie against a member of the Authority, a member of the Tribunal, the Licensing Registrar, a Deputy Licensing Registrar, the Credit Registrar, a Deputy Credit Registrar, the Director, an applicant, a licensee or any other person on account of any proceedings taken, any publication made or anything done under the authority of this Act or the *Credit Act* 1984 or taken, made or done in good faith purportedly under the authority of this Act or the *Credit Act* 1984 or on account of any omission made in good faith in the administration of this Act or the *Credit Act* 1984.”

Payments from Consolidated Fund

“89D. If the Licensing Registrar or the Credit Registrar is authorised or becomes liable to pay amounts in accordance with this Act, the *Credit Act* 1984 or the regulations, those amounts must be paid from the Consolidated Fund which is to the necessary extent appropriated accordingly.”.

Amendment of regulation-making powers

9. (1) In section 95 (1) of the Principal Act, after paragraph (a) insert—

“(aa) prescribing forms for the purposes of this Act;”.

(2) After section 95 (3) of the Principal Act insert—

“(4) Regulations made under this Act may be disallowed in whole or in part by resolution of either House of the Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act 1962*.

(5) Disallowance under sub-section (4) is deemed to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act 1962*.”

Transitional provisions

10. (1) The Credit Licensing Authority is deemed to be the same body after as before its reconstitution under the Principal Act as amended by this Act and, subject to sub-section (2), that reconstitution does not affect—

(a) the appointment or term of office of any member of the Authority holding office immediately before the commencement of section 5; and

(b) any proceeding, act, matter or thing relating to the Authority.

(2) If, before the commencement of this Part, the Credit Licensing Authority had received an application or begun to hold an inquiry but, at that commencement, had not made a determination in the matter—

(a) subject to paragraph (b), the Authority as constituted immediately before that commencement must continue to hear and determine the application or hold the inquiry as if section 5 had not been enacted; and

(b) sections 24, 25, 26, 29, 32, 33, 36, 36A, 36B, 36D and 36E of the Principal Act as amended by this Act apply to the proceedings in that matter taking place on or after that commencement; and

(c) the Principal Act as amended by sections 6, 7, 8 and 9 applies to proceedings in that matter taking place on or after that commencement.

(3) The person holding office as Licensing Registrar immediately before the commencement of section 5 is deemed to have been appointed as Licensing Registrar under the Principal Act as amended by that section.

PART 3—AMENDMENT OF *MOTOR CAR TRADERS ACT 1986*

Principal Act

11. In this Part, the *Motor Car Traders Act 1986* is called the Principal Act.

Definitions

12. In section 3 (1) of the Principal Act—

(a) after the definition of “Authority” insert—

‘ “Chairperson”—

(a) in Part 5 means the Chairperson of the Committee and includes a person acting as Chairperson; and

(b) in Part 7 means the Chairperson of the Authority and includes a person acting as Chairperson.’; and

(b) after the definition of “Committee” insert—

‘ “Deputy Chairperson” means the Deputy Chairperson of the Authority and includes a person acting as a deputy chairperson.

“Determination” in relation to the Authority or the Committee includes order, direction, decision or declaration.’; and

(c) after the definition of “Owner” insert—

‘ “Record” includes any book , account, document, paper or other source of information compiled, recorded, stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.’.

Substitution of section 19 and new section 19A inserted

13. (1) For section 19 of the Principal Act substitute—

Change in partnership

“19. (1) If a licence is granted to a partnership and there is a change in the partnership—

(a) where there is a new partnership—

(i) the partnership must not continue to carry on business as a motor car trader unless it has applied for a new licence; and

(ii) if the partnership applies for a licence, it may carry on business as a motor car trader until the application is granted or refused as if the partnership were the holder of a licence; and

(b) where there is not a new partnership—

(i) a former member of the partnership must not carry on business as a motor car trader unless he or she applies for a new licence; and

(ii) if he or she applies for a licence, he or she may carry on business as a motor car trader until the application is granted or refused as if he or she were the holder of a licence.

(2) The Authority may not refuse an application for a licence made by a partnership to which sub-section (1) applies by reason only that a partner, or a person concerned in the management of, the partnership is not of good reputation or character or in any other way would not be a fit and proper person to be a licensee if the partner or person were to apply for the licence personally unless that partner or person was not a member of the former partnership."

