

AUCTIONEERS AND AGENTS (AMENDMENT) BILL, 1963.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to change the title of the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts, and the name of the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents ;
- (b) to increase the remuneration of the chairman and members of the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents ;
- (c) to vary the procedure for dealing with applications for and the grant of licenses under the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts ;
- (d) to extend the provisions for disqualification from holding such a license to persons who have ceased to hold such a license ;
- (e) to require persons who have ceased to be licensees under the said Act, as so amended, to hold moneys received in trust for a period of three years and to furnish statements of such moneys to the Registrar ;
- (f) to require deposits received by such licensees on contracts for the sale of land and businesses to be held as stakeholder, notwithstanding the provisions of any contract or agreement to the contrary ;
- (g) to enable the inspection by the registrar or an officer of the Council of trust account records at a bank in cases where any such licensee is missing or has left the State ;
- (h) to require every such licensee to furnish an annual report by an auditor in relation to the books of account of the licensee ;
- (i) to extend, in certain cases, from two months to six months the time during which an application to review commission and expenses taken by any such licensee can be made ;
- (j) to provide for the registration of employees of such licensees where such employees perform on behalf of their employer the functions of an auctioneer, stock and station agent, real estate agent or business agent ;
- (k) to provide for the payment of administration fees by the holder of a real estate salesman's certificate, and by the holder of an employee's certificate of registration, under the said Act, as so amended ;
- (l) to authorise the amount of contributions to the Auctioneers and Agents Fidelity Guarantee Fund payable by licensees under the Act to be prescribed by regulation ;
- (m) to limit to six months the time in which proceedings against the said Council can be commenced in those cases where claims on the Auctioneers and Agents Fidelity Guarantee Fund have been disallowed ;
- (n) to amend the Public Accountants Registration Act, 1945, as amended by subsequent Acts, consequent upon the obligation of such licensees to furnish annual reports by auditors ;
- (o) to make other provisions of a minor or ancillary character.

PROOF

No. , 1963.

A BILL

To vary the procedure relating to the making of applications for, and the issue of, licenses under the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts; to make further provisions regulating licensees under that Act, as so amended; to provide for the registration of certain employees of such licensees; for these and other purposes to amend that Act, as so amended, and the Public Accountants Registration Act, 1945, as amended by subsequent Acts; to validate certain matters; and for purposes connected therewith.

[MR. MANNIX;—12 *March*, 1963.]

BE

Auctioneers and Agents (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Auctioneers and Agents (Amendment) Act, 1963".

Short title
and
citation.

(2) The Auctioneers, Stock and Station, Real Estate and Business Agents Act, 1941-1957, is in this Act referred to as the Principal Act.

(3) The Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts and by this Act, may be cited as the Auctioneers and Agents Act, 1941-1963.

(4) The several amendments made by section three (subparagraph (iii) of paragraph (a) and subparagraphs (iii) and (v) of paragraph (b) of that section excepted), section five (paragraph (a), subparagraph (xi) of paragraph (c), subparagraph (ii) of paragraph (f), subparagraphs (i) and (ii) of paragraph (g), paragraphs (m), (n), (o) and (p), subparagraphs (i) and (ii) of paragraph (q) and paragraph (r) of that section excepted), section six (paragraph (c), subparagraph (v) of paragraph (g) and subparagraph (ii) of paragraph (j) of that section excepted), and section eight (paragraphs (a) and (b), subparagraph (i) of paragraph (d) and paragraph (f) on that section excepted), of this Act shall commence upon such day or days as may be respectively appointed in respect thereof by the Governor and notified by proclamation published in the Gazette.

2. (1) As on and from the commencement of this section—

Change of
name of
Council.

(a) the name of the body corporate constituted by section six of the Principal Act shall be "The Council of Auctioneers and Agents";

(b)

Auctioneers and Agents (Amendment).

5 (b) a reference in any Act or other instrument to the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents shall be read and construed as a reference to the Council of Auctioneers and Agents.

(2) Nothing in this Act shall prejudice or affect in any way the continuity of the body corporate constituted by section six of the Principal Act and it shall continue notwithstanding the provisions of this Act.

10 (3) The alteration of name effected by subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the body corporate constituted by section six of the Principal Act, or render defective any legal or other proceedings instituted
15 or to be instituted by or against the said body corporate.

(4) Any legal or other proceedings may be continued or commenced by or against the body corporate by the name of the Council of Auctioneers and Agents that might have been continued or commenced by or against the said body
20 corporate by the name of the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents.

(5) The Principal Act is amended—

Amendment
of Act No.
28, 1941.

25 (a) by omitting from the matter relating to Part II in section two the words "The Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

30 (b) by omitting from the definition of "Council" in subsection one of section three the words "the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

(c)

Auctioneers and Agents (Amendment).

5 (c) by omitting from the heading to Part II the words "The Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

10 (d) by omitting from subsection three of section six the words "the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents".

3. Part I of the Principal Act is amended—

Amendment of Act No. 28, 1941. (Part I— Preliminary.)

15 (a) (i) by omitting from the matter relating to Part IV in section two the words "Real Estate Dealers and Real Estate Salesmen" and by inserting in lieu thereof the words "Registration of Real Estate Dealers, Real Estate Salesmen and Employees of Licensees";

20 (ii) by inserting in the matter relating to Division 3 of the same Part after the words "Real Estate Salesmen" the words "and Registered Employees";

25 (iii) by omitting from the matter relating to Part VI in the same section the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

30 (b) (i) by omitting from the definition of "Business subagent" in subsection one of section three the words "in the direct employ of or" and by inserting in lieu thereof the words "an independent contractor to and";

(ii)

Sec. 2. (Division into Parts.)

Sec. 3. (Definitions.)

Auctioneers and Agents (Amendment).

- 5 (ii) by omitting from the same definition the words
“whether his remuneration is by way of salary,
wages, commission or otherwise but does not
include an employee of a corporation in
respect of whom such corporation has taken
out a business agent’s license”;
- (iii) by inserting in the same subsection after the
definition of “Live stock” the following new
definitions : —
- 10 “Moneys” includes an instrument for the
payment of money in any case where
the instrument may be paid into a
bank.
- 15 “Moneys received for or on behalf of any
person” includes moneys held for or
on behalf of any person whether
originally received for or on his behalf
or not.
- 20 (iv) by inserting in the same subsection after the
definition of “Prescribed” the following
definition : —
- 25 “Proclaimed area” means the Liverpool,
Metropolitan, Parramatta and Ryde
Police Districts and such other area as
may from time to time be added to
the prescribed area as hereinbefore
defined by proclamation made pur-
suant to subsection three of this
section.
- 30 (v) by omitting from the definition of “Real
estate agent” in the same subsection the words
“other than land” wherever occurring and by
inserting in lieu thereof the words “including
a lot within the meaning of the Conveyancing
35 (Strata Titles) Act, 1961, as amended by sub-
sequent Acts, but not including land”;
- (vi)

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(vi) by inserting in the same subsection after the definition of "Stock and station agent" the following new definition :—

5 "Superintendent of licenses" means the
person for the time being holding
office as superintendent of licenses
pursuant to the provisions of subsec-
tion (1B) of section one hundred and
10 nineteen of the Liquor Act, 1912, as
amended by subsequent Acts.

(c) by inserting next after subsection two of the same section the following new subsections :—

15 (3) The Governor may from time to time by
proclamation published in the Gazette specify the
courts of petty sessions which shall have jurisdic-
tion under the provisions of Division 1 of Part
III, sections thirty-nine and fifty-two, and Division
3 of Part IV, of this Act within the proclaimed
area.

20 (4) Where—

(a) the situation of the place of business or
proposed place of business of the licensee
or applicant for a license, not being a busi-
ness subagent's license, or

25 (b) the registered address under this Act of the
business subagent, real estate salesman or
holder of an employee's certificate of regi-
stration, or the place of residence of the
applicant for a business subagent's license
30 or for registration under this Act as a real
estate salesman or as an employee of a
licensee or the registered place of business
of the real estate dealer,

is—

35 (i) within the proclaimed area, the court of
petty sessions specified in a proclamation
under subsection three of this section or,
where more than one court of petty sessions
has

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has been so specified, the court of petty sessions nearest to such place of business or proposed place of business, or registered address or place of residence, as the case may be, shall have jurisdiction under the provisions of the said Division 1 of Part III, sections thirty-nine and fifty-two, and Division 3 of Part IV; and

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(ii) outside the proclaimed area, the court of petty sessions nearest to such place of business or proposed place of business, or registered address or place of residence, as the case may be, shall have jurisdiction under such provisions.

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(5) The Governor may by proclamation add to or vary the proclaimed area.

(6) The Governor may by proclamation revoke any proclamation made under subsection three or five of this section.

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4. (1) Part II of the Principal Act is amended by omitting subsection one of section fourteen and by inserting in lieu thereof the following subsection :—

Amendment of Act No. 28, 1941. (Part II—The Council of Agents and Auctioneers.) Sec. 14. (Fees and expenses.)

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(1) The chairman and members of the council shall be entitled to be paid remuneration and fees at the prescribed rates and such travelling and sustenance expenses as may be prescribed.

Until other rates of remuneration or fees are prescribed,—

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(a) the prescribed rate of remuneration is—

(i) in the case of the chairman, two hundred pounds per annum; and

(ii) in the case of a member other than the chairman, one hundred pounds per annum; and

(b)

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(b) the prescribed rate of fees is—

(i) in the case of the chairman, five guineas;
and

5 (ii) in the case of a member other than the
chairman, four guineas,

for each meeting of the council attended by the
chairman or member, as the case may be.

(2) The amendment made by subsection one of this
section shall be deemed to have commenced upon the first
10 day of November, one thousand nine hundred and fifty-
eight.

5. Part III of the Principal Act is amended—

Amendment
of Act No.
28, 1941.

(Part III—
Auctioneers,
Stock and
Station
Agents,
Real Estate
Agents and
Business
Agents.)

15 (a) by inserting in subsection three of section twenty
after the words “carry on” the words “or advertise,
notify or state that it acts or carries on or is willing
to act as or carry on”;

Sec. 20.
(No person
or partner
in a firm
to act
without
a license.)

(b) by omitting paragraph (c) of subsection four of
section twenty-two and by inserting in lieu thereof
the following paragraph :—

Sec. 22.
(Licenses.)

