

AUSTRALIAN CAPITAL TERRITORY

Agents (Amendment) Ordinance (No. 2) 1988

No. 47 of 1988

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Ordinance
4. Application of Ordinance
5. Interpretation
6. Insertion—
 - 5A. Real estate agents—interpretation
 - 5B. Stock and station agents—interpretation
 - 5C. Business agents—interpretation
 - 5D. Travel agents—interpretation
 - 5E. Employees of agents
 - 5F. Fit and proper person
7. Registrar, Deputy Registrar, inspectors
8. Insertion—
 - 6A. Inspectors' identity cards
9. Registers
10. Constitution of the Board
11. Vacation of office
12. Meetings of the Board
13. Substitution—

PART III—CARRYING ON BUSINESS WITHOUT A
LICENCE AND RELATED MATTERS
14. Natural persons to be licensed
15. Companies to be licensed
16. Insertion—
 - 19A. Unlicensed travel agents—additional penalty

(Ord. 1/88)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

TABLE OF PROVISIONS—continued

Section

- 17. Repeal
- 18. Registration certificates
- 19. Eligibility—natural persons
- 20. Eligibility—companies
- 21. Eligibility—natural persons
- 22. Eligibility—companies
- 23. Eligibility—natural persons
- 24. Eligibility—companies
- 25. Insertion—
 - Division 3A—Eligibility for grant of travel agent’s licence*
 - 47A. Eligibility—natural persons
 - 47B. Eligibility—companies
 - 47C. Qualifications for travel agent, director or manager
 - Division 3B—Licences held by partnerships*
 - 47D. Application
 - 47E. Notice of partnership
 - 47F. Rights and liabilities of partners
 - 47G. Offences by partners
 - 47H. Suspension or cancellation of a partner’s licence
- 26. Applications for licences by individuals
- 27. Applications for licences by companies
- 28. Grant or refusal of licence
- 29. Issue of licences
- 30. Insertion—
 - 53A. Licences subject to conditions
- 31. Company directors specified in licence
- 32. Trust money
- 33. Insertion—
 - 55A. Application of Division
- 37. Repeal
- 38. Records of other money
- 39. Inspection of bank accounts
- 40. Insertion—
 - PART VIA—TRAVEL AGENTS (MISCELLANEOUS PROVISIONS)**
 - 71A. Qualified supervisors for travel agents’ businesses
 - 71B. Participation in compensation scheme
 - 71C. Powers of compensation scheme trustees
 - 71D. Legal action by compensation scheme trustee
 - 71E. Rights of compensation scheme trustees
 - 71F. Dealings with unlicensed travel agents

TABLE OF PROVISIONS—continued

Section	
	71G. Publication of names of licensed travel agents
	PART VIB—ENTRY AND INSPECTION OF PREMISES
	71H. Interpretation
	71J. Entry and inspection of premises
	71K. Consent to entry and inspection
	71L. Search warrants
	71M. Contravention of officer's requirements
41.	Rules of conduct—licensed agents
42.	Inquiry by the Board
43.	Substitution—
	77. Revocation of registration or licence
44.	Revocation where change of directors
45.	Failure to notify intention to show cause
46.	Inquiry where agent shows cause
47.	Substitution—
	82. Suspension of travel agent's licence
	82A. Disqualification
48.	Effect of revocation
49.	Insertion—
	83A. Record of disqualification
50.	Substitution—
	PART X—APPOINTMENT OF RECEIVER OR ADMINISTRATOR
51.	Appointment of receiver or administrator
52.	Notice to bank
53.	Substitution—
	86. Powers, duties and liability of receiver or administrator
54.	Remuneration of receiver or administrator
55.	Inquiries
56.	Failure to attend or produce documents
57.	Refusal to be sworn or give evidence
58.	Substitution—
	PART XII—REVIEW OF DECISIONS
	98. Review of decisions
	98A. Notification of decisions
59.	Substitution—
	99. Employment of disqualified persons
	100. Offences by companies
60.	Agent not to share commission
61.	Improper use of licence
62.	Improper use of title of real estate agent

TABLE OF PROVISIONS—continued

Section

- 63. Improper use of title of stock and station agent
- 64. Improper use of title of business agent
- 65. Insertion—
 - 105A. Improper use of title of travel agent
- 66. False or misleading advertisements
- 67. Substitution—
 - 107. Preservation of accounting records
 - 108. Obstruction of authorised officer
- 68. Production of licence for inspection
- 69. Withholding deposits
- 70. Address of agent in advertisement
- 71. Misrepresentation of authority to act as real estate agent
- 72. Misrepresentation of authority to act as business agent
- 73. Notices to be displayed
- 74. Rent collection by persons other than real estate agents
- 75. Evidence of licensing
- 76. Insertion—
 - 120B. Agreements for regulation of travel agents' business
- 77. Regulations
- 78. Schedule
- 79. Transition—travel agents

AUSTRALIAN CAPITAL TERRITORY

Agents (Amendment) Ordinance (No. 2) 1988

No. 47 of 1988

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 25 July 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GARY PUNCH
Minister of State for the Arts
and Territories

An Ordinance to amend the *Agents Ordinance 1968*

Short title

1. This Ordinance may be cited as the *Agents (Amendment) Ordinance (No. 2) 1988*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for the Arts and Territories by notice in the *Gazette*.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Agents Ordinance 1968*.²

Application of Ordinance

4. Section 3 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (b) “or”;
- (b) by adding at the end the following paragraphs:
 - (d) a Minister of State; or
 - (e) a prescribed authority.”; and
- (c) by adding at the end the following subsections:

“(2) The Minister may, by notice in the *Gazette*, declare that a provision or provisions of this Ordinance does or do not apply in relation to a person or a class of persons specified in the notice.

“(3) A declaration shall be laid before each House of the Parliament within 15 sitting days of that House after the day on which the declaration is made.

“(4) If a declaration is not laid before each House of Parliament in accordance with subsection (3), it shall be void and of no effect.

“(5) Subsections 4 to 7 (inclusive) of section 12 of the *Seat of Government (Administration) Act 1910* apply in relation to a declaration laid before a House of the Parliament as if the references in those subsections to an Ordinance were references to a declaration under subsection (2) of this section.

“(6) In the application, by virtue of subsection (5), of subsections 12 (6) and (6A) of the *Seat of Government (Administration) Act 1910*, references in those subsections to subsection 12 (3) of that Act shall be read as references to subsection (4) of this section.”.

Interpretation

5. Section 5 of the Principal Ordinance is amended—

- (a) by omitting subsection (1) and substituting the following subsection:
 - “(1) In this Ordinance, unless the contrary intention appears—
 - ‘administrator’ means a person appointed under subsection 84 (3) to administer an agent’s business;
 - ‘agent’ means a real estate agent, stock and station agent, business agent or travel agent;
 - ‘applicant’ means an applicant for registration or for a licence;

‘authorised officer’ means the Registrar, a Deputy Registrar or an inspector;

‘Board’ means the Agents Board of the Australian Capital Territory established under subsection 8 (1);

‘business’, in relation to a real estate agent, stock and station agent, business agent or travel agent, means the business carried on by the agent as mentioned in section 5A, 5B, 5C or 5D respectively;

‘business agent’ means a person who, by virtue of section 5C, carries on business as a business agent;

‘Chairman’ means the person who is the Chairman of the Board by virtue of subsection 10 (1);

‘commercial premises’ means premises in which a business, trade, profession or calling is carried on, excluding any part of the premises that is used for residential purposes;

‘company’ includes—

- (a) a co-operative society; and
- (b) a trade union;

‘compensation fund’ means the fund established and administered under the trust deed;

‘compensation scheme’ means the compensation scheme established and administered under the trust deed;

‘co-operative society’ means a trading society formed pursuant to section 13 of the *Co-operative Societies Ordinance 1939* and registered as such a society under that Ordinance;

‘corresponding law’ means a law of a State or another Territory that provides for the registration or licensing of a person who carries on business as an agent;

‘departmental member’ means the member of the Board referred to in paragraph 9 (1) (a), or if a person has been appointed to act in place of that member, that person;

‘Deputy Chairman’ means the Deputy Chairman of the Board elected under subsection 10 (2);

- ‘Deputy Registrar’ means a Deputy Registrar appointed under subsection 6 (2);
- ‘director’, in relation to a trade union, means an officer of the trade union;
- ‘identity card’ means an identity card issued under subsection 6A (1);
- ‘inquiry’ means an inquiry in accordance with section 88;
- ‘inspector’ means an inspector appointed under subsection 6 (2);
- ‘land’ includes a unit within the meaning of the *Unit Titles Ordinance 1970*;
- ‘lease’ includes a sub-lease;
- ‘licence’, in relation to a real estate agent, a stock and station agent, a business agent or a travel agent, means a licence to carry on business as a real estate agent, a stock and station agent, a business agent or a travel agent respectively;
- ‘licensed agent’ means an agent in respect of whose business a licence is in force;
- ‘member’ means a member of the Board, including the Chairman or an acting Chairman;
- ‘memorandum of association’, in relation to a co-operative society or a trade union, means the rules of the society or union;
- ‘Minister of State’ means a Minister of the Crown of a State or a Minister of the Northern Territory;
- ‘occupier’, in relation to premises, includes the proprietor or a person who is, or is reasonably believed to be, in charge of the premises;
- ‘officer’, in relation to a company, means—
- (a) a director of the company;
 - (b) in the case of a trade union—an officer of the union;
 - (c) a secretary of the company;