Change in directors of bodies corporate

"19A. If a licence is granted to a body corporate and at any time—

- (a) in the case of a proprietary company there are less than two directors; or
- (b) in the case of a public company there are less than three directors—

the body corporate must, within 14 days, cease trading as a motor car trader.

Penalty: 50 penalty units."

(2) In section 20 of the Principal Act—

- (a) for "20. If" substitute "20. (1) If"; and
- (b) at the end of the section insert—

"(2) If a licence is granted to a partnership and there is a change in the partnership, the partnership or a former member of the partnership must give notice in writing of the dissolution of the partnership to the Registrar within 14 days after the change occurs."

(3) In section 21 of the Principal Act—

- (a) after paragraph (a) insert "or"; and
- (b) after paragraph (b) insert—
"; or
- (c) is required by section 19A to cease trading as a motor car trader."

(4) In section 30 (1) (b) of the Principal Act—

- (a) In sub-paragraph (vi), after "management of the licensee" insert "is not or"; and
- (b) after sub-paragraph (vi) insert—
"; or
- (vii) premises of the licensee are not suitable to carry on the business of trading in motor cars".

Winding up, etc. of licensee that is a body corporate

14. In section 33 (1) (b) of the Principal Act, for “that is commenced to be wound up or is placed in official management, the liquidator or receiver of the body corporate” substitute—

- “(i) is commenced to be wound up; or
- (ii) is placed in official management; or
- (iii) is a body corporate in respect of the property or part of the property of which a receiver or receiver and manager is appointed—

the liquidator, official manager, receiver or receiver and manager of the body corporate”.

Name and address of owner of motor car

15. In section 52 (2) (b) (i) of the Principal Act, after “name” insert “and address”.

Proceedings before Committee to be in public unless special circumstances

16. (1) In section 70 (1) of the Principal Act, for “Proceedings” substitute “Subject to this section, proceedings”.

(2) In section 70 of the Principal Act, for sub-section (2) substitute—

“(2) If the Committee is satisfied that it is desirable to do so by reason of the existence of special circumstances, the Committee may direct that the proceedings before the Committee take place in private.”.

Request for copy of reasons for determination

17. In section 71 of the Principal Act, for sub-section (1) substitute—

“(1) Any person may request a copy in writing of the reasons for a determination of the Committee—

- (a) before or within 14 days after the Committee made the determination in a matter; and
- (b) on payment to the Secretary of the prescribed fee (if any).”.

New sections 71A and 71B inserted

18. After section 71 of the Principal Act insert—

Extension of time

“71A. (1) The Committee—

- (a) on the application of—
 - (i) the Director; or
 - (ii) a party; or

(b) on its own motion—

may extend any time limit fixed by the Committee or this Act for doing any act or taking any proceeding or waive compliance with any procedural requirement.

(2) The Committee may make an order under this section although an application for the making of the order was not made until after the expiration of the time appointed or fixed for doing the act or taking the proceeding.”

Amendment of documents

“71B. (1) The Committee—

(a) on the application of—

(i) the Director; or

(ii) a party; or

(iii) on its own motion—

may at any time order that any document in the proceedings be amended subject to any order for adjournment or otherwise that the Committee thinks fit.

(2) The Committee may at any time correct a clerical mistake in an order or an error arising in an order from an accidental slip or omission.”.

Payments from the Motor Car Traders’ Guarantee Fund

19. In section 74 (3) of the Principal Act—

(a) for “an amount” substitute

“—

(a) an amount”; and

(b) after “*Motor Car Traders Act 1973*” insert “; and

(b) any refund of fees paid under this Act”.

New sections 84A and 84B inserted

20. After section 84 of the Principal Act insert—

False or misleading statements

“84A. (1) A person must not in, or in relation to—

(a) an application for a licence; or

(b) an objection to the granting or holding of a licence; or

(c) the making of a claim to the Committee—

give information or make a statement that is false or misleading by reason of the inclusion of any false or misleading matter or the omission of any material matter.

Penalty: 50 penalty units.

(2) It is a defence to a prosecution of a person for an offence under sub-section (1) if the person proves that, when the information was given or the statement made, the person—

- (a) believed on reasonable grounds—
 - (i) that the false matter was true; or
 - (ii) that the misleading matter was not misleading; or
- (b) in the case of an omission—
 - (i) believed on reasonable grounds that no material matter had been omitted; or
 - (ii) did not know that the omitted matter was material.”