20 (c) The holder of a license who desires to
surrender the license held by him may in writing
notify the registrar that he so desires and may
deliver the license to the registrar.

25 The registrar shall, upon receipt of such
notification and license, endorse on the license the
word “surrendered” and record in the register the
fact that the license has been surrendered.

(c)

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(c) (i) by omitting from subsection one of section Sec. 23.
 twenty-three the words "in triplicate"; (Procedure.)

(ii) by inserting at the end of subsection two of the
 same section the following new paragraphs and
 proviso :—

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(c) be lodged with the registrar ;

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(d) in the case of an application by a
 licensee, be accompanied by the
 prescribed fees and, except where the
 application is for a business subagent's
 license, the prescribed contribution :

Provided that where the application—

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(a) is made by the holder of a license
 whose place of business is situated
 outside the proclaimed area ; and

(b) is not an application for the renewal of
 a license ;

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the application may be lodged with the clerk
 of petty sessions nearest to the holder's place
 of business, and such clerk of petty sessions
 shall upon production of the license held by
 the licensee and upon payment to him of the
 prescribed fees and contribution issue a
 provisional license.

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(iii) by omitting subsections three, four and five of
 the same section and by inserting in lieu
 thereof the following subsection :—

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(3) Upon receipt of an application for the
 grant or the renewal of a license by any
 person, the registrar shall forward particulars
 of the application to the superintendent of
 licenses.

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The superintendent of licenses shall upon
 receipt of such particulars, and the council
 may, inquire into and report upon the
 character of the applicant, or, where the
 application

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application is made by a corporation in respect of an employee, the character of such employee.

5 Any report made pursuant to this subsection by the superintendent of licenses shall be forwarded to the registrar.

10 (iv) by omitting from paragraph (a) of subsection six of the same section the words "the clerk shall, on payment to him of" and by inserting in lieu thereof the words "the registrar or, in the case of an application made to a clerk of petty sessions pursuant to the proviso to subsection two of this section, such clerk shall, if";

15 (v) by omitting from the same paragraph the words "issue to such person a provisional license" and by inserting in lieu thereof the words "have been paid, issue to such person a provisional license except where the applica-
20 tion is for the renewal of a license and the renewal of the license is issued before the date of expiry of the existing license";

(vi) by inserting at the end of the same paragraph the following new paragraph : —

25 Where a provisional license is issued pursuant to this subsection by the clerk, the clerk shall forward to the registrar the application, together with the prescribed fee and any prescribed contribution accompanying the
30 application, and a notification specifying the class of provisional license that the clerk has issued to the person making the application.

(vii) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph : —

35 (d) Upon the refusal or withdrawal of an application in respect of which the prescribed fees have been paid, there shall be refunded to

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- 5 to the applicant or any other person who may appear entitled thereto the prescribed fees after deducting therefrom such part of the prescribed fees as bears to the prescribed fees the same proportion as the period in months (disregarding any fraction of a month) for which the provisional license had effect bears to twelve months.
- 10 (viii) by omitting subsection seven of the same section and by inserting in lieu thereof the following subsection :—
- 15 (7) (a) If a member of the police force of or above the rank of sergeant or the council objects to the grant of the application a statement setting out the nature of the objection proposed to be made shall be lodged with the clerk of the court of petty sessions having jurisdiction under subsection four of section three of this Act.
- 20 (b) A copy of any such statement shall be included in any report furnished pursuant to subsection five of this section.
- 25 (ix) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection :—
- 30 (8) Where the prescribed fees and, except in the case of a person applying for a business subagent's license, the prescribed contribution, have been paid to the registrar and no objection to the grant of an application for a license has been made, the registrar shall issue the license.
- 35 (x) by omitting from subsection nine of the same section the words "officer in charge of police" and by inserting in lieu thereof the words "a member of the police force of or above the rank of sergeant";
- (xi) by omitting from paragraph (b) of the same subsection the words "or police";
- (xii)

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5 (xii) by omitting from the same subsection the words "If the court grants the application, the clerk of the court shall, on payment to him of the prescribed fees and, except in the case of a person applying for a business subagent's license, the prescribed contribution, issue the license." and by inserting in lieu thereof the following paragraphs :—

10 Upon determination of the application the clerk of the court shall notify the result to the registrar.

15 If the court grants the application, the registrar shall upon receipt of such notification and where the prescribed fees and, except in the case of a person applying for a business subagent's license, the prescribed contribution, have been paid to him, issue the license.

20 (d) (i) by inserting in subsection one of section 23A Sec. 23A. after the words "such license" the following (Restoration of license not renewed.) new paragraph :—

25 Any such application shall be made to the registrar who shall forward it to the clerk of the court of petty sessions having jurisdiction under subsection three of section three of this Act.

(ii) by omitting from the same subsection the words "clerk of the court" and by inserting in lieu thereof the word "registrar";

30 (e) by inserting at the end of subsection one of section twenty-four the following new paragraph :— Sec. 24. (Variation of license.)

35 Any such application shall be made to the registrar who shall forward it to the clerk of the court of petty sessions having jurisdiction under subsection four of section three of this Act.

(f)

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- (f) (i) by omitting subsection three of section twenty-five and by inserting in lieu thereof the following subsection :— Sec. 25. (Fees payable for license.)
- (3) There shall also be payable upon—
- 5 (a) the lodgment of each application for a license where the applicant is already a licensee, for the renewal of a license or for the issue of a provisional license, or
- 10 (b) the grant of each application for a license in the case where the applicant is not a licensee,
- such fee as may be prescribed.
- 15 (ii) by omitting from subsection four of the same section the words “Auctioneers, Stock and Station, Real Estate and Business Agents” and by inserting in lieu thereof the words “Auctioneers and Agents”;
- 20 (g) (i) by omitting from subsection one of section twenty-nine the words “or police”; Sec. 29. (Cancellation of license.)
- (ii) by inserting next after subsection one of the same section the following new subsection :—
- 25 (1A) Upon complaint being made to him by a member of the police force of or above the rank of inspector or by the registrar any justice of the peace may summon a person who has within a period of twelve months before the date of the complaint ceased to hold a license or any person in respect of whom
- 30 a corporation has within that period ceased to hold a license to appear before a court of petty sessions holden before a stipendiary magistrate to show cause why such former licensee or person in respect of whom a
- 35 corporation has ceased to hold a license should
- not

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not be disqualified either permanently or temporarily from holding a license on the grounds—

- 5 (a) that he is not a fit person to hold a license, or to have a license held in respect of him as an employee, by a corporation, or that the corporation is not a fit and proper person to hold a license on its own behalf or in respect of an employee; or
- 10 (b) that he has been guilty of such conduct as renders him unfit to hold a license, or to have a license held in respect of him as an employee, by a corporation, or that the affairs of the corporation have been so conducted as to render it unfit to hold a license on its own behalf or in respect of an employee.
- 15 The provisions of subsections two and three of this section apply mutatis mutandis to and in respect of complaints made under this subsection.
- 20 (iii) by omitting from subsection three of the same section the word “court” where secondly occurring and by inserting in lieu thereof the word “registrar”;
- 25 (h) (i) by omitting subsection one of section thirty; Sec. 30.
(ii) by omitting from subsection two of the same section the word “such”; (Register to be kept by registrar.)
- 30 (i) (i) by omitting from subsection one of section thirty-one the words “the officer in charge of police” where firstly occurring and by inserting in lieu thereof the words “a member of the police force”; Sec. 31. (Appeal.)
- 35 (ii) by omitting from the same subsection the words “officer in charge of police” where secondly occurring and by inserting in lieu thereof the words “member of the police force”;
- (iii)

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5 (iii) by omitting from subparagraph (ii) of paragraph (b) of subsection four of the same section the words "officer in charge of police" wherever occurring and by inserting in lieu thereof the words "member of the police force";

(iv) by omitting subsection (4A) of the same section;

10 (j) by omitting from section thirty-three the word "court" where secondly occurring and by inserting in lieu thereof the word "registrar"; Sec. 33. (Failure to deliver up license.)

15 (k) (i) by omitting from subsection four of section thirty-four the words "court from which the license issued" and by inserting in lieu thereof the word "registrar"; Sec. 34. (Registered office and address.)

20 (ii) by omitting from the same subsection the words "and the clerk of such court shall record such notice and advise the registrar who" and by inserting in lieu thereof the words "and the registrar";

(l) (i) by inserting next after subsection three of section thirty-six the following new subsections :— Sec. 36. (Payment into bank.)

25 (3A) Where a person ceases to be a licensee after the commencement of this subsection, the provisions of this section shall, in respect of moneys received by him as a licensee, apply to him, as if he had continued to be a licensee, for a period of three years after the date on which he so ceased.
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Nothing in this subsection affects any other obligation imposed by law upon any such person in relation to any trust moneys received by him as a licensee.

(3B)

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(3B) A person so ceasing to be a licensee shall—

5 (a) within three months after the date of his so ceasing furnish to the registrar a statement in the form prescribed setting out the moneys held as at the date on which he so ceased in his trust account and received by him as a licensee, and of the persons on whose behalf such moneys are held ;

10 (b) within fourteen days after the expiration of a period of two years after the date the statement referred to in paragraph (a) of this subsection was furnished forward to the registrar a further statement in the form prescribed setting out the moneys held as at the expiration of the said period of two years in his trust account and received by him as a licensee, and of the persons on whose behalf such moneys are held.

15 (ii) by inserting in subsection four of the same section after the word "licensee" the words "or person";

20 (iii) by inserting in subsection (4A) of the same section after the word "licensee" the words "or person";

25 (m) by inserting next after section thirty-seven the following new section : — New sec. 37A.

30 37A. All moneys received in the course of his business by a licensee as a deposit on a contract for the sale, purchase or exchange of land (including land used for agricultural or pastoral purposes) or by a business agent, as a deposit on a contract for the sale, purchase or exchange of any other property, Deposits to be held by licensees as stakeholders.

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5 property, shall notwithstanding the terms and conditions of any agreement or contract, be held by him as stakeholder and not as agent for the vendor or purchaser, as the case may be, and such moneys shall be retained in his trust account until it is paid out upon or after completion or cancellation of the sale, purchase or exchange :

10 Provided that this section shall not apply in the case of any contract for the sale, purchase or exchange of land (including land used for agricultural or pastoral purposes) under which any part of the purchase moneys is not payable until after the expiration of twelve months after the date of the contract.