- (d) a receiver or manager of property of the company;
- (e) an administrator of the company;
- (f) an official manager or deputy official manager of the company;
- (g) a liquidator of the company appointed in a voluntary winding up of the company; or
- (h) a trustee or other person administering a compromise or arrangement made between the company and another person;

‘participant’, in relation to the compensation scheme, has the same meaning as in the trust deed;

‘prescribed qualifications’ means the qualifications referred to in section 47C;

‘real estate agent’ means a person who, by virtue of section 5A, carries on business as a real estate agent;

‘receiver’ means a receiver appointed under subsection 84 (1) or (2);

‘register’ means a register kept pursuant to subsection 7 (1);

‘registered’ means registered under this Ordinance;

‘Registrar’ means the Registrar of Agents appointed under subsection 6 (1);

‘rules of conduct’ means the rules of conduct established by part VII;

‘rural purposes’ has the same meaning as in section 4AA of the *Leases Ordinance 1918*;

‘stock and station agent’ means a person who, by virtue of section 5B, carries on business as a stock and station agent;

‘trade union’ means an association within the meaning of the *Conciliation and Arbitration Act 1904* that is registered under section 132 of the Act or under a law of a State or another Territory that provides for the registration of such associations;

‘travel agent’ means a person who, by virtue of section 5D, carries on business as a travel agent;

‘trust account’ means an account opened and maintained under subsection 56 (1);

‘trust deed’ means—

- (a) the deed made the twelfth day of December 1986 by the Crown in the rights of the States of New South Wales, Victoria, South Australia and Western Australia, being the deed under which are established and administered a travel compensation fund, and a compensation scheme, in relation to business carried on by travel agents;
- (b) if that deed is amended under clause 30 of the deed—that deed as amended; or
- (c) if that deed is superseded by another deed under which are established and administered such a fund and scheme—
 - (i) that other deed; or
 - (ii) if that other deed is amended under a clause of the deed—that other deed as amended;

‘trustees’, in relation to the compensation scheme means the trustees by whom the scheme is administered;

‘trust money’ means money deemed to be held in trust pursuant to section 55,”; and

- (b) by omitting subsection (2).

Insertion

6. After section 5 of the Principal Ordinance the following sections are inserted:

Real estate agents—interpretation

“5A. A person carries on business as a real estate agent if, in the course of carrying on business, the person acts, or holds out or advertises that he or she is prepared to act, as agent for principals—

- (a) in the sale, purchase, exchange, leasing or letting of land;

- (b) in the collection of rents payable under leases, or in respect of letting, of land; or
- (c) in the collection of payments under a mortgage of land or payments under a terms contract in respect of land;

whether the land is used for rural or other purposes.

Stock and station agents—interpretation

“5B. A person carries on business as a stock and station agent if, in the course of carrying on business, the person acts, or holds out or advertises that he or she is prepared to act, as agent for principals—

- (a) in the sale, purchase, exchange, leasing or letting of land used for rural purposes;
- (b) in the collection of rents payable under leases, or in respect of the letting, of land used for rural purposes;
- (c) in the sale, purchase or exchange of livestock;
- (d) in the provision of agistment for livestock; or
- (e) in the collection of charges for the agistment of livestock.

Business agents—interpretation

“5C. A person carries on business as a business agent if, in the course of carrying on business, the person acts, or holds out or advertises that he or she is prepared to act, as agent for principals in the sale, purchase or exchange, or in other dealings with, or in the disposition of, or in the negotiations for the sale, purchase, exchange or other dealing with, or disposition of, the goodwill in, or stock-in-trade of, businesses.

Travel agents—interpretation

“5D. (1) A person carries on business as a travel agent if, in the course of carrying on business, the person—

- (a) sells tickets entitling another person to travel, or otherwise arranges for another person a right of passage, on a conveyance;
- (b) sells to, or arranges or makes available for, another person rights of passage to, and hotel or other accommodation at, one or more places (whether or not the place, or any of the places, is in the Territory);
- (c) purchases for resale the right of passage on a conveyance; or

(d) holds out or advertises that he or she is prepared to carry on an activity referred to in paragraph (a), (b) or (c).

“(2) A person shall not be taken to carry on business as a travel agent—

- (a) in respect of an activity referred to in paragraph (1) (a)—
 - (i) if the person is the proprietor of the conveyance in respect of which the activity is carried on; or
 - (ii) if the conveyance is used solely for the purposes of carrying passengers from a place and returning them to that place on the same day;
- (b) in respect of an activity referred to in paragraph (1) (b)—if the person is the proprietor of the conveyance and place of accommodation in respect of which the activity is carried on;
- (c) in respect of an activity referred to in paragraph (1) (c)—if the conveyance is used solely for the purposes of carrying passengers from a place and returning them to that place on the same day; or
- (d) only because the person holds out or advertises that he or she is prepared to carry on an activity as mentioned in paragraph (a), (b) or (c).

“(3) In subsection (2)—

- (a) a reference to the proprietor of a conveyance—
 - (i) shall be read as including a reference to a person who has lawful possession of the conveyance but not the property in it; and
 - (ii) shall not be read as including a reference to a person who has the property in the conveyance but does not have possession of it because of its being the subject of a mortgage, bill of sale, hire-purchase agreement or other hiring agreement, lease, licence or bailment; and
- (b) a reference to the proprietor of a place of accommodation shall be read as a reference to the person in possession of the land that is, or on which is situated, the place of accommodation.

Employees of agents

“5E. A person shall not be taken to carry on business as an agent only because the person does anything referred to in section 5A, 5B, 5C or 5D in the course of his or her employment.

Fit and proper person

“5F. (1) Without limiting the generality of subparagraphs 51 (3) (e) (ii) and (f) (i) and (ii) and paragraphs 77 (1) (b) and 82A (3) (a), when determining whether a person is a fit and proper person for the purposes of those paragraphs, the Board may have regard to whether the person—

- (a) has been convicted of an offence involving fraud or dishonesty within the period of 10 years immediately preceding—
 - (i) if the Board is considering whether to refuse an application for the grant of a licence on the grounds referred to in subparagraph 51 (3) (e) (ii) or (f) (i) or (ii)—the day on which the application was made; or
 - (ii) in any other case—the day on which the Board considers whether to revoke an agent’s registration or licence on the grounds referred to in paragraph 77 (1) (b), or the day on which the Board considers whether to disqualify the person from being involved in the direction, management or conduct of an agent’s business on the grounds referred to in paragraph 82A (3) (a), as the case requires;
- (b) has, within that period, served any part of a term of imprisonment for such an offence;
- (c) is, at the time the application, revocation or disqualification, as the case may be, is considered by the Board—
 - (i) bound in relation to such an offence by a recognizance; or
 - (ii) the subject of a charge pending in relation to such an offence;
- (d) has, at any time, been convicted of an offence against this Ordinance or a corresponding law;
- (e) has been refused a licence under a corresponding law; or
- (f) has been the subject of action taken under a corresponding law that has an effect similar to the effect of action taken under section 75.

“(2) A reference in subsection (1) to a person’s conviction shall be read as including a reference to an order made in relation to the person under section 556A of the Crimes Act, 1900 of the State of New South Wales in its application to the Territory or under a law of a State or another Territory that provides for the conditional release of offenders without proceeding to conviction.”.

Registrar, Deputy Registrar, Inspectors

7. Section 6 of the Principal Ordinance is amended by omitting subsection (3) and substituting the following subsection:

“(3) During the absence from duty of the Registrar for any reason, the duties and powers of the Registrar shall be performed and exercised respectively by the Deputy Registrar or, if more than one Deputy Registrar has been appointed, by the Deputy Registrar nominated for the purpose by the Minister.”.

Insertion

8. After section 6 of the Principal Ordinance the following section is inserted:

Inspectors’ identity cards

“6A. (1) The Minister shall cause to be issued to each inspector an identity card that specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.

“(2) A person appointed to be an inspector shall, upon ceasing to be an inspector, return his or her identity card to the Minister.

“(3) A person who, without reasonable excuse, contravenes subsection (2) is guilty of an offence punishable, on conviction, by a fine not exceeding \$100.”.

Registers

9. Section 7 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (b) “and” (last occurring); and
- (b) by adding at the end of subsection (1) the following word and paragraph:

“; and (d) the Register of Travel Agents.”.

Constitution of the Board

10. Section 9 of the Principal Ordinance is amended by omitting from subsection (1) “five” and substituting “7”.

Vacation of office

11. Section 13 of the Principal Ordinance is amended by omitting from paragraph (d) “Minister” and substituting “Chairman”.

Meetings of the Board

12. Section 16 of the Principal Ordinance is amended by omitting from subsection (4) “departmental member” and substituting “Chairman”.

Substitution

13. The heading to Part III of the Principal Ordinance is omitted and the following heading substituted:

“PART III—CARRYING ON BUSINESS WITHOUT A LICENCE AND RELATED MATTERS”.

