

First print



New South Wales

Business Licences Repeal and Miscellaneous Amendments Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to repeal the *Business Licences Act 1990*, and
- (b) to amend certain other Acts and regulations and make other provisions as a consequence of the repeal of that Act, and
- (c) to make 2 additional amendments to the *Motor Vehicle Repairs Act 1980*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 repeals the *Business Licences Act 1990*.

Clause 4 is a formal provision that gives effect to the amendments set out in Schedule 1.

Amendments related to repeal of Business Licences Act 1990

Schedule 1 amends certain Acts and regulations as a consequence of the repeal of the *Business Licences Act 1990*. In particular, Schedule 1:

- (a) amends the *Dangerous Goods Act 1975* and the *Motor Vehicle Repairs Act 1980* so as to restore certain provisions with respect to their licensing schemes that were in force before the amendment of those Acts by the *Business Licences Act 1990*, and
- (b) repeals uncommenced provisions of the *Statute Law (Miscellaneous Provisions) Act (No 2) 1991* that amend the *Business Licences Act 1990*.

Additional amendments

The amendments to the *Motor Vehicle Repairs Act 1980* also include 2 amendments that are not related to the repeal of the *Business Licences Act 1990*.

Schedule 1.3 [14] repeals and re-enacts a provision concerning the surrender of licences and certificates under the *Motor Vehicle Repairs Act 1980*. The provision as proposed to be re-enacted includes a new subsection preventing the surrender of such a licence or certificate by a licence-holder or certificate-holder who is the subject of disciplinary proceedings under that Act until after the Motor Vehicle Repair Industry Council has made a determination in respect of those proceedings. The proposed provision is similar to section 20D (2A) of the *Motor Dealers Act 1974*.

Schedule 1.3 [21] repeals an outdated provision.

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New South Wales

Business Licences Repeal and Miscellaneous Amendments Bill 2001

No , 2001

A Bill for

An Act to repeal the *Business Licences Act 1990*; to amend other Acts and regulations consequentially; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Business Licences Repeal and Miscellaneous Amendments Act 2001</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Repeal of Business Licences Act 1990 No 72	8
The <i>Business Licences Act 1990</i> is repealed.	9
4 Amendment of Acts and regulations	10
Each Act and regulation specified in Schedule 1 is amended as set out in that Schedule.	11 12

Schedule 1	Amendment of Acts and regulations	1
	(Section 4)	2
1.1	Dangerous Goods Act 1975 No 68	3
[1]	Section 4 Definitions	4
	Omit the definitions of <i>Director of Business Licences</i> and <i>licence</i> .	5
	Insert instead of the latter definition:	6
	<i>licence</i> means a licence under this Act.	7
[2]	Section 5 Savings and relationship to other laws	8
	Omit “the <i>Business Licences Act 1990</i> ,” from section 5 (3).	9
[3]	Sections 8, 10, 17, 19, 21 and 27	10
	Omit “authorise the Director of Business Licences to” wherever occurring.	11
[4]	Section 28 Suspension or cancellation	12
	Omit section 28 (3) (c). Insert instead:	13
	(c) surrenders the licence or permit to the Authority.	14
[5]	Section 40 Evidence	15
	Omit section 40 (3).	16
[6]	Section 41 Regulations	17
	Insert “and licences” after “for permits” in section 41 (1) (a).	18
[7]	Schedule 3 Transitional and other provisions	19
	Insert at the end of clause 1 (1):	20
	<i>Business Licences Repeal and Miscellaneous Amendments</i>	21
	<i>Act 2001</i>	22