- 15 (n) by inserting next after subsection five of section 38A the following new subsection : —
- (6) Where a person—
- (a) ceases to be a licensee after the commencement of this subsection, the provisions of paragraphs (a) and (b) of subsection one of this section shall apply to him, as if he had continued to be a licensee, for a period of three years after the date on which he so ceased to be a licensee ; or
- 20
- (b) ceased or ceases to be a licensee before or after such commencement, the provisions of paragraph (c) of the said subsection one shall—
- 25
- (i) where pursuant to paragraph (a) of subsection two of section thirty-eight of this Act such person is required to preserve the written record referred to in that paragraph, apply to such person, and
- 30

Sec. 38A.
(Furnishing of particulars of trust account or transactions.)

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5 (ii) where the possession, custody or control of such written record is obtained by some other person as mentioned in paragraph (b) of subsection two of section thirty-eight of this Act, apply to such other person,

for a period of three years after the date on which such firstmentioned person so ceased to be a licensee.

10 (o) (i) by inserting next after subsection two of section 38B the following new subsection :— Sec. 38B.
(Inspection
of records.)

15 (2A) Upon production to a banker with whom a licensee has deposited any money (whether on his own account or in any general or separate trust account) of a certificate in the form prescribed under the hand of the registrar certifying that the licensee cannot be located or has left the State, and that the registrar has been unable to obtain any such authority or order as is referred to in paragraph (b) of subsection two of this section
20 addressed to such banker it shall be the duty of such banker to produce for inspection by the registrar or other officer of the council duly authorised in writing by the registrar in that
25 behalf the records of the bank relating to the account in which such money is held.

30 Where a person ceases to be a licensee, the provisions of this subsection shall apply to and in respect of such person, as if he had continued to be a licensee, for a period of three years after the date on which he so ceased.

35 (ii) by inserting in subsection three of the same section after the word "two" the symbols "(2A)";

(p)

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(p) by inserting next after section 38c the following New sec. 38D.
new section :—

5 38D. (1) (a) Within three months after the Audit of licensees' books and records.
prescribed day in every year a licensee who carried
on business in his capacity as such during the whole
or any part of the year ended on that date shall—

10 (i) cause his books of account and records
relating to trust moneys received by such
licensee during that year or part to be
audited by a person qualified under sub-
section two of this section to act as
auditor;

15 (ii) forthwith after the receipt from the auditor
of the report of the result of the audit, send
or deliver it to the registrar.

20 (b) Forthwith after completing an
audit under this subsection the auditor shall send
or deliver his report in the prescribed form and
a copy thereof signed by him to the licensee
concerned.

(c) The licensee shall retain the
signed copy of the report and produce it on demand
pursuant to this section.

25 (d) A licensee shall not be required
under this subsection to cause his books and records
to be audited in respect of any period in respect
of which such books and records have already been
audited pursuant to this subsection.

30 (e) In this subsection “prescribed
day” means the thirtieth day of June or, in respect of
any particular licensee, such other day as the
registrar may, on the application of that licensee,
fix by order in writing given to that licensee.

35 (2) A person shall be qualified to act as
an auditor under this section if he is registered
under the Public Accountants Registration Act,
1945, as amended by subsequent Acts, or, where
the

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5 the registrar is satisfied that a person so registered is not conveniently available if he is a person who has been nominated by the licensee whose books and records are to be audited and who has by order in writing been approved by the registrar, but shall not be so qualified—

10 (a) if the person so registered or approved is or has at any time within two years before the last day of the period in respect of which the audit is to be made, been an employee or partner of the licensee whose books and records are to be audited; or

15 (b) if he is a licensee, or a shareholder in a corporation that is a licensee and has not more than twenty shareholders.

20 (3) If an auditor in the course of auditing a licensee's accounts discovers that the licensee has committed any breach of this Act or the regulations or any offence relating to his trust account or moneys paid to or held by him pursuant to section thirty-six of this Act or that the accounts of such licensee are not kept in such a manner as to enable them to be properly audited, he shall fully set out the facts so discovered by him in the report made by him for the purposes of this section and shall forward a copy of the report to the registrar.

30 (4) No auditor appointed to make an audit for the purposes of this section shall communicate any matter which may come to his knowledge in the course of the audit to any person except in accordance with this section or in the like circumstance and to the like extent as a member of the council or any of its officers is permitted under subsection one of section 86A of this Act to publish information.

35

No

Auctioneers and Agents (Amendment).

No assistant of any such auditor shall communicate any matter which may come to his knowledge in the course of the examination to any person except to the auditor appointed to make the audit.

5 (5) A report, relating to the books of account and records of a licensee, of an auditor under this section or a statutory declaration delivered to the registrar under this section shall be available in the hands of the registrar for inspection by the auditor appointed by such licensee to carry out under this section the next succeeding audit of the books of account and records of such licensee.

15 (6) A licensee who in the course of any year ending on the prescribed day as defined in subsection one of this section neither received nor held any money for or on behalf of any other person shall be deemed to have complied with that subsection if within the period of three months after the end of that year he makes and delivers to the registrar a statutory declaration to that effect.

25 (7) Where in respect of the books of account and records kept by a partnership of licensees the provisions of this section are complied with by any one of such licensees, such provisions shall be deemed to have been complied with by all of such licensees.

- (q) (i) by omitting from subsection one of section thirty-nine the words "or police";
- 30 (ii) by inserting in paragraph (b) of the same subsection after the word "refused" the words "(other than pursuant to subsection (10A) of section twenty-three of this Act),";
- 35 (iii) by inserting in paragraph (c) of the same subsection after the word "salesman" wherever occurring the words "or as an employee of a licensee";

(iv)

Sec. 39.
(Certain persons not to be employed by licensees.)

Auctioneers and Agents (Amendment).

(iv) by inserting in paragraph (d) of the same subsection after the word "salesman" the words "or as an employee of a licensee";

5 (v) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

10 (3) Except in the case where an employee is the holder of a license or if he is in the employ of a corporation the corporation has taken out a license on his behalf, a person shall not permit any of his employees to carry out any of the functions that may only be carried out by the holder of a license by virtue of the license held by him, unless the employee is registered under this Act as an employee of the said licensee.

15 (r) (i) by omitting from subsections one, two and four of section 42A the word "two" wherever occurring and by inserting in lieu thereof the word "six"; Sec. 42A. (Review of commissions, fees, etc.)

20 (ii) by inserting next after subsection four of the same section the following new subsection :—

25 (4A) The provisions of subsections one, two and four of this section shall, where no sum of money referred to in subsection three of this section has been paid to or retained by a licensee in respect of any transaction by or with him as a licensee, be read and construed in relation to that transaction as if the words "six months" were omitted therefrom where occurring and the words "two months" were inserted in their place.

Auctioneers and Agents (Amendment).

6. Part IV of the Principal Act is amended—

Amendment
of Act No.
28, 1941.(Part IV—
Real Estate
Dealers and
Real Estate
Salesmen.)

- 5 (a) by omitting the heading to the Part and by inserting in lieu thereof the words “Registration of Real Estate Dealers, Real Estate Salesmen and Employees of Licensees.”; Part IV.
(Heading.)
- 10 (b) (i) by inserting in section fifty-one after the definition of “Allotment of land” the following new definition : — Sec. 51.
(Interpre-
tation.)
- “Employee’s certificate of registration” means
a certificate of registration as an
employee issued to a person pursuant
to section fifty-seven of this Act.
- 15 (ii) by omitting from the definition of “Real estate salesman” the words “real estate agent or”;
- 20 (c) (i) by omitting from subsection one of section fifty-two the words “or police”; Sec. 52.
(Provisions
as to em-
ployment
of certain
persons
by real
estate
dealers.)
- (ii) by inserting in paragraph (b) of the same subsection after the word “refused” the words “(other than pursuant to subsection (10A) of section twenty-three of this Act)”;
- 25 (d) by inserting at the end of the heading to Division 3 the words “and Registered Employees”; Div. 3.
(Heading.)
- (e) by omitting from section fifty-six the words “real estate agent or” wherever occurring; Sec. 56.
(Real estate
salesmen
to be
registered.)
- (f)

Auctioneers and Agents (Amendment).

(f) by inserting next after section fifty-six the following new section : — New sec.
56A.

5 56A. (1) Subject to this Act, a person who is an employee of a licensee shall not carry out on behalf of such licensee any function that may only be carried out by such licensee by virtue of the license held by him unless such person— Certain employees of licensees to be registered.

(a) whether he is an employee of an individual or a corporation—

10 (i) is the holder of a certificate of registration granted under this Division; or

15 (ii) is the holder of a license of the same class as that by virtue of which such licensee is entitled to carry out that function; or

20 (b) where he is an employee of a corporation, is the person in respect of whom the corporation has taken out a license and that license is one by virtue of which such person is entitled to carry out that function.

25 Nothing in subsection one of section twenty of this Act prevents the holder of any such certificate from carrying out on behalf of the holder of an auctioneer's license by whom he is employed any of the functions of an auctioneer.

30 (2) A person who is the holder of an employee's certificate of registration shall not conduct an auction sale on behalf of the licensee by whom he is employed except under the direct supervision of such licensee.

35 (3) A person who, immediately before the commencement of this section, was the holder of a certificate of registration under this Act as a real estate salesman and was employed by the holder of a real estate agent's license shall unless such certificate of registration is sooner cancelled be deemed to be the holder of an employee's certificate of registration

Auctioneers and Agents (Amendment).

registration granted under this Division, until the date of expiry of such certificate of registration as a real estate salesman.

- 5 (g) (i) by omitting from subsection one of section fifty-seven the words "shall be made in tripli- Sec. 57.
cate" and by inserting in lieu thereof the words (Procedure.)
"or as an employee of a licensee shall be
made";
- 10 (ii) by omitting subsections two, three and four of
the same section and by inserting in lieu
thereof the following subsections :—
- (2) Each application shall be lodged with
the registrar and contain such particulars as
may be prescribed.
- 15 (3) Upon receipt of the application the
registrar shall forward particulars of the
application to the superintendent of licenses.
- The superintendent of licenses shall, upon
receipt of such particulars, and the council
20 may, inquire into and report upon the
character of the applicant.
- (4) (a) If a member of the police force
of or above the rank of sergeant or the council
objects to the grant of the application a state-
25 ment setting out the nature of the objection
proposed to be made shall be lodged with the
clerk of the court of petty sessions having
jurisdiction under subsection four of section
three of this Act.
- 30 (b) A copy of any such statement
shall be included in any report furnished pur-
suant to subsection three of this section.
- (iii) by omitting subsection six of the same section
and by inserting in lieu thereof the following
35 subsection :—
- (6) Where neither a member of the police
force of or above the rank of sergeant nor
the

Auctioneers and Agents (Amendment).

the council objects to the grant of the application, the registrar shall on payment to him of—

- 5 (a) a fee of ten shillings; and
(b) in addition thereto such fee as may be prescribed,

issue to the applicant a certificate of registration as an employee of a licensee.