Natural persons to be licensed

14. Section 18 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot; and
- (b) by adding at the end the following subsection:

“(4) A person (other than a company) shall not carry on business as a travel agent unless the person holds a travel agent’s licence.

Penalty: \$2,000.”.

Companies to be licensed

15. Section 19 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot; and
- (b) by adding at the end the following subsection:

“(4) A company shall not carry on business as a travel agent unless it holds a travel agent’s licence.

Penalty: \$10,000.”.

Insertion

16. After section 19 of the Principal Ordinance the following section is inserted in Part III:

Unlicensed travel agents—additional penalty

“19A. (1) Where a travel agent is convicted of an offence against subsection 18 (4) or 19 (4) the court may, in addition to imposing a penalty in respect of the offence, order the person to pay to the Registrar an amount determined by the court, being an amount not exceeding the profit derived by the agent from carrying on business as a travel agent in the period during which the agent was carrying on business without a licence.

“(2) An amount equal to the amount paid to the Registrar pursuant to subsection (1) shall be paid to the trustees of the compensation scheme for the purposes of the trust.

“(3) An amount payable under an order made pursuant to subsection (1) is recoverable by the Commonwealth in a court of competent jurisdiction as a debt due.”.

Repeal

17. Section 23 of the Principal Ordinance is repealed.

Registration certificates

18. Section 41 of the Principal Ordinance is amended by omitting all the words from and including “or the Supreme Court” to and including “granted”.

Eligibility—natural persons

19. Section 42 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) “and”; and
- (b) by adding at the end the following word and paragraph:
 - “; and (c) the person is of good fame and character.”.

Eligibility—companies

20. Section 43 of the Principal Ordinance is amended—

- (a) by omitting paragraph (1) (a) and substituting the following paragraph:

- “(a) the company is not prohibited by its memorandum of association from carrying on business as a real estate agent;”;
- (b) by omitting from paragraph (1) (c) “of the other directors” and substituting “director”; and
- (c) by omitting subsection (2).

Eligibility—natural persons

21. Section 44 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) “and”; and
- (b) by adding at the end the following word and paragraph:
 - “; and (c) the person is of good fame and character.”.

Eligibility—companies

22. Section 45 of the Principal Ordinance is amended—

- (a) by omitting paragraph (1) (a) and substituting the following paragraph:
 - “(a) the company is not prohibited by its memorandum of association from carrying on business as a stock and station agent;”;
- (b) by omitting from paragraph (1) (c) “of the other directors” and substituting “director”; and
- (c) by omitting subsection (2).

Eligibility—natural persons

23. Section 46 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) “and”; and
- (b) by adding at the end the following word and paragraph:
 - “; and (c) the person is of good fame and character.”.

Eligibility companies

24. Section 47 of the Principal Ordinance is amended—

- (a) by omitting paragraph (1) (a) and substituting the following paragraph:

- “(a) the company is not prohibited by its memorandum of association from carrying on business as a business agent;”;
- (b) by omitting from paragraph (1) (c) “of the other directors” and substituting “director”; and
- (c) by omitting subsection (2).

Insertion

25. After Division 3 of Part V of the Principal Ordinance the following Divisions are inserted:

“Division 3A—Eligibility for grant of travel agent’s licence

Eligibility—natural persons

“47A. A person other than a company is eligible for the grant of a travel agent’s licence if—

- (a) the person is at least 18 years of age;
- (b) the person has the prescribed qualifications;
- (c) the trustees of the compensation fund have determined under clause 9.6 of the trust deed that the person is eligible to be a contributor to the fund;
- (d) the person has paid an initial contribution to the compensation fund in accordance with Part 6 of the trust deed;
- (e) the person is not disqualified under subsection 82A (1) or (2) or a corresponding law from holding a travel agent’s licence; and
- (f) the person is not disqualified under section 82A (3) or a corresponding law from being involved in the direction, management or conduct of a travel agent’s business.

Eligibility—companies

“47B. A company is eligible for the grant of a travel agent’s licence if—

- (a) each person involved in the management of the company is at least 18 years of age;
- (b) a director of the company has the prescribed qualifications;
- (c) the company is not prohibited by its memorandum of association from carrying on business as a travel agent;

- (d) the trustees of the compensation fund have determined under clause 9.6 of the trust deed that the company is eligible to be a contributor to the compensation fund;
- (e) the company has paid an initial contribution to the compensation fund in accordance with Part 6 of the trust deed;
- (f) the company is not disqualified under subsection 82A (1) or (2) or a corresponding law from holding a travel agent's licence; and
- (g) no officer of the company is disqualified under subsection 82A (3) or a corresponding law from being involved in the direction, management or conduct of a travel agent's business.

Qualifications for travel agent, director or manager

“47C. For the purposes of paragraphs 47A (b) and 47B (b), a person has the prescribed qualifications if the person—

- (a) is of good fame and character;
- (b) has 3 years' experience in carrying on business as a travel agent or as an employee of a travel agent; and
- (c) has a qualification set out in the Schedule.”.

“Division 3B—Licences held by partnerships

Application

“47D. Where a licence issued in the name of one of a number of partners is held for the purposes of the partnership, sections 47F, 47G and 47H apply in relation to the licensee and to each partner—

- (a) whether or not the partner's name appears on the licence; and
- (b) whether or not subsection 47E (1), (2), (3) or (4), as the case requires, has been complied with in relation to the partner.

Notice of partnership

“47E. (1) Where one of a number of partners applies for a licence for the purposes of the partnership, the applicant shall attach to the application written particulars of—

- (a) the name and residential address of each partner; and
- (b) the name under which the partners are or will be carrying on the business in respect of which the application is made.

“(2) Where a licensee enters into partnership with another person or persons after the licence is issued, and the licence is to be held for the purposes of the partnership, the licensee shall, within 1 month after the partnership was formed—

- (a) give the Registrar written particulars of—
 - (i) the name and residential address of each partner; and
 - (ii) the name under which the partners are or will be carrying on the business to which the licence relates; and
- (b) if the licence has been issued—lodge the licence with the Registrar.

“(3) Where a licence issued before the commencement of the *Agents (Amendment) Ordinance (No. 2) 1988* is held by one of a number of partners for the purposes of the partnership, the licensee shall, within 1 month after that commencement—

- (a) give the Registrar written particulars of—
 - (i) the name and residential address of each partner; and
 - (ii) the name under which the partners are carrying on business at the premises to which the licence relates; and
- (b) lodge the licence with the Registrar.

“(4) If any change occurs in the particulars referred to in subsection (1) (whether before or after the licence is issued) or in the particulars referred to in subsection (2), (3) or (4), the applicant or the licensee, as the case requires—

- (a) shall give the Registrar particulars of the change within 1 month after its occurrence; and
- (b) if the licence has been issued—lodge with the Registrar the licence and the prescribed fee.

“(5) Where a licence has been lodged with the Registrar pursuant to subsection (2), (3) or (4), the Registrar shall, with the approval of the Board, endorse on the licence the particulars most recently given to the Registrar and shall, as soon as practicable, send the licence to the licensee.

Rights and liabilities of partners

“47F. Where a licence issued in the name of one of a number of partners is held for the purposes of the partnership, each partner has, in relation to the licence, all the rights and duties of the licensee.

Offences by partners

“47G. (1) For the purposes of this Ordinance, where—

- (a) a licence issued in the name of one of a number of partners is held for the purposes of the partnership; and
- (b) any of the partners who is involved in the direction, management or conduct of the business in respect of which the licence was issued—
 - (i) does anything that would constitute a breach of the rules of conduct if it were done by the licensee; or
 - (ii) is convicted of an offence against this Ordinance;

the licensee shall be taken respectively to be guilty of a breach of the rules of conduct or to have been convicted of that offence.

“(2) A reference in subsection (1) to a person’s conviction shall be read as including a reference to an order made in relation to the person under section 556A of the Crimes Act, 1900 of the State of New South Wales in its application to the Territory or under a law of a State or another Territory that provides for the conditional release of offenders without proceeding to conviction.

Suspension or cancellation of a partner’s licence

“47H. Where a licence held by one of a number of partners for the purposes of the partnership is suspended or cancelled as a result of an act or omission, while the suspension or cancellation is in force, the licence shall not be transferred, and a licence shall not be issued, to any person who was or is, at the time of the act or omission, or while the suspension or cancellation is in force, a member of the partnership.”