1.2	Dangerous Goods (General) Regulation 1999	1
[1]	Clause 5 Application of Division	2
	Omit the clause.	3
[2]	Clause 8 Licence fees	4
	Omit “to which this Division applies” from clause 8 (3).	5
1.3	Motor Vehicle Repairs Act 1980 No 71	6
[1]	Section 4 Definitions	7
	Omit the definitions of <i>Director of Business Licences</i> and <i>licence</i> from section 4 (1).	8 9
	Insert instead of the latter definition:	10
	<i>licence</i> means a licence granted under section 17.	11
[2]	Section 6 Approved forms	12
	Omit “(other than an application made to the Director of Business Licences)” from section 6 (1).	13 14
[3]	Section 16 Application for grant of licence	15
	Omit section 16 (1). Insert instead:	16
	(1) An application for the grant of a licence must:	17
	(a) be lodged with the Council, and	18
	(b) specify the class or classes of repair work in respect of which the application is made, and	19 20
	(c) be accompanied by the prescribed fee.	21
[4]	Section 17 Disposal of applications	22
	Omit section 17 (5).	23

[5] Section 18 Refusal of application for grant of licence	1
Omit section 18 (4).	2
[6] Section 18A Grant of approval for licence	3
Omit “authorise the Director of Business Licences to” from section 18A (1) and (4) wherever occurring.	4 5
[7] Section 18A (5)	6
Omit the subsection.	7
[8] Section 19 Form of licence	8
Omit “A licence must:”. Insert instead:	9
A licence is to be in the form approved by the Council and must:	10 11
(a) specify the date of issue of the licence,	12
[9] Section 20 Amendment of licence	13
Omit section 20 (2). Insert instead:	14
(2) An application referred to in subsection (1) is to be accompanied by the prescribed fee.	15 16
[10] Section 20 (3)	17
Omit “However, the application”. Insert instead “An application”.	18
[11] Section 20A Transfer of licence if partners change	19
Omit “under the <i>Business Licences Act 1990</i> of the holder of a licence, authorise the Director of Business Licences to” from section 20A (1).	20 21
Insert instead “of the holder of a licence,”.	22

[12] Section 21	1
Omit the section. Insert instead:	2
21 Duration of licence and annual fee	3
(1) A licence has effect on and from the date of issue of the licence.	4 5
(2) Except while it is suspended, a licence continues in force until it is duly surrendered, cancelled or revoked or ceases to have effect under subsection (5).	6 7 8
(3) The prescribed fee in respect of a licence is payable annually on or before the anniversary of the date of issue of the licence in the year concerned.	9 10 11
(4) A person whose licence is suspended continues to be liable to pay the prescribed fee and to supply information under this Act, but is not otherwise taken to be the holder of the licence (except for the purpose of its surrender).	12 13 14 15
(5) If the prescribed fee in respect of a licence is not paid in accordance with subsection (3), the licence ceases to have effect immediately following the anniversary concerned.	16 17 18
(6) When a licence ceases to have effect under subsection (5) or is suspended, the person who was or is the holder of the licence is to deliver it promptly to the Council.	19 20 21
Maximum penalty (subsection (6)): 2 penalty units.	22
[13] Section 34 Notice of refusal	23
Omit section 34 (5) and (6).	24
[14] Section 35	25
Omit the section. Insert instead:	26
35 Surrender of licence or certificate	27
(1) A holder of a licence or certificate may surrender it by delivering it to the Council with a notification in writing that the licence or certificate, as the case requires, is surrendered.	28 29 30

(2) However, the holder of a licence or certificate on whom notice to show cause has been served under section 45 (1) or (4) (whether before, on or after the commencement of this subsection) may not surrender the licence or certificate concerned unless the Council has made a determination under section 48 in relation to each matter to which the notice relates.	1 2 3 4 5 6
[15] Section 36	7
Omit the section. Insert instead:	8
36 Refund of fees	9
If:	10
(a) an application for a licence or certificate or for the amendment of a licence is withdrawn, or	11 12
(b) a licence or certificate is surrendered, revoked or suspended, or	13 14
(c) the regulations so provide in relation to a licence or certificate,	15 16
the Council may refund to the applicant or the holder of the licence or certificate, or to any other person who appears to the Council to be entitled to such a refund, the whole or any part of the fee that has been paid by the applicant or holder of the licence or certificate.	17 18 19 20 21
[16] Section 37 Duplicate licence or certificate	22
Insert “licence or” before “certificate” wherever occurring.	23
[17] Section 38 Registers of licences and certificates	24
Omit section 38 (2) and (2A). Insert instead:	25
(2) Each register referred to in subsection (1) is to be kept by the Council in a form determined by the Council.	26 27
(2A) The Council may cause to be made such alterations to the register as are necessary to ensure that the matters recorded in respect of any licence or certificate are accurate.	28 29 30