- 10 (iv) by omitting from subsection seven of the same section the words “the officer in charge of police” and by inserting in lieu thereof the words “a member of the police force of or above the rank of sergeant”;

- 15 (v) by omitting from paragraph (b) of the same subsection the words “or police”;

- 20 (vi) by omitting from the same subsection the words “If the court grants the application the clerk of the court shall, on payment to him of a fee of five shillings issue to the applicant a certificate of registration as a real estate salesman” and by inserting in lieu thereof the following paragraphs :—

25 Upon determination of the application the clerk of the court shall forthwith notify the registrar.

If the court grants the application, the registrar shall, upon receipt of such notification and payment to him of—

- 30 (a) a fee of ten shillings; and
(b) in addition thereto such fee as may be prescribed,

issue to the applicant a certificate of registration as a real estate salesman or as an employee of a licensee, as the case may be.

(vii)

Auctioneers and Agents (Amendment).

(vii) by inserting next after subsection seven of the same section the following new subsection :—

(7A) The provisions of subsection four of section twenty-five of this Act apply mutatis mutandis to prescribed fees paid pursuant to paragraph (b) of subsection six or of subsection seven of this section.

(viii) by inserting in subsection eight of the same section after the word "salesman" the words "or as an employee of a licensee";

(ix) by inserting in paragraph (a) of subsection nine of the same section after the word "salesman" the words "or as an employee of a licensee";

(h) (i) by omitting subsection one of section fifty-eight; Sec. 58.
(Register to be kept by registrar.)
(ii) by omitting from subsection two of the same section the word "such";

(i) (i) by inserting in subsection one of section fifty-nine after the word "salesman" the words "and holder of an employee's certificate of registration"; Sec. 59.
(Registered address.)

(ii) by inserting in subsection three of the same section after the word "salesman" the words "or the holder of the employee's certificate of registration, as the case may be";

(iii) by omitting from subsection four of the same section the words "real estate salesman with the court from which the certificate of registration as a real estate salesman issued, within the prescribed time, and the clerk of such court shall record such notice and advise the registrar who" and by inserting in lieu thereof the words "real estate salesman or holder of the employee's certificate of registration with the registrar, within the prescribed time, and the registrar";

(iv)

Auctioneers and Agents (Amendment).

- 5 (iv) by inserting in subsection five of the same section after the word "salesman" where secondly occurring the words "or the holder of an employee's certificate of registration carries out any of the functions of a licensee";
- 10 (j) (i) by inserting in subsection one of section sixty after the word "salesman" the words "or the holder of an employee's certificate of registration"; (Sec. 60. (Cancellation of certificate of registration.)
- 10 (ii) by omitting from the same subsection the words "or police";
- 15 (iii) by inserting in subsection two of the same section after the word "salesman" where firstly occurring the words "or holder of an employee's certificate of registration";
- (iv) by inserting in the same subsection after the word "salesman" where lastly occurring the words "or holder of such certificate";
- 20 (v) by inserting in subsection three of the same section after the word "salesman" the words "or employee";
- (vi) by omitting from the same subsection the word "court" where secondly occurring and by inserting in lieu thereof the word "registrar";
- 25 (k) (i) by inserting in section sixty-one after the word "salesman" wherever occurring the words "or employee of a licensee"; (Sec. 61. (Appeal)
- 30 (ii) by omitting from subsection one of the same section the words "the officer in charge of police" where firstly occurring and by inserting in lieu thereof the words "a member of the police force";
- 35 (iii) by omitting from the same subsection the words "officer in charge of police" where secondly occurring and by inserting in lieu thereof the words "member of the police force";
- (iv)

Auctioneers and Agents (Amendment).

- 5 (iv) by omitting from subparagraph (ii) of paragraph (b) of subsection four of the same section the words "officer in charge of police" wherever occurring and by inserting in lieu thereof the words "member of the police force";
- 10 (l) (i) by inserting in section sixty-two after the word "salesman" where firstly and secondly occurring the words "or holder of an employee's certificate of registration"; Sec. 62. (Production of certificate of registration.)
- 15 (ii) by inserting in the same section after the word "salesman" where lastly occurring the words "or holder of an employee's certificate of registration, as the case may be, or to any officer of the council authorised under subsection one of section 38B of this Act";
- 20 (m) (i) by inserting in section sixty-three after the word "salesman" the words "or holder of an employee's certificate of registration"; Sec. 63. (Real estate salesman not to lend certificate of registration.)
- (ii) by omitting from the same section the word "court" and by inserting in lieu thereof the word "registrar".
7. (1) Part VI of the Principal Act is amended—
- Amendment of Act No. 28, 1941. (Part VI—The Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund.)
- 25 (a) by omitting from the heading to the Part the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents"; Part VI. (Heading.)
- (b)

Auctioneers and Agents (Amendment).

- (b) by omitting from subsection one of section sixty-five the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents"; Sec. 65. (The fund.)
- 5 (c) by omitting from section sixty-six the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents"; Sec. 66. (Separate bank account.)
- 10 (d) (i) by inserting in subsection one of section seventy-one after the word "pounds" the words "or such other amount as may be prescribed in lieu thereof"; Sec. 71. (Contribution to fund.)
- 15 (ii) by omitting from the same subsection the word "license" where secondly occurring and by inserting in lieu thereof the word "employee";
- 20 (iii) by omitting from the same subsection the words "Provided that where a corporation holds more than one auctioneer's license in respect of an employee one contribution only shall be payable under this section in respect all auctioneer's licenses held by such corporation in respect of such employee";
- (iv) by omitting subsection three of the same section;
- 25 (e) (i) by omitting from subsection four of section seventy-two the words "under each such license" and by inserting in lieu thereof the words "in respect of each such employee"; Sec. 72. (Levies.)
- 30 (ii) by omitting the proviso to the same subsection;
- (f) (i) by omitting from subsection one of section seventy-eight the words "brought—"; Sec. 78. (Defences.)
- 35 (a) where the amount claimed does not exceed fifty pounds in a court of petty sessions holden before a stipendiary magistrate;
- (b)

Auctioneers and Agents (Amendment).

- (b) where the amount claimed exceeds fifty pounds but does not exceed one thousand pounds in a district court;
- 5 (c) where the amount claimed exceeds one thousand pounds in the Supreme Court.”

and by inserting in lieu thereof the words “brought in any court of competent jurisdiction”;

- 10 (ii) by inserting next after subsection three of the same section the following new subsection :—

(4) No proceedings shall be brought against the council in relation to any claim upon the fund after the expiration of a period—

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- (a) where the council disallowed the claim before the commencement of this subsection—of six months after such commencement;
- 20

- (b) in any other case—of six months after the time the council has notified the claimant that it has disallowed the claim.

(2) All moneys which immediately before the commencement of this section stood to the credit of the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund or the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Account shall upon that day become and be respectively

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30 moneys standing to the credit of the Auctioneers and Agents Fidelity Guarantee Fund and the Auctioneers and Agents Fidelity Guarantee Account.

(3) All investments which immediately before the commencement of this section were held by the council in

35 connection with the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund shall upon

Auctioneers and Agents (Amendment).

upon that day become and be investments held by the council in connection with the Auctioneers and Agents Fidelity Guarantee Fund.

8. Part VII of the Principal Act is amended—

Amendment
of Act No.
28, 1941.
(Part VII
—General.)

- 5 (a) (i) by inserting in subsection one of section eighty-four after the words “real estate dealer” where firstly occurring the words “real estate dealer, as defined in section fifty-one of this Act,”; Sec. 84.
(Offences in connection with the sale of allotments of land.)
- 10 (ii) by omitting from the same subsection the words “real estate dealer” where secondly occurring and by inserting in lieu thereof the words “any such real estate dealer”;
- 15 (b) (i) by inserting in subsection one of section 86A after the words “section 38B of this Act or” the words “an audit made under the provisions of section 38D of this Act or an inspection made under the provisions of”; Sec. 86A.
(Members or officers of council not to disclose information.)
- 20 (ii) by omitting from paragraph (c) of the same subsection the words “Auctioneers, Stock and Station and Real Estate Agents” and by inserting in lieu thereof the words “Auctioneers and Agents”;
- 25 (c) by omitting from section 86B the words “or real estate salesman” wherever occurring and by inserting in lieu thereof the words “, real estate salesman, as defined in section fifty-one of this Act, or holder of an employee’s certificate of registration, as so defined,”; Sec. 86B.
(Service of writs, etc.)
- 30 (d) (i) by omitting from subsection four of section eighty-seven the words “or police”;
- (ii) Sec. 87.
(Offences against Act.)

Auctioneers and Agents (Amendment).

(ii) by inserting next after subsection five of the same section the following new subsection :—

5 (6) Where a real estate salesman, as defined in section fifty-one of this Act, or the holder of an employee's certificate of registration, as so defined, is convicted of an offence against this Act or the regulations, the real estate dealer or the licensee in whose employ the real estate salesman or the holder of the

10 employee's certificate of registration, as the case may be, was, at the time of the commission of the offence shall be deemed to have committed the like offence and be liable to the pecuniary penalty or imprisonment or both

15 provided by the Act or the regulations for such offence accordingly, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

20 (e) by inserting in section eighty-nine after the word "salesman" the words "as defined in section fifty-one of this Act, or employee of a licensee, as so defined,";

Sec. 89.
(Document under hand of registrar to be prima facie evidence.)

25 (f) by inserting at the end of subsection two of section ninety-two the following new paragraph :—

Sec. 92.
(Regulations.)

(g) prescribe the remuneration and fees, and travelling and sustenance expenses to be paid to the chairman and other members of the council, respectively.