Applications for licences by individuals

26. Section 48 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (a) “writing and signed by the applicant” and substituting “accordance with a form made available by the Board for the purpose”;
- (b) by omitting paragraphs (1) (b) and (c) and substituting the following paragraphs:
 - “(b) shall be lodged with the Registrar not earlier than 7 days, and not later than 14 days, after the applicant has—

- (i) caused a notice of the fact that the applicant intends to apply for a licence to be published in a daily newspaper published and circulating in the Territory;
 - (ii) served on the Commissioner of Police a notice, stating that the applicant intends to apply for a licence, and including particulars of the applicant's full name, date and place of birth, present residential address and the address of any other place at which the applicant has resided during the 3 years immediately preceding the date of service of the notice; and
 - (iii) in the case of an application for a licence to carry on business as a travel agent—served on the Commissioner of Police a notice of particulars in relation to each person (other than the applicant) who is to be present and in charge of the day-to-day conduct of the applicant's business at a place where the business is to be carried on, being particulars of the person's full name, date and place of birth, present residential address and the address of any other place at which the person has resided during the 3 years immediately preceding the date of the notice;
- (c) shall be accompanied by a copy of each notice published or served by the applicant pursuant to paragraph (b) and a statement setting out the date on which each notice was published or served;
 - (ca) shall be accompanied by certificates by 2 persons certifying with respect to the fame and character of the applicant;
 - (cb) in the case of an application for a licence to carry on business as a real estate agent, stock and station agent or business agent—shall be accompanied by a written statement of the applicant's experience as such an agent or as an employee of such an agent;
 - (cc) in the case of an application for a travel agent's licence—shall be accompanied by a written statement of such particulars as are necessary to show that the applicant has the prescribed qualifications;” and

- (c) by omitting subsection (2) and substituting the following subsections:

“(2) Where an applicant for registration as a real estate agent, stock and station agent or business agent applies for a licence to carry on business as such an agent before the Board has considered the application for registration, the Board is not required to consider the application for the licence unless it grants the application for registration.

“(3) In this section, ‘certificate of incorporation’, in relation to a trade union, means the union’s registration certificate.”.

Applications for licences by companies

27. Section 49 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (a) all the words from and including “writing” to and including “company” (last occurring) and substituting “accordance with a form made available by the Board for the purpose”;
- (b) by omitting from paragraph (1) (b) “due” and substituting “certificate of”;
- (c) by omitting paragraph (1) (d) and substituting the following paragraphs:
- “(d) in the case of an application for a licence to carry on business as a real estate agent, stock and station agent or business agent—shall be accompanied by a written statement of the experience, as such an agent or as an employee of such an agent, of each director of the company who is registered, or has applied for registration, as such an agent;
- (da) in the case of an application for a travel agent’s licence—shall be accompanied by a written statement of such particulars, in respect of each director of the company who has the prescribed qualifications, as are necessary to show that the director has those qualifications;”;
- (d) by omitting from subparagraph (1) (e) (i) “and” (last occurring); and
- (e) by adding at the end of paragraph (1) (e) the following word and subparagraph:
- “; and (iii) in the case of an application for a licence to carry on business as a travel agent—served on the Commissioner

of Police a notice of particulars in relation to each person (other than a director of the company) who is to be present and in charge of the day-to-day conduct of the applicant's business at each place where the business is to be carried on, being particulars of the person's full name, date and place of birth, present residential address and the address of any other place at which the person has resided during the 3 years immediately preceding the date of the notice;".

Grant or refusal of licence

28. Section 51 of the Principal Ordinance is amended—

- (a) by omitting from subsection (2) all the words from and including "in the case" to and including "of the company" and substituting "any other person involved in the direction, management or conduct of the applicant's business as an agent";
- (b) by omitting from subsection (2) "such a director" and substituting "other person";
- (c) by omitting from paragraph (3) (a) all the words from and including "or in the case" to and including "of the company," and substituting "or another person";
- (d) by omitting from paragraph (3) (a) "in pursuance of the last preceding sub-section" and substituting "pursuant to subsection (2)";
- (e) by omitting from paragraph (3) (c) "or" (last occurring); and
- (f) by adding at the end of subsection (3) the following paragraphs:
 - "(e) in the case of an application for the grant of a travel agent's licence—the Board has reasonable grounds for believing that—
 - (i) the applicant is not likely to carry on business as a travel agent honestly and fairly;
 - (ii) the applicant is in any other way not a fit and proper person to hold a travel agent's licence; or
 - (iii) if a person employed or to be employed by the applicant to be in charge of the day to day conduct of the applicant's business at a particular place were to apply for a travel agent's licence, the Board would, by

- virtue of paragraph (b) or (d) or subparagraph (i) or (ii), be entitled to refuse the application; or
- (f) in the case of an application by a company for the grant of a travel agent's licence—the Board has reasonable grounds for believing that—
- (i) the reputation of the company is such that it would not be a fit and proper person to hold a travel agent's licence;
 - (ii) if a director of, or a person concerned in the management of, the company were to apply for a travel agent's licence, the Board would, by virtue of paragraph (b), (d) or (e), be entitled to refuse the application; or
 - (iii) any person (other than an officer of the company) who has or is reasonably believed by the Board to have control or substantial control of the company is not of good fame and character or is not likely to exercise that control honestly and fairly.”

Issue of licences

29. Section 53 of the Principal Ordinance is amended—

- (a) by omitting from subsection (1) all the words from and including “or the Supreme Court” to and including “granted,”;
- (b) by omitting from subsection (2) all the words after “referred to” and substituting “in paragraph 43 (1) (b), 45 (1) (b) or 47 (1) (b), or the prescribed qualifications, as the case requires.”; and
- (c) by adding at the end the following subsection:

“(3) A licence issued to a travel agent shall specify the name or names under which the licensee is authorised by the Board to carry on business.”.

Insertion

30. After section 53 of the Principal Ordinance the following section is inserted:

Licences subject to conditions

“53A. A licence is subject to a condition that each place at which the licensee carries on business as an agent shall comply with any prescribed requirements.”.

Company directors specified in licence

31. Section 54 of the Principal Ordinance is amended by omitting subsections (6) and (7) and substituting the following subsections:

“(6) Whether or not an objection is made under subsection (1) or (4), the Board may require any or all of the directors of the company to attend before the Board and to give the Board, either orally or in writing, or both, any further information the Board requires in relation to the competence or qualifications of the director or directors.

“(7) If—

- (a) the Board considers that there may be grounds for believing that a director specified in an application for a licence or in an application for an order under subsection (2)—
 - (i) has not had the experience referred to in paragraph 43 (1) (b), 45 (1) (b) or 47 (1) (b) or has not the prescribed qualifications, as the case requires; or
 - (ii) is otherwise not competent to carry on business as a licensed agent on the director’s own behalf; or
- (b) an objection is made under subsection (1) or (4);

the Board shall hold an inquiry into the matter.

“(8) The Board shall—

- (a) authorise the Registrar to specify in a licence the name of a director specified in the application for the licence; or
- (b) make an order under subsection (2);

unless it is satisfied, after holding an inquiry into the matter, that—

- (c) the director has not had the experience referred to in paragraph 43 (1) (b), 45 (1) (b) or 47 (1) (b) or has not the prescribed qualifications, as the case requires;
- (d) the director is otherwise not competent to carry on business as a licensed agent on the director’s own behalf; or

- (e) if an objection was lodged under subsection (1) or (4) in relation to the director—the ground of objection has been established.”.

Trust money

32. Section 55 of the Principal Ordinance is amended by adding at the end the following subsection:

“(2) Subsection (1) does not apply in relation to travel agents.”.

Insertion

33. After section 55 of the Principal Ordinance the following section is inserted in Division 2 of Part VI:

Application of Division

“55A. This Division does not apply in relation to travel agents.”.

Accounting records

34. Section 60 of the Principal Ordinance is amended—

- (a) by inserting in subsection (1) “(other than a travel agent)” after “licensed agent”;
- (b) by inserting after subsection (1) the following subsection:

“(1A) A licensed travel agent shall keep accounting and other records disclosing the particulars of any money received or paid by the agent in respect of an activity referred to in paragraph 5D (1) (a), (b) or (c), being an activity in respect of which the agent is, by virtue of section 5D, carrying on business as a travel agent.”;
- (c) by omitting from subsection (3) “sub-section (1)” and substituting “subsection (1) or (1A)”; and
- (d) by inserting in subsection (3) “or money referred to in subsection (1A)” after “trust moneys”.

Receipts

35. Section 61 of the Principal Ordinance is amended—

- (a) by inserting in subsection (1) “or money referred to in subsection 60 (1A)” after “trust money”; and
- (b) by omitting from subsection (3) “relating to trust money”.

Insertion

36. After section 61 of the Principal Ordinance the following section is inserted in Division 4 of Part VI:

Application

“61A. Sections 62 to 68 (inclusive) do not apply in relation to travel agents.”.

Repeal

37. Section 69 of the Principal Ordinance is repealed.

Records of other money

38. Section 70 of the Principal Ordinance is amended—

- (a) by inserting in subsection (1) “or money referred to in subsection 60 (1A)” after “trust moneys”; and
- (b) by omitting the penalty set out at the foot of subsection (4) and substituting the following penalty:

“Penalty: (a) in the case of a natural person—\$1,000; or

(b) in the case of a company—\$5,000.”.

Inspection of bank accounts

39. Section 71 of the Principal Ordinance is amended—

- (a) by omitting subsection (1) and substituting the following subsection:

“(1) The manager or other principal officer of a bank—

- (a) at which a licensed agent (other than a travel agent) maintains a trust account; or
- (b) at which a licensed agent maintains a bank account for the purpose of holding money referred to in subsection 60 (1A);

shall, on receiving a written notice signed by the Registrar and delivered personally to the manager or other officer, permit the Registrar or an inspector specified in the notice to inspect and make copies of the account and any related documents or records held by the bank.”; and

- (b) by inserting in subsection (2) “or money referred to in subsection 60 (1A)” after “trust moneys”.

