

No. , 1973.

A BILL

To provide for the licensing of travel agents and for the regulation of their operations; to make provision for the constitution of a Travel Agents Registration Board; and for purposes connected therewith.

[Mr LEWIS—10 April, 1973.]

BE

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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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Travel Agents Act, Short title. 1973".

2. This Act is divided as follows :—

Division of
Act.

PART I.—PRELIMINARY—ss. 1-6.

PART II.—TRAVEL AGENTS REGISTRATION BOARD—
ss. 7-9.

PART III.—TRAVEL AGENTS GENERALLY—ss. 10-33.

DIVISION 1.—*Licences*—ss. 10-17.

DIVISION 2.—*Licensees Generally*—ss. 18-33.

PART IV.—DISCIPLINARY PROVISIONS—ss. 34-41.

PART V.—APPEALS—s. 42.

PART VI.—TRAVEL AGENTS FIDELITY GUARANTEE
FUND—ss. 43-60.

PART VII.—FINANCE—ss. 61-63.

PART VIII.—GENERAL—ss. 64-79.

3. (1) Part I shall commence on the date of assent to this Act. Commence-
ment.

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(2) Parts II, VII and VIII (except sections 78 and 79) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

5 (3) Parts III, IV, V and VI shall commence on such day (being a day that is later than the day appointed and notified pursuant to subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

10 (4) Sections 78 and 79 shall commence on the date of assent to this Act but so that any regulation made for or with respect to any matter relating to any provision of this Act shall not take effect until that provision commences.

(5) Notwithstanding that a day or days has or have
15 not been appointed pursuant to subsection (3) or (4), or that the day or days so appointed has or have not arrived, the Board may exercise and perform such powers, authorities, duties and functions as the Board thinks necessary for the purpose of preparing for the coming into operation of the
20 provisions of this Act that commence on the day or days so appointed, being powers, authorities, duties and functions that could be exercised or performed by it on or after that day.

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

25 "Board" means the Travel Agents Registration Board constituted under this Act;

"director" includes any person occupying the position of director of a corporation, by whatever name called, and the secretary of a corporation;

30 "firm" means a firm within the meaning of the Business Names Act, 1962;

"fund" means the Travel Agents Fidelity Guarantee Fund established under this Act;

"licence"

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"licence" means a licence in force under this Act;

"licensee" means an individual, corporation or firm, that holds a license granted to him or on his or its own behalf;

5 "money" includes an instrument for the payment of money in any case where the instrument may be paid into a bank;

"person" means an individual, a firm or a corporation;

10 "registrar" means the registrar appointed for the purposes of this Act;

"regulations" means regulations under this Act;

15 "superintendent of licenses" means the individual for the time being holding office as superintendent of licenses under section 119 (1B) of the Liquor Act, 1912.

5. (1) This Act shall not be construed as requiring—

(a) any Minister of the Crown;

(b) any Government Department or any statutory corporation representing the Crown;

20 (c) any prescribed public statutory authority; or

(d) any officer or employee of the Crown or of any such Minister, Department, corporation or authority in the exercise of his functions as such officer or employee,

25 to hold a licence.

(2) Nothing in this Act shall be construed as requiring the Public Trustee or any executor, administrator, trustee, liquidator, official receiver, master in equity, master in the protective division, trustee in bankruptcy of a bankrupt's
30 estate, trustee under a composition or scheme of arrangement

Act not to
apply to any
Government
Department,
etc.

or

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or under a deed of arrangement or under a deed of assignment,
committee of the estate or person of a mentally ill person or
manager of the property of an incapable person, for the
purpose of performing his functions, exercising his powers
5 or carrying out his duties as such, to hold a licence.

(3) Notwithstanding anything in subsection (2), it
shall not be lawful for any of the persons referred to in that
subsection in whom is vested the management of the business
of any travel agent to carry on that business at any time after
10 the expiration of three months from the date upon which the
management of that business was so vested, unless that person
holds a licence.

(4) Nothing in this Act shall be construed—

- 15 (a) as rendering any person referred to in subsection
(2) liable to any proceedings or to any penalty
for performing any of his functions, or exercising
any of his powers or carrying out any of his duties
as such; or
- 20 (b) as relieving any person from the obligation to take
out a licence from any Department of the Govern-
ment or under any Act (other than this Act) for the
performance of any function, the exercise of any
power or the carrying out of any duty for which
25 a licence would have been required if this Act had
not been passed or to pay the fees payable in respect
of any such licence.