30 9. (1) The Public Accountants Registration Act, 1945, as amended by subsequent Acts, is amended by omitting from section 28A the words "which is required to be furnished pursuant to any regulation made under the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended

Amendment of Act No. 18, 1945.

Auctioneers and Agents (Amendment).

by subsequent Acts” and by inserting in lieu thereof the words
“, or report, which is required to be furnished pursuant to
the Auctioneers, Stock and Station and Real Estate Agents
Act, 1941, as amended by subsequent Acts, or any regulation
5 made thereunder”.

(2) The Public Accountants Registration Act, 1945,
as amended by subsequent Acts and by this Act, may be cited
as the Public Accountants Registration Act, 1945-1963.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963

No. , 1963.

A BILL

To vary the procedure relating to the making of applications for, and the issue of, licenses under the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts; to make further provisions regulating licensees under that Act, as so amended; to provide for the registration of certain employees of such licensees; for these and other purposes to amend that Act, as so amended, and the Public Accountants Registration Act, 1945, as amended by subsequent Acts; to validate certain matters; and for purposes connected therewith.

[MR. MANNIX;—12 *March*, 1963.]

BE

Auctioneers and Agents (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Auctioneers and Agents (Amendment) Act, 1963".

Short title
and
citation.

(2) The Auctioneers, Stock and Station, Real Estate and Business Agents Act, 1941-1957, is in this Act referred to as the Principal Act.

(3) The Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended by subsequent Acts and by this Act, may be cited as the Auctioneers and Agents Act, 1941-1963.

15 (4) The several amendments made by section three (subparagraph (iii) of paragraph (a) and subparagraphs (iii) and (v) of paragraph (b) of that section excepted), section five (paragraph (a), subparagraph (xi) of paragraph (c), subparagraph (ii) of paragraph (f), subparagraphs (i) and 20 (ii) of paragraph (g), paragraphs (m), (n), (o) and (p), subparagraphs (i) and (ii) of paragraph (q) and paragraph (r) of that section excepted), section six (paragraph (c), subparagraph (v) of paragraph (g) and subparagraph (ii) of paragraph (j) of that section excepted), and section eight 25 (paragraphs (a) and (b), subparagraph (i) of paragraph (d) and paragraph (f) of that section excepted), of this Act shall commence upon such day or days as may be respectively appointed in respect thereof by the Governor and notified by proclamation published in the Gazette.

30 2. (1) As on and from the commencement of this section—

Change of
name of
Council.

(a) the name of the body corporate constituted by section six of the Principal Act shall be "The Council of Auctioneers and Agents";

(b)

Auctioneers and Agents (Amendment).

5 (b) a reference in any Act or other instrument to the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents shall be read and construed as a reference to the Council of Auctioneers and Agents.

(2) Nothing in this Act shall prejudice or affect in any way the continuity of the body corporate constituted by section six of the Principal Act and it shall continue notwithstanding the provisions of this Act.

10 (3) The alteration of name effected by subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the body corporate constituted by section six of the Principal Act, or render defective any legal or other proceedings instituted
15 or to be instituted by or against the said body corporate.

(4) Any legal or other proceedings may be continued or commenced by or against the body corporate by the name of the Council of Auctioneers and Agents that might have been continued or commenced by or against the said body
20 corporate by the name of the Council of the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents.

(5) The Principal Act is amended—

Amendment
of Act No.
28, 1941.

25 (a) by omitting from the matter relating to Part II in section two the words "The Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

30 (b) by omitting from the definition of "Council" in subsection one of section three the words "the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

(c)

Auctioneers and Agents (Amendment).

- 5 (c) by omitting from the heading to Part II the words "The Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";
- 10 (d) by omitting from subsection three of section six the words "the Auctioneers, Stock and Station Agents, Real Estate Agents and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents".

3. Part I of the Principal Act is amended—

Amendment of Act No. 28, 1941. (Part I—Pre-liminary.)

- 15 (a) (i) by omitting from the matter relating to Part IV in section two the words "Real Estate Dealers and Real Estate Salesmen" and by inserting in lieu thereof the words "Registration of Real Estate Dealers, Real Estate Salesmen and Employees of Licensees";
- 20 (ii) by inserting in the matter relating to Division 3 of the same Part after the words "*Real Estate Salesmen*" the words "*and Registered Employees*";
- 25 (iii) by omitting from the matter relating to Part VI in the same section the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";
- 30 (b) (i) by omitting from the definition of "Business subagent" in subsection one of section three the words "in the direct employ of or" and by inserting in lieu thereof the words "an independent contractor to and";

Sec. 2. (Division into Parts.)

Sec. 3. (Definitions.)

(ii)

Auctioneers and Agents (Amendment).

- 5 (ii) by omitting from the same definition the words
“whether his remuneration is by way of salary,
wages, commission or otherwise but does not
include an employee of a corporation in
respect of whom such corporation has taken
out a business agent’s license”;
- (iii) by inserting in the same subsection after the
definition of “Live stock” the following new
definitions : —
- 10 “Moneys” includes an instrument for the
payment of money in any case where
the instrument may be paid into a
bank.
- 15 “Moneys received for or on behalf of any
person” includes moneys held for or
on behalf of any person whether
originally received for or on his behalf
or not.
- 20 (iv) by inserting in the same subsection after the
definition of “Prescribed” the following
definition : —
- 25 “Proclaimed area” means the Liverpool,
Metropolitan, Parramatta and Ryde
Police Districts and such other area as
may from time to time be added to
the prescribed area as hereinbefore
defined by proclamation made pur-
suant to subsection three of this
section.
- 30 (v) by omitting from the definition of “Real
estate agent” in the same subsection the words
“other than land” wherever occurring and by
inserting in lieu thereof the words “including
a lot within the meaning of the Conveyancing
35 (Strata Titles) Act, 1961, as amended by sub-
sequent Acts, but not including land”;

(vi)

Auctioneers and Agents (Amendment).

(vi) by inserting in the same subsection after the definition of "Stock and station agent" the following new definition :—

5 "Superintendent of licenses" means the
person for the time being holding
office as superintendent of licenses
pursuant to the provisions of subsec-
tion (1B) of section one hundred and
10 nineteen of the Liquor Act, 1912, as
amended by subsequent Acts.

(c) by inserting next after subsection two of the same section the following new subsections :—

15 (3) The Governor may from time to time by
proclamation published in the Gazette specify the
courts of petty sessions which shall have jurisdic-
tion under the provisions of Division 1 of Part
III, sections thirty-nine and fifty-two, and Division
3 of Part IV, of this Act within the proclaimed
area.

20 (4) Where—

(a) the situation of the place of business or
proposed place of business of the licensee
or applicant for a license, not being a busi-
ness subagent's license, or

25 (b) the registered address under this Act of the
business subagent, real estate salesman or
holder of an employee's certificate of regi-
stration, or the place of residence of the
applicant for a business subagent's license
30 or for registration under this Act as a real
estate salesman or as an employee of a
licensee or the registered place of business
of the real estate dealer,

is—

35 (i) within the proclaimed area, the court of
petty sessions specified in a proclamation
under subsection three of this section or,
where more than one court of petty sessions
has

Auctioneers and Agents (Amendment).

- 5 has been so specified, the court of petty sessions nearest to such place of business or proposed place of business, or registered address or place of residence, as the case may be, shall have jurisdiction under the provisions of the said Division 1 of Part III, sections thirty-nine and fifty-two, and Division 3 of Part IV; and
- 10 (ii) outside the proclaimed area, the court of petty sessions nearest to such place of business or proposed place of business, or registered address or place of residence, as the case may be, shall have jurisdiction under such provisions.
- 15 (5) The Governor may by proclamation add to or vary the proclaimed area.
- (6) The Governor may by proclamation revoke any proclamation made under subsection three or five of this section.
- 20 4. (1) Part II of the Principal Act is amended by omitting subsection one of section fourteen and by inserting in lieu thereof the following subsection :—
- 25 (1) The chairman and members of the council shall be entitled to be paid remuneration and fees at the prescribed rates and such travelling and sustenance expenses as may be prescribed.
- Until other rates of remuneration or fees are prescribed,—
- 30 (a) the prescribed rate of remuneration is—
- (i) in the case of the chairman, two hundred pounds per annum; and
- (ii) in the case of a member other than the chairman, one hundred pounds per annum; and
- (b)
- Amendment of Act No. 28, 1941. (Part II—The Council of Agents and Auctioneers.) Sec. 14. (Fees and expenses.)

Auctioneers and Agents (Amendment).

(b) the prescribed rate of fees is—

(i) in the case of the chairman, five guineas;
and

5 (ii) in the case of a member other than the
chairman, four guineas,

for each meeting of the council attended by the
chairman or member, as the case may be.

(2) The amendment made by subsection one of this
section shall be deemed to have commenced upon the first
10 day of November, one thousand nine hundred and fifty-
eight.

5. Part III of the Principal Act is amended—

Amendment
of Act No.
28, 1941.

(Part III—
Auctioneers,
Stock and
Station
Agents,
Real Estate
Agents and
Business
Agents.)

15 (a) by inserting in subsection three of section twenty
after the words "carry on" the words "or advertise,
notify or state that it acts or carries on or is willing
to act as or carry on";

Sec. 20.
(No person
or partner
in a firm
to act
without
a license.)

20 (b) by omitting paragraph (c) of subsection four of
section twenty-two and by inserting in lieu thereof
the following paragraph :—

Sec. 22.
(Licenses.)

(c) The holder of a license who desires to
surrender the license held by him may in writing
notify the registrar that he so desires and may
deliver the license to the registrar.

25 The registrar shall, upon receipt of such
notification and license, endorse on the license the
word "surrendered" and record in the register the
fact that the license has been surrendered.

(c)

Auctioneers and Agents (Amendment).

(c) (i) by omitting from subsection one of section Sec. 23.
twenty-three the words "in triplicate"; (Procedure.)

(ii) by inserting at the end of subsection two of the
same section the following new paragraphs and
proviso :—

5

(c) be lodged with the registrar ;

10

(d) in the case of an application by a
licensee, be accompanied by the
prescribed fees and, except where the
application is for a business subagent's
license, the prescribed contribution :

Provided that where the application—

15

(a) is made by the holder of a license
whose place of business is situated
outside the proclaimed area ; and

(b) is not an application for the renewal of
a license ;

20

the application may be lodged with the clerk
of petty sessions nearest to the holder's place
of business, and such clerk of petty sessions
shall upon production of the license held by
the licensee and upon payment to him of the
prescribed fees and contribution issue a
provisional license.