Production of records

“84B. (1) If a record is produced in any proceedings before the Committee or the Authority, the Committee or the Authority (as the case may be)—

- (a) if it considers it necessary for the purpose of the proceedings, may keep the record for any period it considers necessary; and
- (b) may make copies of the record or any part of the record; and
- (c) may give to the person who produced the record a copy of the record which has been certified by a member of the Committee or the Authority (as the case may be) to be a true copy of the record.

(2) If—

- (a) the Committee or the Authority makes a copy of a record produced in the proceedings; and
- (b) a member of the Committee or the Authority (as the case may be) certifies the copy to be a true copy of the record—

the certified copy is admissible in evidence in any proceedings as if it were the record of which it is certified to be a copy.”.

Deputy Chairpersons

21. After section 91 (2) of the Principal Act insert—

“(3) The Deputy Chairperson may be referred to as the Deputy Chairman or the Deputy Chairwoman, as the case requires.”.

Terms and conditions of appointment

22. (1) In section 93 (1) of the Principal Act, omit “or a Deputy Chairperson”.

(2) After section 93 (1) of the Principal Act insert—

“(1A) A person who is a Deputy Chairperson holds office for a period not exceeding five years and upon such terms and conditions as the Governor in Council determines but is eligible for re-appointment.”.

Acting Chairpersons

23. In section 96 (1) of the Principal Act, for “person (not being a member of the Authority)” substitute “Deputy Chairperson or a person who is not a member of the Authority”.

Fixing time and place for hearings

24. In section 101 (1) of the Principal Act, after “Chairperson” insert “or, in the absence of the Chairperson, the Deputy Chairperson”.

Constitution of Authority

25. After section 102 (3) of the Principal Act insert—

“(4) Proceedings, other than applications, may be determined by the Chairperson or a Deputy Chairperson alone.”.

Privilege

26. In section 104 (6) of the Principal Act, omit “or would be inadmissible in a court by reason of privilege”.

Proceedings before Authority to be in public unless special circumstances

27. (1) In section 106 (1) of the Principal Act, for “Proceedings” substitute “Subject to this section, proceedings”.

(2) In section 106 of the Principal Act, for sub-section (2) substitute—

“(2) If the Authority is satisfied that it is desirable to do so by reason of the existence of special circumstances, the Authority may direct that the proceedings before the Authority take place in private.”.

Powers of Registrar

28. (1) After section 109 (2) of the Principal Act insert—

“(2A) The Registrar may, in a particular case or classes of cases—

(a) waive or reduce fees that would otherwise be payable under this Act; or

(b) refund, in whole or in part, fees paid under this Act.”.

(2) In section 109 (5) of the Principal Act, after “period” insert “or”.

Request for copy of reasons for determination

29. In section 110 of the Principal Act, for sub-section (1) substitute—

“(1) Any person may request a copy in writing of the reasons for a determination of the Authority—

(a) before or within 14 days after the Authority made the determination in a matter; and

(b) on payment to the Registrar of the prescribed fee (if any).”.

New section 113A inserted

30. After section 113 of the Principal Act insert—

Amendment of documents

“113A. (1) The Authority—

(a) on the application of—

(i) the Director; or

(ii) a party; or

(b) on its own motion—

may at any time order that any document in the proceedings be amended subject to any order for adjournment or otherwise that the Authority thinks fit.

(2) The Authority may at any time correct a clerical mistake in an order or an error arising in an order from an accidental slip or omission.”.

Deputy Registrars

31. In section 116 (1) of the Principal Act, for “or the Registrar” substitute “, the Registrar, a Deputy Registrar”.

(2) In section 117 of the Principal Act, after “the Registrar,” insert “a Deputy Registrar,”.

Transitional provisions

32. (1) If, before the commencement of this Part, the Guarantee Fund Claims Committee or the Motor Car Traders Licensing Authority, as the case may be, had received an application or begun to hold an inquiry but, at that commencement, had not made a determination in the matter, the Principal Act as amended by this Part applies to proceedings in that matter taking place on or after that commencement.

(2) Section 22 does not affect the term of appointment of the person holding the office of a Deputy Chairperson of the Motor Car Traders Licensing Authority immediately before the commencement of this Part.

PART 4—AMENDMENT OF *TRAVEL AGENTS ACT* 1986

Principal Act

33. In this Part, the *Travel Agents Act* 1986 is called the Principal Act.

No. 52/1988.