[18] Section 38 (5)	1
Omit the subsection.	2
[19] Section 39 False or misleading statements in applications	3
Insert “licence or” before “certificate”.	4
[20] Section 50 Appeals	5
Omit section 50 (13).	6
[21] Section 58	7
Omit the section.	8
[22] Section 61 General Fund	9
Insert “before the repeal of that Act by the <i>Business Licences Repeal and Miscellaneous Amendments Act 2001</i> ” after “ <i>Business Licences Act 1990</i> ” in section 61 (1) (a).	10 11 12
[23] Section 89 Regulations	13
Insert “and fees” after “applications” in section 89 (1) (a).	14
[24] Schedule 5 Savings and transitional provisions	15
Insert at the end of clause 1 (1) of Schedule 5:	16
<i>Business Licences Repeal and Miscellaneous Amendments Act 2001</i>	17 18
1.4 Motor Vehicle Repairs Regulation 1999	19
Clause 13 Fees	20
Omit clause 13 (2). Insert instead:	21
(2) The following fees are prescribed for the purposes of the Act:	22
(a) \$478 for an application for a licence made under section	23
16 (1) of the Act, except as provided by paragraph (b),	24

(b)	\$229 for an application for a licence made under section 16 (1) of the Act if the application for the licence:	1
(i)	is made by the holder of a previous licence (whether for the same premises as those the subject of the previous licence or for other premises), and	2
(ii)	is made within 12 months after the surrender or expiry of the previous licence,	3
(c)	\$53 for an application to amend a licence, as referred to in section 20 of the Act, but only if an inspection of the place of business concerned is required,	4
(d)	\$148 for the annual fee for a licence, as referred to in section 21 (3) of the Act.	5
1.5	Road Transport (Vehicle Registration) Regulation 1998	14
[1]	Clause 64 Proprietor's authorities	15
	Omit clause 64 (3). Insert instead:	16
(3)	A proprietor's authority includes a licence under the <i>Motor Vehicle Repairs Act 1980</i> and a licence under the <i>Dangerous Goods Act 1975</i> .	17
[2]	Clause 64 (4) (c)	20
	Omit clause 64 (4) (c). Insert instead:	21
(c)	is (except in the case of a proprietor's authority that is a licence under the <i>Motor Vehicle Repairs Act 1980</i> or the <i>Dangerous Goods Act 1975</i>) to be granted, issued or refused (as the case requires) by the Authority, and if granted or issued, to be in the manner and form approved by the Authority, and	22
[3]	Clause 64 (5)	28
	Omit "referred to in subclause (3) (b)".	29
	Insert instead "(other than a proprietor's authority that is a licence under the <i>Motor Vehicle Repairs Act 1980</i> or the <i>Dangerous Goods Act 1975</i>)".	30
		31

Business Licences Repeal and Miscellaneous Amendments Bill 2001

Schedule 1 Amendment of Acts and regulations

[4] Clause 69 Notification of decisions by Authority	1
Omit clause 69 (2) and (8).	2
[5] Clause 69 (7)	3
Omit “This subclause does not apply to a proprietor’s authority that is a component licence of a master licence under the <i>Business Licences Act 1990</i> .”.	4 5 6
1.6 Statute Law (Miscellaneous Provisions) Act (No 2) 1991 No 94	7
Schedule 1 Minor amendments	8
Omit the matter relating to the <i>Business Licences Act 1990</i> .	9