6. (1) Subject to this section, a person carries on the
business of a travel agent if the person—

- 30 (a) sells tickets entitling an individual to travel, or
otherwise arranges for an individual a right of
passage, on any conveyance (not being a prescribed
conveyance);

(b)

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- 5 (b) sells to, or arranges or makes available for, an individual rights of passage to, and hotel or other accommodation at, one or more places (being places within or beyond New South Wales, or some of which are within and others of which are beyond New South Wales);
- (c) purchases for resale the right of passage on any conveyance (not being a prescribed conveyance);
- (d) carries on any activity which may be prescribed; or
- 10 (e) holds himself out as, or advertises that he is, willing to carry on any activity referred to in paragraph (a), (b), (c) or (d).

(2) An individual does not carry on the business of a travel agent by reason only of carrying on in the course of
15 his employment, any activity referred to in subsection (1) (a), (b), (c), (d) or (e).

(3) A person does not carry on the business of a travel agent in respect of any activity referred to in—

- 20 (a) subsection (1) (a) if he carries on that activity in respect of a conveyance of which he is the owner; or
- (b) subsection (1) (b) if he carries on that activity in respect of a conveyance and place of accommodation of which he is the owner.

25 (4) A person does not carry on the business of a travel agent by reason only of holding himself out as, or advertising that he is, willing to carry on any activity to which subsection (3) (a) or (b) applies.

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PART II.

TRAVEL AGENTS REGISTRATION BOARD.

7. (1) There is hereby constituted a corporation under Constitution
the corporate name of the "Travel Agents Registration Board" of Board.
5 which shall have and may exercise and perform the powers,
authorities, duties and functions conferred or imposed on it
by or under this or any other Act.

(2) The Board shall consist of three members,
appointed by the Governor, of whom—

- 10 (a) one shall be a person nominated by the Minister
and shall in and by the instrument of his appoint-
ment or by a subsequent instrument executed by the
Governor, be appointed as the chairman of the
Board;
- 15 (b) one shall be an officer or an employee within the
meaning of the Public Service Act, 1902, nominated
by the Minister; and
- (c) one shall be a representative of the tourist industry
nominated by the Minister.

20 (3) A member of the Board shall, subject to this Act,
be appointed for such term as is specified in the instrument
of his appointment and shall, if otherwise qualified, be eligible
for re-appointment from time to time for such term as is
specified in the instrument of his re-appointment.

25 (4) On the occurrence of a vacancy in the office of
a member of the Board, the Governor may appoint a person
to fill the vacant office so that the Board consists of persons
appointed in accordance with subsection (2).

(5) A person who is of or over the age of seventy
30 years shall not be appointed as a member of the Board.

(6)

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(6) The Minister may appoint a person to act as a member during the absence and in the place of any member who is on leave of absence granted by the Board and that person while he is so acting—

- 5 (a) shall have and may exercise and perform the powers, authorities, duties and functions of the member in whose place he has been appointed to act; and
- (b) shall be deemed to be the chairman of the Board or a member other than the chairman, according to
10 whether he is appointed to act in the place of the chairman or another member.

- (7) A person shall not, under subsection (6), be appointed to act as a member in the place of a member who was nominated for appointment under subsection (2) (b) or
15 (c), unless upon the appointment of that person the Board would consist of persons appointed in accordance with subsection (2).

- (8) Each member of the Board shall be entitled to receive such expenses and, if the Minister so approves, such
20 fees and allowances for attending meetings and transacting the business of the Board as the Minister may from time to time determine.

- (9) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a
25 person to act as a member in the place of another member, and all things done or omitted by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by that member.

- (10) Where by or under any Act provision is made
30 requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, such provisions shall not operate to disqualify him from holding that office and also the office of a member of the Board and retaining any expenses, fees and allowances payable to him under this
35 section.

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(11) The office of a member of the Board shall not, for the purpose of any Act, be deemed to be an office or place of profit under the Crown.

5 (12) The provisions of the Public Service Act, 1902, shall not apply to or in respect of any member of the Board in his capacity as such a member during his term of office.

(13) A member of the Board shall be deemed to have vacated his office—

- (a) if he dies;
- 10 (b) if he is absent from four consecutive ordinary meetings of the Board of which reasonable notice has been given him personally or in the ordinary course of post except on leave granted by the Board, unless he is, before the expiration of four weeks after the
- 15 last of such meetings, excused by the Board for his absence from those meetings;
- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any
- 20 assignment of his fees, allowances or estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- 25 (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of a felony or
- 30 misdemeanour which if committed in New South Wales would be a felony or misdemeanour so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Governor, and the Governor accepts the resignation;

(g)

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- (g) if he is removed from office by the Governor;
- (h) where he is a member (other than the member appointed under subsection (2) (b) or under subsection (4) or (6) to replace that member), on the day on which he attains the age of seventy years; or
- (i) where he is the member appointed under subsection (2) (b) or under subsection (4) or (6) to replace that member, on the day on which he ceases to be an officer or employee within the meaning of the Public Service Act, 1902.