25

(iii) by omitting subsections three, four and five of
the same section and by inserting in lieu
thereof the following subsection :—

30

(3) Upon receipt of an application for the
grant or the renewal of a license by any
person, the registrar shall forward particulars
of the application to the superintendent of
licenses.

35

The superintendent of licenses shall upon
receipt of such particulars, and the council
may, inquire into and report upon the
character of the applicant, or, where the
application

Auctioneers and Agents (Amendment).

application is made by a corporation in respect of an employee, the character of such employee.

5 Any report made pursuant to this subsection by the superintendent of licenses shall be forwarded to the registrar.

10 (iv) by omitting from paragraph (a) of subsection six of the same section the words "the clerk shall, on payment to him of" and by inserting in lieu thereof the words "the registrar or, in the case of an application made to a clerk of petty sessions pursuant to the proviso to subsection two of this section, such clerk shall, if";

15 (v) by omitting from the same paragraph the words "issue to such person a provisional license" and by inserting in lieu thereof the words "have been paid, issue to such person a provisional license except where the applica-
20 tion is for the renewal of a license and the renewal of the license is issued before the date of expiry of the existing license";

(vi) by inserting at the end of the same paragraph the following new paragraph : —

25 Where a provisional license is issued pursuant to this subsection by the clerk, the clerk shall forward to the registrar the application, together with the prescribed fee and any prescribed contribution accompanying the
30 application, and a notification specifying the class of provisional license that the clerk has issued to the person making the application.

(vii) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph : —

35 (d) Upon the refusal or withdrawal of an application in respect of which the prescribed fees have been paid, there shall be refunded
to

Auctioneers and Agents (Amendment).

5 to the applicant or any other person who may appear entitled thereto the prescribed fees after deducting therefrom such part of the prescribed fees as bears to the prescribed fees the same proportion as the period in months (disregarding any fraction of a month) for which the provisional license had effect bears to twelve months.

10 (viii) by omitting subsection seven of the same section and by inserting in lieu thereof the following subsection :—

15 (7) (a) If a member of the police force of or above the rank of sergeant or the council objects to the grant of the application a statement setting out the nature of the objection proposed to be made shall be lodged with the clerk of the court of petty sessions having jurisdiction under subsection four of section three of this Act.

20 (b) A copy of any such statement shall be included in any report furnished pursuant to subsection five of this section.

25 (ix) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection :—

30 (8) Where the prescribed fees and, except in the case of a person applying for a business subagent's license, the prescribed contribution, have been paid to the registrar and no objection to the grant of an application for a license has been made, the registrar shall issue the license.

35 (x) by omitting from subsection nine of the same section the words "officer in charge of police" and by inserting in lieu thereof the words "a member of the police force of or above the rank of sergeant";

(xi) by omitting from paragraph (b) of the same subsection the words "or police";

(xii)

Auctioneers and Agents (Amendment).

5 (xii) by omitting from the same subsection the words "If the court grants the application, the clerk of the court shall, on payment to him of the prescribed fees and, except in the case of a person applying for a business subagent's license, the prescribed contribution, issue the license." and by inserting in lieu thereof the following paragraphs :—

10 Upon determination of the application the clerk of the court shall notify the result to the registrar.

15 If the court grants the application, the registrar shall upon receipt of such notification and where the prescribed fees and, except in the case of a person applying for a business subagent's license, the prescribed contribution, have been paid to him, issue the license.

20 (d) (i) by inserting in subsection one of section 23A after the words "such license" the following new paragraph :—

Sec. 23A.
(Restoration
of license
not
renewed.)

25 Any such application shall be made to the registrar who shall forward it to the clerk of the court of petty sessions having jurisdiction under subsection three of section three of this Act.

(ii) by omitting from the same subsection the words "clerk of the court" and by inserting in lieu thereof the word "registrar";

30 (e) by inserting at the end of subsection one of section twenty-four the following new paragraph :—

Sec. 24.
(Variation
of license.)

35 Any such application shall be made to the registrar who shall forward it to the clerk of the court of petty sessions having jurisdiction under subsection four of section three of this Act.

(f)

Auctioneers and Agents (Amendment).

(f) (i) by omitting subsection three of section twenty-five and by inserting in lieu thereof the following subsection :— Sec. 25. (Fees payable for license.)

(3) There shall also be payable upon—

5 (a) the lodgment of each application for a license where the applicant is already a licensee, for the renewal of a license or for the issue of a provisional license, or

10 (b) the grant of each application for a license in the case where the applicant is not a licensee,

such fee as may be prescribed.

15 (ii) by omitting from subsection four of the same section the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

20 (g) (i) by omitting from subsection one of section twenty-nine the words "or police"; Sec. 29. (Cancellation of license.)

(ii) by inserting next after subsection one of the same section the following new subsection :—

25 (1A) Upon complaint being made to him by a member of the police force of or above the rank of inspector or by the registrar any justice of the peace may summon a person who has within a period of twelve months before the date of the complaint ceased to hold a license or any person in respect of whom
30 a corporation has within that period ceased to hold a license to appear before a court of petty sessions holden before a stipendiary magistrate to show cause why such former licensee or person in respect of whom a
35 corporation has ceased to hold a license should

not

Auctioneers and Agents (Amendment).

not be disqualified either permanently or temporarily from holding a license on the grounds—

- 5 (a) that he is not a fit person to hold a license, or to have a license held in respect of him as an employee, by a corporation, or that the corporation is not a fit and proper person to hold a license on its own behalf or in respect of an employee; or
- 10 (b) that he has been guilty of such conduct as renders him unfit to hold a license, or to have a license held in respect of him as an employee, by a corporation, or that the affairs of the corporation have been so conducted as to render it unfit to hold a license on its own behalf or in respect of an employee.
- 20 The provisions of subsections two and three of this section apply mutatis mutandis to and in respect of complaints made under this subsection.
- 25 (iii) by omitting from subsection three of the same section the word “court” where secondly occurring and by inserting in lieu thereof the word “registrar”;
- (h) (i) by omitting subsection one of section thirty; Sec. 30.
(ii) by omitting from subsection two of the same section the word “such”; (Register to be kept by registrar.)
- 30 (i) (i) by omitting from subsection one of section thirty-one the words “the officer in charge of police” where firstly occurring and by inserting in lieu thereof the words “a member of the police force”; Sec. 31. (Appeal.)
- 35 (ii) by omitting from the same subsection the words “officer in charge of police” where secondly occurring and by inserting in lieu thereof the words “member of the police force”;
- (iii)

Auctioneers and Agents (Amendment).

5 (iii) by omitting from subparagraph (ii) of paragraph (b) of subsection four of the same section the words "officer in charge of police" wherever occurring and by inserting in lieu thereof the words "member of the police force";

(iv) by omitting subsection (4A) of the same section;

10 (j) by omitting from section thirty-three the word "court" where secondly occurring and by inserting in lieu thereof the word "registrar"; Sec. 33. (Failure to deliver up license.)

15 (k) (i) by omitting from subsection four of section thirty-four the words "court from which the license issued" and by inserting in lieu thereof the word "registrar"; Sec. 34. (Registered office and address.)

20 (ii) by omitting from the same subsection the words "and the clerk of such court shall record such notice and advise the registrar who" and by inserting in lieu thereof the words "and the registrar";

(l) (i) by inserting next after subsection three of section thirty-six the following new subsections : — Sec. 36. (Payment into bank.)

25 (3A) Where a person ceases to be a licensee after the commencement of this subsection, the provisions of this section shall, in respect of moneys received by him as a licensee, apply to him, as if he had continued to be a licensee, for a period of three years after the date on which he so ceased.
30

Nothing in this subsection affects any other obligation imposed by law upon any such person in relation to any trust moneys received by him as a licensee.

(3B)

Auctioneers and Agents (Amendment).

(3B) A person so ceasing to be a licensee shall—

5 (a) within three months after the date of his so ceasing furnish to the registrar a statement in the form prescribed setting out the moneys held as at the date on which he so ceased in his trust account and received by him as a licensee, and of the persons on whose behalf such moneys are held;

10 (b) within fourteen days after the expiration of a period of two years after the date the statement referred to in paragraph (a) of this subsection was furnished forward to the registrar a further statement in the form prescribed setting out the moneys held as at the expiration of the said period of two years in his trust account and received by him as a licensee, and of the persons on whose behalf such moneys are held.

15 (ii) by inserting in subsection four of the same section after the word "licensee" the words "or person";

20 (iii) by inserting in subsection (4A) of the same section after the word "licensee" the words "or person";

25 (m) by inserting next after section thirty-seven the following new section :—

New sec. 37A.

30 37A. All moneys received in the course of his business by a licensee as a deposit on a contract for the sale, purchase or exchange of land (including land used for agricultural or pastoral purposes) or by a business agent, as a deposit on a contract for the sale, purchase or exchange of any other property,

Deposits to be held by licensees as stakeholders.

Auctioneers and Agents (Amendment).

5 property, shall notwithstanding the terms and conditions of any agreement or contract, be held by him as stakeholder and not as agent for the vendor or purchaser, as the case may be, and such moneys shall be retained in his trust account until they are paid out upon or after completion or cancellation of the sale, purchase or exchange :

10 Provided that this section shall not apply in the case of any contract for the sale, purchase or exchange of land (including land used for agricultural or pastoral purposes) under which any part of the purchase moneys is not payable until after the expiration of twelve months after the date of the contract.

15 (n) by inserting next after subsection five of section 38A the following new subsection : —

Sec. 38A.
(Furnishing of particulars of trust account or transactions.)

(6) Where a person—

20 (a) ceases to be a licensee after the commencement of this subsection, the provisions of paragraphs (a) and (b) of subsection one of this section shall apply to him, as if he had continued to be a licensee, for a period of three years after the date on which he so ceased to be a licensee ; or

25 (b) ceased or ceases to be a licensee before or after such commencement, the provisions of paragraph (c) of the said subsection one shall—

30 (i) where pursuant to paragraph (a) of subsection two of section thirty-eight of this Act such person is required to preserve the written record referred to in that paragraph, apply to such person, and

(ii)

Auctioneers and Agents (Amendment).