Publication of lists of authorised travel agents

34. After section 37 (2) of the Principal Act insert—

“(2A) The Authority may from time to time amend a list in force under sub-section (2) by publishing in the *Government Gazette* names which have been added to or removed from the list since the last date of publication.”.

New sections 42A, 42B and 42C inserted

35. After section 42 of the Principal Act insert—

Production of records in proceedings

“42A. (1) If a record is produced in any proceedings before the Authority, the Authority—

- (a) if it considers it necessary for the purpose of the proceedings, may keep the record for any period it considers necessary; and
- (b) may make copies of the record or any part of the record; and
- (c) may give to the person who produced the record a copy of the record which has been certified by a member of the Authority to be a true copy of the record.

(2) If—

- (a) the Authority makes a copy of a record produced in the proceedings; and
- (b) a member of the Authority certifies the copy to be a true copy of the record—

the certified copy is admissible in evidence in any proceedings as if it were the record of which it is certified to be a copy.”

False or misleading statements

“42B. (1) A person must not in or in relation to an application for a licence, or an objection to the granting or holding of a licence, give information or make a statement that is false or misleading by reason of the inclusion of any false or misleading matter or the omission of any material matter.

Penalty: 50 penalty units.

(2) It is a defence to a prosecution of a person for an offence under sub-section (1) if the person proves that, when the information was given or the statement made, the person—

- (a) believed on reasonable grounds—
 - (i) that the false matter was true; or
 - (ii) that the misleading matter was not misleading; or
- (b) in the case of an omission—

- (i) believed on reasonable grounds that no material matter had been omitted; or
- (ii) did not know that the omitted matter was material.”

Payments from Consolidated Fund

“42C. If the Licensing Registrar is authorised or becomes liable to pay amounts in accordance with this Act, those amounts must be paid from the Consolidated Fund which is to the necessary extent appropriated accordingly.”

Chairpersons

36. After section 50 (2) of the Principal Act insert—

“(3) The Chairperson may be referred to as the Chairman or the Chairwoman, as the case requires.

(4) The Deputy Chairperson may be referred to as the Deputy Chairman or the Deputy Chairwoman, as the case requires.”

Terms and conditions of appointment

37. (1) In section 51 (1) of the Principal Act, omit “or a Deputy Chairperson”.

(2) After section 51 (1) of the Principal Act insert—

“(1A) Subject to this Part, a person who is a Deputy Chairperson holds office for a period not exceeding five years and upon such terms and conditions as the Governor in Council determines but is eligible for re-appointment.”

Acting Chairpersons

38. In section 54 (1) of the Principal Act, for “person (not being a member of the Authority)” substitute “Deputy Chairperson or a person who is not a member of the Authority”.

New sections 56A, 56B and 56C inserted

39. After section 56 of the Principal Act insert—

Chairperson or Deputy Chairperson may give directions

“56A. The Chairperson or Deputy Chairperson may, subject to any decision of the Authority, give directions and do whatever is necessary for the expeditious and just hearing and determination of any proceedings before the Authority.”

Use of experts

“56B. The Chairperson may, subject to the approval of the Minister, retain experts to advise the Authority in respect of any proceedings before the Authority.”

Fixing time and place for hearings

“56C. (1) The Chairperson or in the absence of the Chairperson, the Deputy Chairperson, must fix the time and place of proceedings before the Authority.

(2) The Licensing Registrar must give a notice to each party to proceedings of the time and place for the hearing of the proceedings.”.

Constitution of Authority

40. After section 57 (3) of the Principal Act insert—

“(4) Proceedings, other than applications, may be determined by the Chairperson or the Deputy Chairperson alone.”.

Appearance before Authority

41. After section 59 (5) of the Principal Act insert—

“(6) A person is not excused from answering any question or producing any document on the ground that the answer or document might tend to incriminate the person but if the person claims, before answering the question or producing the document, that the answer or document might tend to incriminate the person, the answer or document is not admissible in evidence against the person in criminal proceedings, other than proceedings in respect of the falsity of the answer or document.”.

Proceedings to be in public unless special circumstances

42. (1) In section 62 (1) of the Principal Act, for “Proceedings” substitute “Subject to this section, proceedings”.

(2) In section 62 of the Principal Act, for sub-section (2) substitute—

“(2) If the Authority is satisfied that it is desirable to do so by reason of the existence of special circumstances, the Authority may direct that the proceedings before the Authority take place in private.”.