(14) The Governor may, for any cause which appears to him sufficient, remove any member of the Board from office.

8. (1) The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

(2) The chairman of the Board shall preside at any meeting of the Board.

(3) The chairman of the Board and one other member shall form a quorum and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

(4) The chairman of the Board shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(5) A decision of a majority of the members present at a meeting of the Board at which a quorum is present shall be the decision of the Board.

(6)

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(6) The Board shall cause full and accurate minutes to be kept of its proceedings at meetings.

5 (7) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member of the Board or by any person whomsoever acting under the direction of the Board shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act, subject the member or person so acting personally to any action, liability, claim or demand whatsoever.

10 (8) Nothing in subsection (7) shall exempt any member of the Board from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which the member authorised or joined in authorising.

15 9. (1) Except as provided by subsection (7), a registrar, deputy registrar and such other officers and employees as may be necessary for the purpose of carrying out the provisions of this Act may be appointed by the Governor under and subject to the Public Service Act, 1902. Officers and employees.

20 (2) The registrar shall have and may exercise and perform the powers, authorities, duties and functions conferred and imposed upon the registrar by or under this Act.

(3) The registrar may, by an instrument in writing, delegate all or any of his powers or functions under this Act
25 (except this power of delegation) to the deputy registrar who, when acting in pursuance of any such delegation, shall be deemed to be the registrar.

(4) A delegation by the registrar under this section—

30 (a) shall not prevent the registrar from exercising any power or function under this Act; and

(b) may be revoked at any time by the registrar.

(5)

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(5) For the purposes of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Board by this or any other Act, the Board may, with the approval of the Minister of the Department
5 concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(6) The Board may for like purposes, with the approval of any public authority and on such terms as may
10 be arranged, make use of the service of any of the officers, servants or employees of that public authority.

(7) The Board may, with the approval of the Public Service Board, appoint and employ, on a casual basis and on such other terms and conditions as may be approved by the
15 Board, individuals to act as inspectors of the accounts and activities of—

- (a) applicants for a licence;
- (b) licensees, or the members of a firm or the directors of a corporation, that is the holder of a licence;
- 20 (c) former licensees, or the members of a firm or the directors of a corporation that was the holder of a licence.

PART

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PART III.

TRAVEL AGENTS GENERALLY.

DIVISION 1.—*Licences.*

10. (1) An individual, firm or corporation shall not carry
5 on the business of a travel agent unless he or it is the holder
of a licence granted to him or it on his or its own behalf.

Persons
carrying
on business
of travel
agent to be
licensed.

Penalty : \$2,000 and, in the case of a continuing offence,
\$200 for each day the offence continues.

(2) An individual who carries on the business of a
10 travel agent shall have in charge at each place at which he
carries on that business (other than the place at which he is in
charge) an individual nominated by him and in respect of
whom he is the holder of a licence.

Penalty : \$1,000 and, in the case of a continuing offence,
15 \$200 for each day the offence continues.

(3) A firm that carries on the business of a travel
agent shall have in charge at each place at which it carries
on that business (other than a place at which a member of
the firm is in charge) an individual nominated by the firm and
20 in respect of whom it is the holder of a licence.

Penalty : \$1,000 and, in the case of a continuing offence,
\$200 for each day the offence continues.

(4) A corporation that carries on the business of a
travel agent shall have in charge at each place at which it
25 carries on that business an individual nominated by the cor-
poration and in respect of whom it is the holder of a licence.

Penalty : \$1,000 and, in the case of a continuing offence,
\$200 for each day the offence continues.

(5) An individual shall not be nominated under sub-
30 section (2), (3) or (4) to be in charge at more than one place
of business.

(6)

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(6) This section shall not have effect until the date that is three months after the date of commencement of this Part.

5 **11.** (1) A licence shall be in or to the effect of such Form of licences. form and contain such particulars as may be prescribed.

(2) A licence taken out by a firm shall name the members of the firm.

(3) Subject to this Act, a licence shall be in force for a period of twelve months from the date of its issue.

10 (4) A licence may be renewed and on each such renewal, subject to this Act, be in force for a further period of twelve months.