Insertion

40. After Part VI of the Principal Ordinance the following Parts are inserted:

“PART VIA—TRAVEL AGENTS (MISCELLANEOUS PROVISIONS)**Qualified supervisors for travel agents’ businesses**

“71A. A travel agent shall not carry on business at any place unless the agent, or another person who would, by virtue of subsection 51 (3), be entitled to be granted a travel agent’s licence if the person were to apply for one, is present and in charge of the day-to-day conduct of the business carried on at that place.

Participation in compensation scheme

“71B. (1) A travel agent shall not carry on business unless the agent is a participant in the compensation scheme.

“(2) If a licensed travel agent ceases to be a participant in the compensation scheme, the agent’s licence is suspended, by force of this section, until the agent again becomes a participant, or the licence is surrendered or revoked, whichever happens first.

“(3) For the purposes of subsections (1) and (2), a travel agent shall not be taken to be a participant in the compensation scheme unless the agent complies with—

- (a) any provisions of the trust deed that are applicable to the agent; and
- (b) any requirement made of the agent under the trust deed by the trustees of the compensation scheme.

Powers of compensation scheme trustees

“71C. In relation to a travel agent in the Territory, the trustees of the compensation scheme have, by force of this Ordinance and not otherwise, the powers set out in the trust deed.

Legal action by compensation scheme trustees

“71D. The trustees of the compensation scheme may sue and be sued in the name of the ‘Travel Compensation Fund’ and, in any action brought by them it shall be presumed, unless the contrary is established, that any condition precedent to bringing the action that is imposed on them under the compensation scheme has been complied with.

Rights of compensation scheme trustees

“71E. (1) Where a payment is made to a claimant under the compensation scheme because of an act or omission of a travel agent, the trustees of the

compensation scheme are subrogated to the rights of the claimant in respect of the act or omission.

“(2) Any rights exercisable by the trustees against a company are enforceable jointly and severally against the company and each person who was a director of the company at the time of the act or omission.

“(3) The rights are not enforceable against a director if the director adduces evidence that the act or omission occurred without the director’s knowledge and consent and that evidence is not rebutted.

Dealings with unlicensed travel agents

“71F. (1) A person who, in the course of carrying on a business, provides an unlicensed travel agent with goods or services for disposal or authorises an unlicensed travel agent to dispose of rights to goods or services provided by the person, knowing the agent to be unlicensed, where the disposal of the goods, services or rights would constitute the carrying on by the agent of business as a travel agent, shall be deemed to have carried on business as an unlicensed travel agent.

“(2) If an act or omission referred to in subsection 71E (1) was the act or omission of an unlicensed travel agent, any person who, in the course of carrying on a business, knowing the agent to be unlicensed, provided the agent with goods or services, or authorised the agent to dispose of rights to goods or services provided by the person, being goods, services or rights in relation to which the act or omission occurred, shall be deemed to have been carrying on business, at the time of the act or omission, as a travel agent in partnership with the agent.

“(3) Subsection (1) and (2) do not apply if the name or names under which the unlicensed travel agent was carrying on business, at the time the goods or services were provided or the disposal of the rights was authorised, was or were specified in a notice in force, at that time, under section 71G.

“(4) Subsection (2) applies only for the purposes of section 71E and only to the extent that the act or omission involved the goods, services or rights.

Publication of names of licensed travel agents

“71G. As soon as practicable after the commencement of the *Agents (Amendment) Ordinance (No. 2) 1988*, and from time to time after that, the Board shall publish in the *Gazette* a notice specifying—

- (a) the name or names under which each person holding a travel agent's licence on the date on which the notice was prepared was authorised to carry on business as a travel agent;
- (b) the date on which the notice comes into force, being a date not earlier than the date of publication of the notice; and
- (c) the date on which the notice ceases to be in force.

“PART VIB—ENTRY AND INSPECTION OF PREMISES

Interpretation

“71H. (1) For the purposes of this Part, a thing is connected with a particular offence if—

- (a) the offence has been committed with respect to it;
- (b) it will afford evidence of the commission of the offence; or
- (c) it was used, or it is intended to be used, for the purpose of committing the offence.

“(2) A reference in this Part to an offence shall be read as including a reference to an offence that there are reasonable grounds for believing has been, or will be, committed.

Entry and inspection of premises

“71J. (1) An authorised officer may enter commercial premises during normal business hours, and may exercise the powers of an authorised officer referred to in subsection (3), if the officer has reasonable grounds for believing that a person is carrying on business as an agent on the premises.

“(2) An authorised officer may enter any premises, and may exercise the powers of an authorised officer referred to in subsection (3), if the entry is made, and the powers are exercised—

- (a) pursuant to a warrant issued under subsection 71L (1);
- (b) with the consent of the occupier of the premises; or
- (c) pursuant to an order of a court.

“(3) For the purposes of subsections (1) and (2) an authorised officer may—

- (a) require the occupier of the premises to give the officer his or her name and residential address;

- (b) inspect the premises;
- (c) require the occupier to produce to the officer any documents relating to an agent's business;
- (d) inspect any documents referred to in paragraph (c), and retain any such documents for as long as the officer considers necessary;
- (e) take extracts from, or make copies of, any documents referred to in paragraph (c);
- (f) if any document of a kind referred to in paragraph (c), or any information relating to such a document, is stored or kept by means of a data processing device—require the occupier of the premises to cause all or part of the document or information to be displayed or printed out;
- (g) seize any thing that the officer has reasonable grounds for believing to be connected with an offence against this Ordinance; and
- (h) require the occupier to give the officer such assistance as is necessary to enable the officer to exercise his or her powers under this section.

“(4) An authorised officer who enters premises under subsection (1) is not authorised to remain on the premises if, on the request of the occupier of the premises, the officer does not show his or her identity card to the occupier.

“(5) In this section—

‘accounts’ means—

- (a) ledgers, journals, profit and loss accounts and balance sheets; and
- (b) any statements, reports or notes attached to, or intended to be read with, any books or documents of a kind referred to in paragraph (a);

‘data processing device’ means a computer or other device by means of which information can be stored and from which stored information can be retrieved, whether with or without the use of another device;

‘documents’ includes books, papers, securities, accounts, accounting records and records kept pursuant to subsection 60 (1) or (1A) or 70 (1);

‘records’ includes—

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry; and
- (b) the working papers and other documents necessary to explain the methods and calculations by which accounts are made up.

Consent to entry and inspection

“71K. (1) Before seeking the consent of the occupier of premises or land for the purposes of paragraph 71J (2) (b), an authorised officer shall inform the occupier that he or she may refuse to give that consent.

“(2) If the authorised officer obtains the occupier’s consent for those purposes, the officer shall ask the occupier to sign a written acknowledgement—

- (a) that the occupier has given the officer consent, for the purposes of paragraph 71J (2) (b), to enter the occupier’s premises and to exercise the powers of an authorised officer referred to in subsection 71J (3);
- (b) that the occupier has been informed that he or she may refuse to give that consent; and
- (c) of the day on which, and the time at which, that consent was given.

“(3) Where it is material, in any proceedings, for a court to be satisfied that an occupier has consented for the purposes of paragraph 71J (2) (b), and an acknowledgement, in accordance with subsection (2) and signed by the occupier, is not produced in evidence, it shall be presumed that the occupier did not consent unless the contrary is established.

Search warrants

“71L. (1) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds for suspecting that there may be on any premises a thing of a particular kind connected with a particular offence against this Ordinance, and the information sets out those grounds, the magistrate may issue a search warrant authorising an authorised officer named in the warrant, with such assistance and by such force as is necessary and reasonable—

- (a) to enter the premises;
- (b) to search the premises for things of that kind; and

(c) to exercise any of the powers of an authorised officer referred to in subsection 71J (3).

“(2) A magistrate shall not issue a warrant unless—

- (a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

“(3) A warrant shall—

- (a) state the purpose for which it is issued;
- (b) specify the nature of the offence in relation to which the entry and search are authorised;
- (c) specify particular hours during which the entry is authorised, or state that the entry is authorised at any time of day or night;
- (d) include a description of the kinds of things in relation to which the powers referred to in subsection 71J (3) may be exercised; and
- (e) specify the date, being a date not later than one month after the date of issue of the warrant, on which the warrant ceases to have effect.

Contravention of officer’s requirements

“71M. (1) A licensed agent shall not, without reasonable excuse, contravene a reasonable requirement made by an authorised officer who has entered premises in accordance with subsection 71J (1) or (2).

“(2) A person (other than a licensed agent) who, without reasonable excuse, contravenes a reasonable requirement made by an authorised officer who has entered premises in accordance with subsection 71J (1) or (2) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$1,000; or
- (b) in the case of a company—\$5,000.”.

Rules of conduct—licensed agents

41. Section 72 of the Principal Ordinance is amended by omitting subsections (3) and (4) and substituting the following subsection:

“(3) A licensed agent (other than a travel agent) is guilty of a breach of the rules of conduct unless a registered agent is present and in charge of the day-to-day conduct of the licensed agent’s business at each place at which the business is carried on.”.