Request for copy of reasons for determination

43. In section 64 of the Principal Act, for sub-section (1) substitute—

“(1) Any person may request a copy in writing of the reasons for a determination of the Authority—

(a) before or within 14 days after the Authority made the determination in a matter; and

(b) on payment to the Licensing Registrar of the prescribed fee (if any).”.

New sections 66A and 66B inserted

44. After section 66 of the Principal Act insert—

Extension of time

“66A. (1) The Authority—

(a) on the application of—

(i) the Director; or

(ii) a party; or

(b) on its own motion—

may extend any time limit fixed by the Authority or this Act for doing any act or taking any proceeding or waive compliance with any procedural requirement.

(2) The Authority may make an order under this section although an application for the making of the order was not made until after the expiration of the time appointed or fixed for doing the act or taking the proceeding.”

Amendment of documents

“66B. (1) The Authority—

(a) on the application of—

(i) the Director; or

(ii) a party; or

(b) on its own motion—

may order at any time that any document in the proceedings be amended subject to any order for adjournment or otherwise that the Authority thinks fit.

(2) The Authority may at any time correct a clerical mistake in an order or an error arising in an order from an accidental slip or omission.”

Licensing Registrar and Deputy Licensing Registrars

45. The Principal Act is amended as follows:

(a) In section 68 (1), after “such” insert “number of Deputy Licensing Registrars and”;

(b) After section 68 (2) insert—

“(2A) The Licensing Registrar may, in a particular case or classes of cases—

(a) waive or reduce fees that would otherwise be payable under this Act; or

(b) refund, in whole or in part, fees paid under this Act.”;

(c) In section 68 (3), after “Chairperson” insert “or a Deputy Chairperson”;

(d) After section 68 (3) insert—

“(3A) The Licensing Registrar may from time to time delegate to one or more Deputy Licensing Registrars such functions and powers of the Licensing Registrar (other than this power of delegation and the power to grant a licence) as may under this Part be performed or exercised by the Licensing Registrar.”;

(e) In section 68 (4)—

(i) after “(3)” insert “or (3A)”; and

(ii) after “Authority” insert “or Licensing Registrar, as the case may be”;

(f) In section 70 (1) for “or the Licensing Registrar” substitute “, the Licensing Registrar, a Deputy Licensing Registrar”.

New section 71 substituted

46. For section 71 of the Principal Act substitute—

Protection for things done under the Act

“71. An action does not lie against a member of the Authority, the Licensing Registrar, a Deputy Licensing Registrar, the Director, an applicant, a licensee or any other person on account of any proceedings taken, any publication made or anything done under the authority of this Act or taken, made or done in good faith purportedly under the authority of this Act or on account of any omission made in good faith in the administration of this Act.”.

Transitional provision

47. If, before the commencement of this Part, the Travel Agents Licensing Authority had received an application or begun to hold an inquiry but, at that commencement, had not made a determination in the matter, the Principal Act as amended by this Part applies to proceedings in that matter taking place on or after that commencement.

PART 5—AMENDMENT OF *CREDIT ACT* 1984

Amendment of *Credit Act* 1984

48. The *Credit Act* 1984 is amended as follows:

- (a) In section 5 (1), in paragraph (b) of the definition of “Cash price”, for “is a to” substitute “is to”;
- (b) In section 8 (2), for “a assignee” substitute “an assignee”;
- (c) In section 19 (1), for “provisions or” substitute “provisions of”;
- (d) In section 31 (2), for “in made” substitute “is made”;

- (e) In section 40 (1), for “it if” substitute “if it”;
 - (f) In section 70 (1) (b) (i), for “and” substitute “or”;
 - (g) In section 88 (b), for “4(4)” substitute “3(4)”;
 - (h) In section 125 (1), for “enforceable” substitute “unenforceable”;
 - (i) In section 127 (2), for “other that” substitute “other than”;
 - (j) In section 146 (1), for “contract of” substitute “contract or”;
 - (k) In Schedule 7, in clause 1 (k), for “into relation” substitute “into in relation”.
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NOTES

1. *Minister’s second reading speech—*
Legislative Assembly: 3 November 1988
Legislative Council: 11 April 1989
2. The long title for the Bill for this Act was “A Bill to amend the *Credit (Administration) Act 1984*, the *Motor Car Traders Act 1986* and the *Travel Agents Act 1986* and for other purposes.”.