5 (ii) where the possession, custody or control of such written record is obtained by some other person as is mentioned in paragraph (b) of subsection two of section thirty-eight of this Act, apply to such other person, for a period of three years after the date on which such firstmentioned person so ceased to be a licensee.

10 (o) (i) by inserting next after subsection two of section 38B the following new subsection : — Sec. 38B.
(Inspection
of records.)

15 (2A) Upon production to a banker with whom a licensee has deposited any money (whether on his own account or in any general or separate trust account) of a certificate in the form prescribed under the hand of the registrar certifying that the licensee cannot be located or has left the State, and that the registrar has been unable to obtain any such authority or order as is referred to in paragraph (b) of subsection two of this section
20 addressed to such banker it shall be the duty of such banker to produce for inspection by the registrar or other officer of the council duly authorised in writing by the registrar in that
25 behalf the records of the bank relating to the account in which such money is held.

30 Where a person ceases to be a licensee, the provisions of this subsection shall apply to and in respect of such person, as if he had continued to be a licensee, for a period of three years after the date on which he so ceased.

35 (ii) by inserting in subsection three of the same section after the word "two" the symbols "(2A)";

(p)

Auctioneers and Agents (Amendment).

(p) by inserting next after section 38c the following ^{New sec.}
new section :— ^{38D.}

5 38D. (1) (a) Within three months after the ^{Audit of}
prescribed day in every year a licensee who carried ^{licensees'}
on business in his capacity as such during the whole ^{books and}
or any part of the year ended on that date shall— ^{records.}

10 (i) cause his books of account and records
relating to trust moneys received by such
licensee during that year or part to be
audited by a person qualified under sub-
section two of this section to act as
auditor ;

15 (ii) forthwith after the receipt from the auditor
of the report of the result of the audit, send
or deliver it to the registrar.

20 (b) Forthwith after completing an
audit under this subsection the auditor shall send
or deliver his report in the prescribed form and
a copy thereof signed by him to the licensee
concerned.

(c) The licensee shall retain the
signed copy of the report and produce it on demand
pursuant to this section.

25 (d) A licensee shall not be required
under this subsection to cause his books and records
to be audited in respect of any period in respect
of which such books and records have already been
audited pursuant to this subsection.

30 (e) In this subsection "prescribed
day" means the thirtieth day of June or, in respect of
any particular licensee, such other day as the
registrar may, on the application of that licensee,
fix by order in writing given to that licensee.

35 (2) A person shall be qualified to act as
an auditor under this section if he is registered
under the Public Accountants Registration Act,
1945, as amended by subsequent Acts, or, where
the

Auctioneers and Agents (Amendment).

5 the registrar is satisfied that a person so registered is not conveniently available if he is a person who has been nominated by the licensee whose books and records are to be audited and who has by order in writing been approved by the registrar, but shall not be so qualified—

10 (a) if the person so registered or approved is or has at any time within two years before the last day of the period in respect of which the audit is to be made, been an employee or partner of the licensee whose books and records are to be audited; or

15 (b) if he is a licensee, or a shareholder in a corporation that is a licensee and has not more than twenty shareholders.

20 (3) If an auditor in the course of auditing a licensee's accounts discovers that the licensee has committed any breach of this Act or the regulations or any offence relating to his trust account or moneys paid to or held by him pursuant to section thirty-six of this Act or that the accounts of such licensee are not kept in such a manner as to enable them to be properly audited, he shall fully set out the facts so discovered by him in the report made by him for the purposes of this section and shall forward a copy of the report to the registrar.

30 (4) No auditor appointed to make an audit for the purposes of this section shall communicate any matter which may come to his knowledge in the course of the audit to any person except in accordance with this section or in the like circumstance and to the like extent as a member of the council or any of its officers is permitted under subsection one of section 86A of this Act to publish information.

35

No

Auctioneers and Agents (Amendment).

No assistant of any such auditor shall communicate any matter which may come to his knowledge in the course of the examination to any person except to the auditor appointed to make the audit.

5 (5) A report, relating to the books of account and records of a licensee, of an auditor under this section or a statutory declaration delivered to the registrar under this section shall be available in the hands of the registrar for inspection by the auditor appointed by such licensee to carry out under this section the next succeeding audit of the books of account and records of such licensee.

10 (6) A licensee who in the course of any year ending on the prescribed day as defined in subsection one of this section neither received nor held any money for or on behalf of any other person shall be deemed to have complied with that subsection if within the period of three months after the end of that year he makes and delivers to the registrar a statutory declaration to that effect.

15 (7) Where in respect of the books of account and records kept by a partnership of licensees the provisions of this section are complied with by any one of such licensees, such provisions shall be deemed to have been complied with by all of such licensees.

- 20 (q) (i) by omitting from subsection one of section thirty-nine the words "or police";
- 30 (ii) by inserting in paragraph (b) of the same subsection after the word "refused" the words "(other than pursuant to subsection (10A) of section twenty-three of this Act),";
- 35 (iii) by inserting in paragraph (c) of the same subsection after the word "salesman" wherever occurring the words "or as an employee of a licensee";

(iv)

Sec. 39.
(Certain persons not to be employed by licensees.)

Auctioneers and Agents (Amendment).

(iv) by inserting in paragraph (d) of the same subsection after the word "salesman" the words "or as an employee of a licensee";

5 (v) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

10 (3) Except in the case where an employee is the holder of a license or if he is in the employ of a corporation the corporation has taken out a license on his behalf, a person shall not permit any of his employees to carry out any of the functions that may only be carried out by the holder of a license by virtue of the license held by him, unless the employee is registered under this Act as an employee of the said licensee.

15

20 (r) (i) by omitting from subsections one, two and four of section 42A the word "two" wherever occurring and by inserting in lieu thereof the word "six";

Sec. 42A. (Review of commissions, fees, etc.)

(ii) by inserting next after subsection four of the same section the following new subsection :—

25 (4A) The provisions of subsections one, two and four of this section shall, where no sum of money referred to in subsection three of this section has been paid to or retained by a licensee in respect of any transaction by or with him as a licensee, be read and construed in relation to that transaction as if the words "six months" were omitted therefrom

30 wherever occurring and the words "two months" were inserted in their place.

Auctioneers and Agents (Amendment).

6. Part IV of the Principal Act is amended—

Amendment
of Act No.
28, 1941.
(Part IV—
Real Estate
Dealers and
Real Estate
Salesmen.)

5 (a) by omitting the heading to the Part and by inserting Part IV.
in lieu thereof the words “Registration of Real (Heading.)
Estate Dealers, Real Estate Salesmen and
Employees of Licensees.”;

(b) (i) by inserting in section fifty-one after the Sec. 51.
definition of “Allotment of land” the follow- (Interpre-
ing new definition :— tation.)

10 “Employee’s certificate of registration” means
a certificate of registration as an
employee issued to a person pursuant
to section fifty-seven of this Act.

15 (ii) by omitting from the definition of “Real
estate salesman” the words “real estate agent
or”;

(c) (i) by omitting from subsection one of section Sec. 52.
fifty-two the words “or police”; (Provisions
as to em-
ployment
of certain
persons
by real
estate
dealers.)

20 (ii) by inserting in paragraph (b) of the same sub-
section after the word “refused” the words
“(other than pursuant to subsection (10A) of
section twenty-three of this Act)”;

(d) by inserting at the end of the heading to Division 3 Div. 3.
the words “and Registered Employees”; (Heading.)

25 (e) by omitting from section fifty-six the words “real Sec. 56.
estate agent or” wherever occurring; (Real estate
salesmen
to be
registered.)

(f)

Auctioneers and Agents (Amendment).

(f) by inserting next after section fifty-six the following new section :— New sec. 56A.

5 56A. (1) Subject to this Act, a person who is an employee of a licensee shall not carry out on behalf of such licensee any function that may only be carried out by such licensee by virtue of the license held by him unless such person— Certain employees of licensees to be registered.

(a) whether he is an employee of an individual or a corporation—

10 (i) is the holder of a certificate of registration granted under this Division; or

15 (ii) is the holder of a license of the same class as that by virtue of which such licensee is entitled to carry out that function; or

(b) where he is an employee of a corporation, is the person in respect of whom the corporation has taken out a license and that license is one by virtue of which such person is entitled to carry out that function.

25 Nothing in subsection one of section twenty of this Act prevents the holder of any such certificate from carrying out on behalf of the holder of an auctioneer's license by whom he is employed any of the functions of an auctioneer.

30 (2) A person who is the holder of an employee's certificate of registration shall not conduct an auction sale on behalf of the licensee by whom he is employed except under the direct supervision of such licensee.

35 (3) A person who, immediately before the commencement of this section, was the holder of a certificate of registration under this Act as a real estate salesman and was employed by the holder of a real estate agent's license shall unless such certificate of registration is sooner cancelled be deemed to be the holder of an employee's certificate of registration

Auctioneers and Agents (Amendment).

registration granted under this Division, until the date of expiry of such certificate of registration as a real estate salesman.

- 5 (g) (i) by omitting from subsection one of section fifty-seven the words "shall be made in tripli- Sec. 57.
(Procedure.)
cate" and by inserting in lieu thereof the words "or as an employee of a licensee shall be made";
- 10 (ii) by omitting subsections two, three and four of the same section and by inserting in lieu thereof the following subsections :—
- (2) Each application shall be lodged with the registrar and contain such particulars as may be prescribed.
- 15 (3) Upon receipt of the application the registrar shall forward particulars of the application to the superintendent of licenses.
- The superintendent of licenses shall, upon receipt of such particulars, and the council may, inquire into and report upon the character of the applicant.
- 20 (4) (a) If a member of the police force of or above the rank of sergeant or the council objects to the grant of the application a statement setting out the nature of the objection proposed to be made shall be lodged with the clerk of the court of petty sessions having jurisdiction under subsection four of section three of this Act.
- 25 (b) A copy of any such statement shall be included in any report furnished pursuant to subsection three of this section.
- 30 (iii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsection :—
- 35 (6) Where neither a member of the police force of or above the rank of sergeant nor the

Auctioneers and Agents (Amendment).

the council objects to the grant of the application, the registrar shall on payment to him of—

(a) a fee of ten shillings; and

5 (b) in addition thereto such fee as may be prescribed,

issue to the applicant a certificate of registration as an employee of a licensee.