Inquiry by the Board

42. Section 75 of the Principal Ordinance is amended—

(a) by omitting paragraphs (1) (b) and (c) and substituting the following paragraphs:

“(b) order the agent to pay to the Registrar within the period specified in the order a fine not exceeding—

(i) in the case of a natural person—\$1,000; or

(ii) in the case of a company—\$5,000;

(c) order the agent to pay the costs of the inquiry;

(d) disqualify a person involved in the direction, management or conduct of the agent’s business from being involved in the direction, management or conduct of an agent’s business;

(e) in the case of a registered agent—revoke the agent’s registration; or

(f) in the case of a licensed agent—

(i) impose a condition or restriction on the licence;

(ii) suspend the licence for a period determined by the Board; or

(iii) revoke the licence.”;

(b) by omitting from subsection (2) “the last preceding subsection” and substituting “paragraph (1) (b)”;

(c) by omitting from subsection (2) “Registrar” and substituting “Board”; and

(d) by omitting subsections (3) and (4) and substituting the following subsection:

“(3) Where an application is made under paragraph 98 (1) (e) for a review of a decision of the Board ordering an agent to pay a fine, time does not run for the purposes of subsection (2) from the date on

which the application is made until the date on which the application is withdrawn, dismissed or heard and determined, as the case may be.”.

Substitution

43. Section 77 of the Principal Ordinance is repealed and the following section substituted:

Revocation of registration or licence

“77. (1) The Board may, of its own motion or on the application of the Registrar, revoke an agent’s registration or licence if—

- (a) the agent is carrying on business dishonestly or unfairly;
- (b) a person (other than the agent) who is involved in the direction, management or conduct of the agent’s business is not a fit and proper person to be involved in the direction, management or conduct of an agent’s business;
- (c) in the case of a licensed company—the company has carried on business for a period during which—
 - (i) if the name of only one person is specified in the company’s licence as the name of a director who has had the experience referred to in paragraph 43 (1) (b), 45 (1) (b) or 47 (1) (b) or the prescribed qualifications, as the case requires—that person was not a director of the company; or
 - (ii) if the names of 2 or more persons are so specified—both or all of those persons respectively were not directors of the company;
- (d) in the case of a travel agent—
 - (i) the trustees of the compensation fund have declared, under clause 10.2 of the trust deed, that the person is no longer a participant in the compensation scheme; or
 - (ii) the Board has reasonable grounds for believing that the agent does not have, or is not likely to continue to have, sufficient financial resources to enable the agent to continue to carry on business;
- (e) the agent has contravened this Ordinance;

- (f) the agent has been refused registration or a licence, or has been disqualified from being registered or from holding a licence, under a corresponding law;
- (g) registration or a licence granted to the agent under a corresponding law has been revoked or cancelled under that law;
- (h) the agent's registration or licence was obtained by means of misrepresentation, or was otherwise improperly obtained;
- (j) there were grounds for refusing to grant the registration or licence at the time it was granted that were unknown to the Board at that time;
- (k) the Board would be entitled, on a ground referred to in subsection 38 (3) or 51 (3) (being a ground that did not exist, or which was unknown to the Board, at the time the agent's registration or licence was granted), to refuse to grant the agent registration or a licence respectively if the agent were not registered or licensed;
- (l) the agent has been convicted of an offence involving fraud or dishonesty that is punishable by imprisonment for 3 months or more;
- (m) in any year, the annual prescribed fee in respect of the agent's registration or licence has not been paid on or before the anniversary in that year of the date on which the agent's certificate of registration or licence was issued; or
- (n) the agent has ceased carrying on business.

“(2) Before revoking an agent's registration or licence, the Board shall direct the Registrar to give written notice—

- (a) to the agent; and
- (b) if the Board proposes to revoke the registration or licence on the grounds referred to in paragraph (1) (b)—to the person referred to in that paragraph;

calling upon the agent, or the agent and that person, as the case requires, to show cause why the registration or licence should not be revoked.

“(3) The notice shall—

- (a) set out the grounds on which the Board proposes to revoke the agent's registration or licence; and
- (b) include a statement to the effect that the Board is entitled to revoke the registration or licence without further notice unless, within 21 days

after the date of the notice or within any further time allowed by the Board, the agent lodges with the Registrar written notice that the agent intends to show cause why the registration or licence should not be revoked.”.

Revocation where change of directors

44. Section 78 of the Principal Ordinance is amended by omitting from subsection (1) “cancelled” and substituting “revoked”.

Failure to notify intention to show cause

45. Section 80 of the Principal Ordinance is amended by omitting “such further time on application, lodge with the Board” and substituting “any further time allowed by the Board on the application of the agent, lodge with the Registrar”.

Inquiry where agent shows cause

46. Section 81 of the Principal Ordinance is amended by omitting subsections (4) and (5).

Substitution

47. Section 82 of the Principal Ordinance is repealed and the following sections substituted:

Suspension of travel agent’s licence

“82. The Board may suspend a travel agent’s licence—

- (a) for a period not exceeding 14 days pending a decision by the Board whether a notice is to be served on the agent pursuant to subsection 77 (2);
- (b) where a notice under subsection 77 (2) has been served on the agent— for a period of 21 days or for the period (being not less than 21 days) specified in the notice; or
- (c) for a period not exceeding 14 days pending a decision by the Board whether or not to revoke the agent’s licence under subsection 77 (1).

Disqualification

“82A. (1) Where an agent’s registration or licence is revoked, the former agent is, by force of this subsection, disqualified from being registered or holding a licence.

“(2) The Board may disqualify a person from being registered or from holding a licence if—

- (a) the person has been refused registration or a licence under this Ordinance or a corresponding law;
- (b) the person’s registration or licence under a corresponding law has been revoked or cancelled under that law;
- (c) the person has been disqualified under a corresponding law from being registered or from holding a licence; or
- (d) the person has been disqualified under this Ordinance or a corresponding law from being involved in the direction, management or conduct of an agent’s business.

“(3) The Board may disqualify a person from being involved in the direction, management or conduct of an agent’s business if—

- (a) the Board has reasonable grounds for believing that the person is not a fit and proper person to be involved in the direction, management or conduct of an agent’s business;
- (b) the Board would be entitled, by virtue of paragraph 51 (3) (b) or (d), to refuse to grant the person a licence to carry on business as an agent if the person were to apply for one; or
- (c) the person has been disqualified under this Ordinance or a corresponding law from holding a licence to carry on business as an agent.

“(4) A disqualification remains in force—

- (a) during the period specified by the Board; or
- (b) if no period is specified—until the Board otherwise orders.”.

Effect of revocation

48. Section 83 of the Principal Ordinance is amended by omitting subsection (2).

Insertion

49. After section 83 of the Principal Ordinance the following section is inserted in Part IX:

Record of disqualification

“83A. (1) Where an agent is disqualified under subsection 82A (1) from being registered or from holding a licence, the Registrar shall enter in the appropriate register details of the revocation of the former agent’s registration or licence and of the disqualification, including a note of the period during which the disqualification remains in force by virtue of subsection 82A (3).

“(2) Where a person is disqualified under subsection 82A (2) from being registered or from holding a licence, or is disqualified under paragraph 75 (1) (e) or subsection 82A (3) from being involved in the direction, management or conduct of an agent’s business, the Registrar shall keep a record of the details of the disqualification, including a note of the period during which the disqualification remains in force by virtue of subsection 82A (4).”.

Substitution

50. The heading to Part X of the Principal Ordinance is omitted and the following heading substituted:

“PART X—APPOINTMENT OF RECEIVER OR ADMINISTRATOR”.

Appointment of receiver or administrator

51. Section 84 of the Principal Ordinance is amended by adding at the end the following subsections:

“(3) The Board may appoint a person to administer an agent’s business if the agent’s licence has been suspended or revoked.

“(4) The appointment of an administrator continues in force until the Board otherwise directs.

“(5) While the appointment of an administrator is in force, the agent or, if the agent is a company, a director of the company, shall not be involved in the direction, management or conduct of the agent’s business.”.

Notice to bank

52. Section 85 of the Principal Ordinance is amended—

(a) by omitting subsections (1) and (2) and substituting the following subsections:

“(1) Where a receiver or administrator has been appointed in relation to an agent’s business, the Board may, by instrument—

(a) give notice of the appointment to the person in charge of a bank at which the agent maintains—

- (i) a trust account;
 - (ii) an account for the purpose of holding money referred to in subsection 60 (1A); or
 - (iii) an account for the purpose of holding money (other than trust money or money referred to in subsection 60 (1A)) received by the agent in the course of carrying on the business; and
- (b) revoke the authority of the agent or an authorised person to withdraw money from the account.

“(2) Where the Board has revoked the authority of an agent or authorised person to withdraw money from a bank account—

- (a) only the receiver or administrator, or a person authorised for the purpose by the receiver or administrator by written notice delivered to the bank, is authorised to withdraw money from the account; and
 - (b) the bank shall not pay any money out of the account without the written authority of the receiver or administrator or a person referred to in paragraph (a).”; and
- (b) by adding at the end the following subsections:

“(4) In this section, unless the contrary intention appears, ‘authorised person’ means a person authorised by the agent to withdraw money from a bank account.

“(5) In this section, a reference to withdrawing money from a bank account shall be read as including a reference to signing a cheque for the payment of money out of a bank account.”.

