

Passed by both Houses



New South Wales

Business Licences Repeal and Miscellaneous Amendments Bill 2001

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

Business Licences Repeal and Miscellaneous Amendments Bill 2001

Act No , 2001

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

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Business Licences Repeal and Miscellaneous Amendments Act 2001*.

2 Commencement

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

3 Repeal of Business Licences Act 1990 No 72

The *Business Licences Act 1990* is repealed.

4 Amendment of Acts and regulations

Each Act and regulation specified in Schedule 1 is amended as set out in that Schedule.

Schedule 1 Amendment of Acts and regulations

(Section 4)

1.1 Dangerous Goods Act 1975 No 68

[1] Section 4 Definitions

Omit the definitions of *Director of Business Licences* and *licence*.

Insert instead of the latter definition:

licence means a licence under this Act.

[2] Section 5 Savings and relationship to other laws

Omit “the *Business Licences Act 1990*,” from section 5 (3).

[3] Sections 8, 10, 17, 19, 21 and 27

Omit “authorise the Director of Business Licences to” wherever occurring.

[4] Section 28 Suspension or cancellation

Omit section 28 (3) (c). Insert instead:

(c) surrenders the licence or permit to the Authority.

[5] Section 40 Evidence

Omit section 40 (3).

[6] Section 41 Regulations

Insert “and licences” after “for permits” in section 41 (1) (a).

[7] Schedule 3 Transitional and other provisions

Insert at the end of clause 1 (1):

Business Licences Repeal and Miscellaneous Amendments Act 2001

1.2 Dangerous Goods (General) Regulation 1999

[1] Clause 5 Application of Division

Omit the clause.

[2] Clause 8 Licence fees

Omit “to which this Division applies” from clause 8 (3).

1.3 Motor Vehicle Repairs Act 1980 No 71

[1] Section 4 Definitions

Omit the definitions of *Director of Business Licences* and *licence* from section 4 (1).

Insert instead of the latter definition:

licence means a licence granted under section 17.

[2] Section 6 Approved forms

Omit “(other than an application made to the Director of Business Licences)” from section 6 (1).

[3] Section 16 Application for grant of licence

Omit section 16 (1). Insert instead:

- (1) An application for the grant of a licence must:
 - (a) be lodged with the Council, and
 - (b) specify the class or classes of repair work in respect of which the application is made, and
 - (c) be accompanied by the prescribed fee.

[4] Section 17 Disposal of applications

Omit section 17 (5).

[5] Section 18 Refusal of application for grant of licence

Omit section 18 (4).

[6] Section 18A Grant of approval for licence

Omit “authorise the Director of Business Licences to” from section 18A (1) and (4) wherever occurring.

[7] Section 18A (5)

Omit the subsection.

[8] Section 19 Form of licence

Omit “A licence must:”. Insert instead:

A licence is to be in the form approved by the Council and must:

(a) specify the date of issue of the licence,

[9] Section 20 Amendment of licence

Omit section 20 (2). Insert instead:

(2) An application referred to in subsection (1) is to be accompanied by the prescribed fee.

[10] Section 20 (3)

Omit “However, the application”. Insert instead “An application”.

[11] Section 20A Transfer of licence if partners change

Omit “under the *Business Licences Act 1990* of the holder of a licence, authorise the Director of Business Licences to” from section 20A (1).

Insert instead “of the holder of a licence,”.

[12] Section 21

Omit the section. Insert instead:

21 Duration of licence and annual fee

- (1) A licence has effect on and from the date of issue of the licence.
- (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).
- (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.
- (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).
- (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.
- (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.

Maximum penalty (subsection (6)): 2 penalty units.

[13] Section 34 Notice of refusal

Omit section 34 (5) and (6).

[14] Section 35

Omit the section. Insert instead:

35 Surrender of licence or certificate

- (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.

- (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.

[15] Section 36

Omit the section. Insert instead:

36 Refund of fees

If:

- (a) an application for a licence or certificate or for the amendment of a licence is withdrawn, or
- (b) a licence or certificate is surrendered, revoked or suspended, or
- (c) the regulations so provide in relation to a licence or certificate,

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.

[16] Section 37 Duplicate licence or certificate

Insert “licence or” before “certificate” wherever occurring.

[17] Section 38 Registers of licences and certificates

Omit section 38 (2) and (2A). Insert instead:

- (2) Each register referred to in subsection (1) is to be kept by the Council in a form determined by the Council.
- (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.

[18] Section 38 (5)

Omit the subsection.

[19] Section 39 False or misleading statements in applications

Insert “licence or” before “certificate”.

[20] Section 50 Appeals

Omit section 50 (13).

[21] Section 58

Omit the section.

[22] Section 61 General Fund

Insert “before the repeal of that Act by the *Business Licences Repeal and Miscellaneous Amendments Act 2001*” after “*Business Licences Act 1990*” in section 61 (1) (a).

[23] Section 89 Regulations

Insert “and fees” after “applications” in section 89 (1) (a).

[24] Schedule 5 Savings and transitional provisions

Insert at the end of clause 1 (1) of Schedule 5:

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1.4 Motor Vehicle Repairs Regulation 1999

Clause 13 Fees

Omit clause 13 (2). Insert instead:

- (2) The following fees are prescribed for the purposes of the Act:
 - (a) \$478 for an application for a licence made under section 16 (1) of the Act, except as provided by paragraph (b),

- (b) \$229 for an application for a licence made under section 16 (1) of the Act if the application for the licence:
 - (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
 - (ii) is made within 12 months after the surrender or expiry of the previous licence,
- (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,
- (d) \$148 for the annual fee for a licence, as referred to in section 21 (3) of the Act.

1.5 Road Transport (Vehicle Registration) Regulation 1998

[1] Clause 64 Proprietor's authorities

Omit clause 64 (3). Insert instead:

- (3) A proprietor's authority includes a licence under the *Motor Vehicle Repairs Act 1980* and a licence under the *Dangerous Goods Act 1975*.

[2] Clause 64 (4) (c)

Omit clause 64 (4) (c). Insert instead:

- (c) is (except in the case of a proprietor's authority that is a licence under the *Motor Vehicle Repairs Act 1980* or the *Dangerous Goods Act 1975*) 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

[3] Clause 64 (5)

Omit "referred to in subclause (3) (b)".

Insert instead "(other than a proprietor's authority that is a licence under the *Motor Vehicle Repairs Act 1980* or the *Dangerous Goods Act 1975*)".

[4] Clause 69 Notification of decisions by Authority

Omit clause 69 (2) and (8).

[5] Clause 69 (7)

Omit “This subclause does not apply to a proprietor’s authority that is a component licence of a master licence under the *Business Licences Act 1990*.”.

1.6 Statute Law (Miscellaneous Provisions) Act (No 2) 1991 No 94

Schedule 1 Minor amendments

Omit the matter relating to the *Business Licences Act 1990*.