10 (iv) by omitting from subsection seven of the same section the words “the officer in charge of police” and by inserting in lieu thereof the words “a member of the police force of or above the rank of sergeant”;

15 (v) by omitting from paragraph (b) of the same subsection the words “or police”;

20 (vi) by omitting from the same subsection the words “If the court grants the application the clerk of the court shall, on payment to him of a fee of five shillings issue to the applicant a certificate of registration as a real estate salesman” and by inserting in lieu thereof the following paragraphs :—

25 Upon determination of the application the clerk of the court shall forthwith notify the registrar.

If the court grants the application, the registrar shall, upon receipt of such notification and payment to him of—

(a) a fee of ten shillings; and

30 (b) in addition thereto such fee as may be prescribed,

issue to the applicant a certificate of registration as a real estate salesman or as an employee of a licensee, as the case may be.

(vii)

Auctioneers and Agents (Amendment).

(vii) by inserting next after subsection seven of the same section the following new subsection :—

5 (7A) The provisions of subsection four of section twenty-five of this Act apply mutatis mutandis to prescribed fees paid pursuant to paragraph (b) of subsection six or of subsection seven of this section.

10 (viii) by inserting in subsection eight of the same section after the word "salesman" the words "or as an employee of a licensee";

(ix) by inserting in paragraph (a) of subsection nine of the same section after the word "salesman" the words "or as an employee of a licensee";

15 (h) (i) by omitting subsection one of section fifty-eight; Sec. 58.
(Register to be kept by registrar.)
(ii) by omitting from subsection two of the same section the word "such";

20 (i) (i) by inserting in subsection one of section fifty-nine after the word "salesman" the words "and holder of an employee's certificate of registration"; Sec. 59.
(Registered address.)

25 (ii) by inserting in subsection three of the same section after the word "salesman" the words "or the holder of the employee's certificate of registration, as the case may be";

30 (iii) by omitting from subsection four of the same section the words "real estate salesman with the court from which the certificate of registration as a real estate salesman issued, within the prescribed time, and the clerk of such court shall record such notice and advise the registrar who" and by inserting in lieu thereof the words "real estate salesman or holder of the employee's certificate of registration with the registrar, within the prescribed time, and the registrar";

(iv)

Auctioneers and Agents (Amendment).

- 5 (iv) by inserting in subsection five of the same section after the word "salesman" where secondly occurring the words "or the holder of an employee's certificate of registration carries out any of the functions of a licensee";
- (j) (i) by inserting in subsection one of section sixty Sec. 60. after the word "salesman" the words "or the holder of an employee's certificate of registration"; (Cancellation of certificate of registration.)
- 10 (ii) by omitting from the same subsection the words "or police";
- (iii) by inserting in subsection two of the same section after the word "salesman" where firstly occurring the words "or holder of an employee's certificate of registration";
- 15 (iv) by inserting in the same subsection after the word "salesman" where lastly occurring the words "or holder of such certificate";
- (v) by inserting in subsection three of the same section after the word "salesman" the words "or employee";
- 20 (vi) by omitting from the same subsection the word "court" where secondly occurring and by inserting in lieu thereof the word "registrar";
- 25 (k) (i) by inserting in section sixty-one after the word "salesman" wherever occurring the words "or employee of a licensee"; Sec. 61. (Appeal.)
- (ii) by omitting from subsection one of the same section the words "the officer in charge of police" where firstly occurring and by inserting in lieu thereof the words "a member of the police force";
- 30 (iii) by omitting from the same subsection the words "officer in charge of police" where secondly occurring and by inserting in lieu thereof the words "member of the police force";
- 35 (iv)

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- 5 (iv) by omitting from subparagraph (ii) of paragraph (b) of subsection four of the same section the words "officer in charge of police" wherever occurring and by inserting in lieu thereof the words "member of the police force";
- 10 (l) (i) by inserting in section sixty-two after the word "salesman" where firstly and secondly occurring the words "or holder of an employee's certificate of registration"; Sec. 62. (Production of certificate of registration.)
- 15 (ii) by inserting in the same section after the word "salesman" where lastly occurring the words "or holder of an employee's certificate of registration, as the case may be, or to any officer of the council authorised under subsection one of section 38B of this Act";
- 20 (m) (i) by inserting in section sixty-three after the word "salesman" the words "or holder of an employee's certificate of registration"; Sec. 63. (Real estate salesman not to lend certificate of registration.)
- (ii) by omitting from the same section the word "court" and by inserting in lieu thereof the word "registrar".

7. (1) Part VI of the Principal Act is amended—

Amendment of Act No. 28, 1941. (Part VI—The Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund.)

- 25 (a) by omitting from the heading to the Part the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents";

(b)

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- (b) by omitting from subsection one of section sixty-five the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents"; Sec. 65. (The fund.)
- 5 (c) by omitting from section sixty-six the words "Auctioneers, Stock and Station, Real Estate and Business Agents" and by inserting in lieu thereof the words "Auctioneers and Agents"; Sec. 66. (Separate bank account.)
- 10 (d) (i) by inserting in subsection one of section seventy-one after the word "pounds" the words "or such other amount as may be prescribed in lieu thereof"; Sec. 71. (Contribution to fund.)
- 15 (ii) by omitting from the same subsection the word "license" where secondly occurring and by inserting in lieu thereof the word "employee";
- 20 (iii) by omitting from the same subsection the words "Provided that where a corporation holds more than one auctioneer's license in respect of an employee one contribution only shall be payable under this section in respect all auctioneer's licenses held by such corporation in respect of such employee";
- (iv) by omitting subsection three of the same section;
- 25 (e) (i) by omitting from subsection four of section seventy-two the words "under each such license" and by inserting in lieu thereof the words "in respect of each such employee"; Sec. 72. (Levies.)
- 30 (ii) by omitting the proviso to the same subsection;
- (f) (i) by omitting from subsection one of section seventy-eight the words "brought—"; Sec. 78. (Defences.)
- 35 (a) where the amount claimed does not exceed fifty pounds in a court of petty sessions holden before a stipendiary magistrate;
- (b)

Auctioneers and Agents (Amendment).

- (b) where the amount claimed exceeds fifty pounds but does not exceed one thousand pounds in a district court;
- 5 (c) where the amount claimed exceeds one thousand pounds in the Supreme Court.”

and by inserting in lieu thereof the words “brought in any court of competent jurisdiction.”;

- 10 (ii) by inserting next after subsection three of the same section the following new subsection : —

- 15 (4) No proceedings shall be brought against the council in relation to any claim upon the fund after the expiration of a period—

- (a) where the council disallowed the claim before the commencement of this subsection—of six months after such commencement;

- 20 (b) in any other case—of six months after the time the council has notified the claimant that it has disallowed the claim.

(2) All moneys which immediately before the com-
25 mencement of this section stood to the credit of the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund or the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Account shall upon that day become and be respectively
30 moneys standing to the credit of the Auctioneers and Agents Fidelity Guarantee Fund and the Auctioneers and Agents Fidelity Guarantee Account.

(3) All investments which immediately before the commencement of this section were held by the council in
35 connection with the Auctioneers, Stock and Station, Real Estate and Business Agents Fidelity Guarantee Fund shall
upon

Auctioneers and Agents (Amendment).

upon that day become and be investments held by the council in connection with the Auctioneers and Agents Fidelity Guarantee Fund.

8. Part VII of the Principal Act is amended—

Amendment
of Act No.
28, 1941.
(Part VII
—General.)

- 5 (a) (i) by inserting in subsection one of section eighty-four after the words “real estate dealer” where firstly occurring the words “real estate dealer, as defined in section fifty-one of this Act,”; Sec. 84. (Offences in connection with the sale of allotments of land.)
- 10 (ii) by omitting from the same subsection the words “real estate dealer” where secondly occurring and by inserting in lieu thereof the words “any such real estate dealer”;
- 15 (b) (i) by inserting in subsection one of section 86A after the words “section 38B of this Act or” the words “an audit made under the provisions of section 38D of this Act or an inspection made under the provisions of”; Sec. 86A. (Members or officers of council not to disclose information.)
- 20 (ii) by omitting from paragraph (c) of the same subsection the words “Auctioneers, Stock and Station and Real Estate Agents” and by inserting in lieu thereof the words “Auctioneers and Agents”;
- 25 (c) by omitting from section 86B the words “or real estate salesman” wherever occurring and by inserting in lieu thereof the words “, real estate salesman, as defined in section fifty-one of this Act, or holder of an employee’s certificate of registration, as so defined,”; Sec. 86B. (Service of writs, etc.)
- 30 (d) (i) by omitting from subsection four of section eighty-seven the words “or police”; Sec. 87. (Offences against Act.)
- (ii)

Auctioneers and Agents (Amendment).

(ii) by inserting next after subsection five of the same section the following new subsection :—

(6) Where a real estate salesman, as defined in section fifty-one of this Act, or the holder of an employee's certificate of registration, as so defined, is convicted of an offence against this Act or the regulations, the real estate dealer or the licensee in whose employ the real estate salesman or the holder of the employee's certificate of registration, as the case may be, was, at the time of the commission of the offence shall be deemed to have committed the like offence and be liable to the pecuniary penalty or imprisonment or both provided by the Act or the regulations for such offence accordingly, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

(e) by inserting in section eighty-nine after the word "salesman" the words "as defined in section fifty-one of this Act, or employee of a licensee, as so defined,";

Sec. 89.
(Document under hand of registrar to be prima facie evidence.)

(f) by inserting at the end of subsection two of section ninety-two the following new paragraph :—

Sec. 92.
(Regulations.)

(g) prescribe the remuneration and fees, and travelling and sustenance expenses to be paid to the chairman and other members of the council, respectively.

9. (1) The Public Accountants Registration Act, 1945, as amended by subsequent Acts, is amended by omitting from section 28A the words "which is required to be furnished pursuant to any regulation made under the Auctioneers, Stock and Station and Real Estate Agents Act, 1941, as amended

Amendment of Act No. 18, 1945.

Auctioneers and Agents (Amendment).

by subsequent Acts” and by inserting in lieu thereof the words
“, or report, which is required to be furnished pursuant to
the Auctioneers, Stock and Station and Real Estate Agents
Act, 1941, as amended by subsequent Acts, or any regulation
5 made thereunder”.

(2) The Public Accountants Registration Act, 1945,
as amended by subsequent Acts and by this Act, may be cited
as the Public Accountants Registration Act, 1945-1963.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963

[3s.]