Substitution

53. Section 86 of the Principal Ordinance is repealed and the following section substituted:

Powers, duties and liability of receiver or administrator

“86. (1) A receiver or administrator appointed in relation to an agent’s business may act on behalf of the agent and, for that purpose, may carry out any function, and shall carry out any duty, that the agent is respectively permitted or required to carry out under this Ordinance.

“(2) A person who is or was a receiver or administrator is not liable to an action (other than an action in negligence) or other proceeding for or in relation to an act done or omitted to be done in good faith in the performance or purported performance of any function, or in the exercise or purported exercise of any power or authority, conferred on the person as receiver or administrator.

“(3) The Board is not liable for any loss sustained by any agent as a result of an act done or omitted to be done by a receiver or administrator, whether or not the receiver or administrator is liable.”.

Remuneration of receiver or administrator

54. Section 87 of the Principal Ordinance is amended—

(a) by omitting subsection (1) and substituting the following subsection:

“(1) A receiver or administrator who is not a public servant—

- (a) shall be paid by the Commonwealth such remuneration as the Board determines; and
- (b) is entitled to reimbursement by the Commonwealth of the expenses necessarily incurred by him or her in carrying out the receivership or administration.”;

(b) by inserting in subsection (2) “or administrator” after “receiver” (wherever occurring);

(c) by inserting in subsection (2) “or her” after “him”; and

(d) by adding at the end the following subsections:

“(3) If a receiver or an administrator is a public servant, the Board shall certify an amount that represents the amount of remuneration of the receiver or administrator that is referable to carrying out the receivership or administration, and that amount is recoverable by the Commonwealth as a debt due from the agent in relation to whose business the receiver or administrator was appointed.

“(4) In this section, “public servant” means an officer or employee within the meaning of the *Public Service Act 1922*.”.

Inquiries

55. Section 88 of the Principal Ordinance is amended—

(a) by omitting subsection (2) and substituting the following subsection:

“(2) The Chairman shall cause written notice of the matter to be inquired into and of the time and place fixed for the hearing to be given—

- (a) in the case of an inquiry in relation to an application for registration or a licence—
 - (i) to the applicant;
 - (ii) to any person (other than the applicant) who is required to attend before the Board pursuant to subsection 51 (2); and
 - (iii) to any person who has lodged an objection to the granting of the registration or licence;
- (b) in any other case—
 - (i) to the agent to whom the inquiry relates; and
 - (ii) if the inquiry relates to a director or any other person involved in the direction, management or conduct of the agent’s business—to that director or other person;
- (c) to the member of the Board referred to in paragraph 9 (1) (b);
- (d) to 3 other members of the Board; and
- (e) to the Registrar.”;

- (b) by omitting subsection (7) and substituting the following subsection:

“(7) An applicant or other person to whom notice of an inquiry is required to be given pursuant to subparagraph (2) (a) (i) or (ii) or (b) (i) or (ii) may be represented at the inquiry by an agent or by a legal practitioner.”;

- (c) by omitting from subsection (8) all the words from and including “barrister” (first occurring) to and including “appointed” and substituting “legal practitioner to assist the Board, and the practitioner”; and

- (d) by adding at the end the following subsections:

“(10) A member of the Board shall not participate in an inquiry as a member if the inquiry concerns a matter directly affecting the member.

“(11) Subsections 16 (3), (4), (5), (6), (7) and (9) apply in relation to an inquiry as if the references in those subsections to a meeting or meetings of the Board were references to an inquiry or inquiries held by the Board.

“(12) In this section, “legal practitioner” means a barrister and solicitor within the meaning of the *Legal Practitioners Ordinance 1970*.”.

Failure to attend or produce documents

56. Section 91 of the Principal Ordinance is amended by omitting the penalty set out at the foot of subsection (1) and substituting the following penalty:

- “Penalty: (a) in the case of a natural person—\$500; or
(b) in the case of a company—\$2,500.”.

Refusal to be sworn or give evidence

57. Section 92 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot of subsection (1) and substituting the following penalty:

- “Penalty: (a) in the case of a natural person—\$500; or
(b) in the case of a company—\$2,500.”; and

- (b) by omitting subsection (2) and substituting the following subsection:

“(2) A statement or disclosure made, or a document or thing produced, by a witness in the course of giving evidence before the Board, or any information, document or thing obtained as a direct or indirect consequence of the statement or disclosure or the production of the first-mentioned document or thing, is not admissible in evidence in civil or criminal proceedings in a court except—

- (a) in proceedings for an offence against this Ordinance; or
(b) in proceedings for giving false testimony at an inquiry before the Board.”.

Substitution

58. Part XII of the Principal Ordinance is repealed and the following Part substituted:

“PART XII—REVIEW OF DECISIONS**Review of decisions**

“98. (1) An application may be made to the Administrative Appeals Tribunal for a review of a decision by the Board—

- (a) refusing, under subsection 38 (1), an application for registration as an agent;
- (b) refusing, under subsection 51 (1), an application for a grant of a licence to carry on business as an agent;
- (c) refusing an application for an order under subsection 54 (2);
- (d) refusing to authorise the Registrar under subsection 54 (8) to specify in a licence the name of a director specified in the application for the licence;
- (e) taking any action under subsection 75 (1);
- (f) revoking a licence under section 80 or 81;
- (g) suspending a travel agent’s licence under section 82;
- (h) disqualifying a person under subsection 82A (2) from being registered or from holding a licence; or
- (j) disqualifying a person under subsection 82A (3) from being involved in the direction, management or conduct of an agent’s business.

“(2) An application may be made to the Administrative Appeals Tribunal for a review of a decision of the trustees of the compensation scheme—

- (a) determining under clause 9.8 of the trust deed that an applicant is not eligible to be a contributor to the compensation fund;
- (b) determining under clause 11.5 of the trust deed that a participant in the compensation scheme is no longer eligible to be a contributor to the compensation fund; or
- (c) making a determination under clause 12.2 of the trust deed that an applicant, or a participant in the compensation scheme, is eligible to be a contributor to the compensation fund conditional on conduct referred to in paragraph (a) or (b) of that clause.

“(3) In subsection (2), “applicant” means a person who applies under clause 9.1 of the trust deed for a determination that the person is eligible to be a contributor to the compensation fund.

Notification of decisions

“98A. (1) Where the Board makes a decision of a kind referred to in subsection 98 (1) or (2) it shall, within 28 days of the date of the decision, cause written notice of the decision to be given—

- (a) to the applicant or agent concerned; and
- (b) if the decision also relates to a person other than the applicant or agent—to that person.

“(2) A notice shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 28 (4) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 28 of that Act.

“(3) The validity of a decision referred to in subsection 98 (1) or (2) shall not be taken to have been affected by a failure to comply with subsection (2).”.

Substitution

59. Sections 99 and 100 of the Principal Ordinance are repealed and the following sections substituted in Part XIII:

Employment of disqualified persons

“99. (1) Except with the consent of the Board, a registered or licensed agent shall not employ a person in the agent’s business knowing—

- (a) that the person is disqualified under this Ordinance or a corresponding law from being registered as an agent or from holding a licence to carry on business as an agent;
- (b) that the person is disqualified under this Ordinance or a corresponding law from being involved in the direction, management or conduct (however expressed) of an agent’s business;
- (c) that an application by the person under this Ordinance or a corresponding law for registration as an agent or for a licence to carry on business as an agent has been refused on the ground (however expressed) that the person—
 - (i) is not likely to carry on business honestly and fairly; or
 - (ii) is in any way not a fit and proper person to be registered or licensed;
- (d) that an application by the person under this Ordinance or a corresponding law for registration as an agent has been refused on the ground (however expressed) that the person is not of good fame or character; or
- (e) that the person’s adverse qualities were responsible for a company’s being refused registration as an agent or a licence to carry on business as an agent under this Ordinance or a corresponding law on a ground (however expressed) referred to in subparagraph 51 (3) (f) (ii) or (iii).

“(2) A licensed agent is not guilty of a breach of the rules of conduct in relation to an employee by virtue of a failure to comply with subsection (1) if the agent adduces evidence that—

- (a) the agent made reasonable inquiries about the employee; and
- (b) the agent did not know, and could not reasonably be expected to have known, that the employee was a person of a kind whose employment by an agent is prohibited by subsection (1);

and that evidence is not rebutted.

Offences by companies

“100. (1) Where, in proceedings for an offence against this Ordinance in respect of any conduct engaged in by a company, it is necessary to establish the state of mind of the company, it is sufficient to show that an officer, servant or agent of the company, being an officer, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

“(2) Any conduct engaged in on behalf of a company—

- (a) by an officer, servant or agent of the company within the scope of his or her actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of an officer, servant or agent of the company, where giving the direction, consent or agreement is within the scope of the actual or apparent authority of the officer, servant or agent;

shall be deemed, for the purposes of this Ordinance, to have been engaged in also by the company.

“(3) If a company does or omits to do any act or thing of which the doing or omission constitutes an offence, a person (by whatever name called and whether or not the person is an officer of the company) who is concerned in, or takes part in, the management of the company shall be taken to have committed the offence and is punishable accordingly.

“(4) A person shall not be taken, pursuant to subsection (3), to have committed an offence if the person adduces evidence that the person—

- (a) did not aid, abet, counsel or procure the company’s act or omission; and
- (b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission;

and that evidence is not rebutted.

“(5) A reference in subsection (1) to the state of mind of a person shall be read as including a reference to the knowledge, intention, opinion, belief or purpose of the person and the person’s reasons for his or her intention, opinion, belief or purpose.

“(6) For the purposes of subsection (3), an officer of a company shall be presumed to be concerned in, and to take part in, the management of the company unless the officer adduces evidence to the contrary and that evidence is not rebutted.”.

Agent not to share commission

60. Section 101 of the Principal Ordinance is amended—

- (a) by inserting in subsection (1) “(other than a travel agent)” after “agent” (first occurring);
- (b) by omitting the penalty set out at the foot of subsection (1); and
- (c) by omitting subsection (2) and substituting the following subsection:

“(2) In subsection (1), a reference to a licensed agent shall be read as including a reference to a person licensed under a corresponding law to carry on business as an agent.”.

Improper use of licence

61. Section 102 of the Principal Ordinance is amended by omitting the penalty set out at the foot.

Improper use of title of real estate agent

62. Section 103 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot of subsection (1) and substituting the following penalty:

“Penalty: (a) in the case of a natural person—\$1,000; or
(b) in the case of a company—\$5,000.”; and
- (b) by omitting from subsection (2) all the words after “referred to” and substituting “in paragraph 5A (a), (b) or (c) is guilty of an offence punishable, on conviction, by a fine not exceeding—
 - (a) in the case of a natural person—\$1,000; or
 - (b) in the case of a company—\$5,000.”.

Improper use of title of stock and station agent

63. Section 104 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot of subsection (1) and substituting the following penalty:

- “Penalty: (a) in the case of a natural person—\$1,000; or
(b) in the case of a company—\$5,000.”; and
- (b) by omitting from subsection (2) all the words after “referred to” and substituting “in paragraph 5B (a), (b), (c), (d) or (e) is guilty of an offence punishable, on conviction, by a fine not exceeding—
- (a) in the case of a natural person—\$1,000; or
(b) in the case of a company—\$5,000.”.

Improper use of title of business agent

64. Section 105 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot of subsection (1) and substituting the following penalty:
- “Penalty: (a) in the case of a natural person—\$1,000; or
(b) in the case of a company—\$5,000.”; and
- (b) by omitting from subsection (2) all the words after “referred to” and substituting “in section 5C is guilty of an offence punishable, on conviction, by a fine not exceeding—
- (a) in the case of a natural person—\$1,000; or
(b) in the case of a company—\$5,000.”.

Insertion

65. After section 105 of the Principal Ordinance the following section is inserted:

Improper use of title of travel agent

“105A. (1) A person who is not a licensed travel agent shall not use, in an advertisement or otherwise, words which would reasonably lead to the belief that the person is a licensed travel agent.

“(2) Without limiting the effect or application of subsection (1), a person who is not a licensed travel agent who—

- (a) places, or suffers or permits to be placed, on a building in which the person’s business is carried on; or
(b) places on a document, as a description of his or her business;

the words “travel agent” or other words that imply that, in the course of carrying on business, the person acts, or is prepared to act, as agent for principals in connection with any activity in respect of which the agent is, by virtue of section 5D, carrying on business as a travel agent, is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (c) in the case of a natural person—\$1,000; or
- (d) in the case of a company—\$5,000.”.

False or misleading advertisements

66. Section 106 of the Principal Ordinance is amended by omitting the penalty set out at the foot.

Substitution

67. Sections 107 and 108 of the Principal Ordinance are repealed and the following sections substituted:

Preservation of accounting records

“107. A former licensed agent who fails to preserve records in accordance with paragraph 60 (2) (c) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$1,000; or
- (b) in the case of a company—\$5,000.

Obstruction of authorised officer

“108. A person who, without reasonable excuse, obstructs or hinders an authorised officer in the exercise of the officer’s powers under this Ordinance, or in the performance of the officer’s duties under this Ordinance, is guilty of an offence punishable, on conviction—

- (a) in the case of a natural person—by a fine not exceeding \$1,000 or by imprisonment for a period not exceeding 6 months, or both; or
- (b) in the case of a company—by a fine not exceeding \$5,000.”.

Production of licence for inspection

68. Section 109 of the Principal Ordinance is amended by omitting the penalty set out at the foot.

Withholding deposits

69. Section 111 of the Principal Ordinance is amended by omitting the penalty set out at the foot.

Address of agent in advertisement

70. Section 112 of the Principal Ordinance is amended by omitting the penalty set out at the foot.

Misrepresentation of authority to act as real estate agent

71. Section 113 of the Principal Ordinance is amended by omitting the penalty set out at the foot of subsection (1) and substituting the following penalty:

- “Penalty: (a) in the case of a natural person—\$1,000; or
- (b) in the case of a company—\$5,000.”.

Misrepresentation of authority to act as business agent

72. Section 114 of the Principal Ordinance is amended by omitting the penalty set out at the foot and substituting the following penalty:

- “Penalty: (a) in the case of a natural person—\$1,000; or
- (b) in the case of a company—\$5,000.”.

Notices to be displayed

73. Section 115 of the Principal Ordinance is amended by omitting the penalty set out at the foot.

Rent collection by persons other than real estate agents

74. Section 117 of the Principal Ordinance is amended by omitting all the words after “offence” and substituting “punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$2,000; or
- (b) in the case of a company—\$10,000.”.

Evidence of licensing

75. Section 119 of the Principal Ordinance is amended by omitting “or a business agent’s licence” and substituting “, a business agent’s licence or a travel agent’s licence”.

Insertion

76. After section 120A of the Principal Ordinance the following section is inserted:

Agreements for regulation of travel agents' business

“120B. The Minister may—

- (a) enter into an agreement with a Minister of State responsible for administering a corresponding law with respect to travel agents, being an agreement relating to the establishment, implementation, administration and maintenance of a joint scheme of regulation and compensation in relation to business carried on by travel agents; and
- (b) execute a trust deed under which are established and administered a travel compensation fund, and a compensation scheme, in relation to business carried on by travel agents.”.

Regulations

77. Section 122 of the Principal Ordinance is amended by omitting paragraph (c) and substituting the following paragraph:

- “(c) prescribing penalties not exceeding—
- (i) in the case of a natural person—a fine of \$500; or
 - (ii) in the case of a company—a fine of \$2,500;
- for offences against the regulations.”.

Schedule

78. The Principal Ordinance is amended by adding at the end the following Schedule:

“SCHEDULE

Section 47C

QUALIFICATIONS—TRAVEL AGENTS

Item	Qualification
1.	Successful completion of the Travel Consultant's Course offered by the A.C.T. Institute of Technical and Further Education.
2.	Travel Consultant's Certificate awarded by a College of Technical and Further Education in the State of New South Wales.

Item	Qualification
3.	Travel and Tourism Associate Diploma awarded by a College of Technical and Further Education.
4.	Certificate awarded by Hayton Travel Training on successful completion of a course known as the Fares and Ticketing Course.
5.	Certificate awarded by Qantas Airways Limited on successful completion of the courses known as Ticketing I and Ticketing II.
6.	Diploma awarded by the Universal Federation of Travel Agents Associations.
7.	Associate Diploma in Tourism awarded by a College of Technical Education or College of Technical and Further Education in the State of South Australia.
8.	Certificate in Travel Operations awarded by a College of Technical and Further Education in the State of Western Australia.
9.	Certificate in Travel Operations, Senior Travel Consultant, awarded by a College of Further Education in the State of South Australia.
10.	Certificate of Business Studies (Travel and Tourism) awarded by a College of Technical and Further Education in the State of Victoria.
11.	Certificate awarded by a College of Technical and Further Education in the State of Victoria on successful completion of the courses known as Ticketing I and Ticketing II.
12.	Class L membership of the Australian Institute of Travel and Tourism.
13.	Diploma in Travel and Tourism (Stage 1) awarded by a College of Technical and Further Education in the State of Tasmania.
14.	Diploma in Travel and Tourism (Stage 2) awarded by a College of Technical and Further Education in the State of Tasmania.

Transition—travel agents

79. (1) If, within 1 month after the commencement of this Ordinance, a person who was carrying on business as a travel agent immediately before that commencement—

- (a) applies under the Principal Ordinance for a licence to carry on that business; and
- (b) applies to the trustees of the compensation scheme under clause 9.1 of the trust deed for a determination that the person is eligible to be a contributor to the compensation fund;

the person shall be deemed to be a licensed travel agent until—

- (c) the trustees have notified the Board of their determination in relation to the person; and
- (d) the Board has determined under the Principal Ordinance whether or not to grant a licence to the person.

(2) Expressions used in subsection (1) that are defined in the Principal Ordinance have in that subsection the same respective meanings as in the Principal Ordinance.

(3) In subsections (1) and (2), a reference to the Principal Ordinance shall be read as a reference to the Principal Ordinance as amended by this Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 3 August 1988.
2. No. 26, 1968 as amended by Nos. 8 and 18, 1970; No. 22, 1971; No. 33, 1972; Nos. 39 and 54, 1973; No. 47, 1974; Nos. 43 and 61, 1976; No. 46, 1978; No. 49, 1984; Nos. 6 and 9, 1985; No. 31, 1986; No. 25, 1987; No. 5, 1988.