(5) The holder of a licence who desires to surrender the licence may by instrument in writing so notify the registrar
15 and may deliver the licence to the registrar, and upon his so notifying the registrar the licence shall cease to be in force.

(6) The registrar shall, upon receipt of the notification and the licence referred to in subsection (5), endorse on the licence the word "surrendered" and record in the register
20 kept by him under section 30 the fact that the licence has been surrendered.

(7) In any case where satisfactory proof has been given of the loss or destruction of a licence, the registrar may issue a duplicate licence subject to payment of the prescribed
25 fee.

12. (1) An application for a licence or for the renewal Procedure. of a licence shall be made in the form prescribed.

(2)

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(2) Such application shall—

- (a) contain such particulars as are prescribed;
- (b) be lodged with the registrar; and
- (c) be accompanied by the prescribed fees and the prescribed initial contribution or the prescribed annual contribution, as the case may be.

5

(3) At least seven days before a person applies for a licence (not being a renewal of a licence) that person shall cause a notice in the prescribed form to be published in a newspaper circulating generally throughout the State.

10

(4) Upon receipt of an application (not being an application under section 17) for a licence (not being an application for a renewal of a licence), the registrar shall forward particulars of the application to the superintendent of licenses.

15

(5) The superintendent of licenses, upon receipt of the particulars referred to in subsection (4), shall inquire and report to the Board upon such matters as may be prescribed.

(6) Where an application for the renewal of a licence is made before the day on which the licence would, but for this subsection, expire (which day is, in this subsection and subsection (7), referred to as "the date of expiry") and—

20

(a) the renewal of the licence is not issued before the date of expiry; and

25

(b) the application is not refused or withdrawn before the date of expiry,

the licence shall be deemed to continue in force after the date of expiry until—

(c) a renewal of the licence is issued;

30

(d) the application is refused or withdrawn; or

(e)

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(e) the expiration of twelve months after the date of expiry,
whichever first occurs.

(7) Where a renewal of a licence is, after the date
5 of expiry, issued in respect of the licence referred to in sub-
section (6), the renewal shall take effect as from the date of
expiry of the licence.

(8) Upon the refusal or withdrawal of an
application—

10 (a) for a licence (not being an application for a renewal
of a licence) there shall be refunded to the
applicant, or to any other person who appears to
the registrar to be entitled thereto, the fees paid
15 (other than the fees referred to in section 16 (3))
and the initial contribution paid by the applicant;

or

20 (b) for a renewal of a licence deemed by subsection
(6) to continue in force after the day on which the
licence would, but for that subsection, have expired,
there shall be refunded to the applicant or to any
other person who appears to the registrar to be
entitled thereto—

25 (i) the fees paid by the applicant in respect of
that application (other than the fees referred
to in section 16 (3)) reduced by such
amount as bears to those fees the same
proportion as the period in months (dis-
regarding any fraction of a month) for
30 which the licence was so deemed to continue
in force bears to twelve months; and

(ii) the initial contribution paid by the applicant
in respect of that application reduced by
such amount as the Board may determine.

(9)

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(9) A member of the police force, with the approval in writing of the superintendent of licenses, may object to the grant of an application (not being an application under section 17) for a licence (not being an application for a renewal of a licence) or a member of the Public Service or a person employed by the Board as an inspector in his capacity as such a member or inspector, or any other person within the time prescribed, may object to the grant of a licence (not being a renewal of a licence) or a member of the Public Service or a person employed by the Board as an inspector in his capacity as such a member or inspector may object to the renewal of a licence and, where an objection is proposed to be made under this section, a statement setting out the nature of the objection shall be lodged by that member of the police force, member of the Public Service or inspector or other person, as the case may be, with the registrar.

(10) A copy of a statement referred to in subsection (9) so lodged by a member of the police force shall be included in any report furnished pursuant to subsection (5).

(11) Where no objection to the grant of an application for the licence has been made, the registrar shall, subject to the provisions of this Part, issue the licence.

(12) Where any person objects pursuant to subsection (9) to the grant of the application the registrar shall notify the applicant, and shall set out shortly in the notice the nature of the objection proposed to be made.

(13) Any notice under subsection (12) shall set forth the time and place of hearing of the application.

13. (1) An application in respect of which an objection has been lodged pursuant to section 12 (9) shall be heard and determined as in open court at a meeting of the Board at which a quorum is present.

Hearing of applications.

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(2) Such a meeting shall not take place until after the expiration of seven days after the lodging of the application.

(3) At the hearing of an application—

5 (a) the applicant may appear by himself or by a barrister, solicitor or agent appointed by the applicant; and

(b) the Board—

10 (i) may receive in evidence any written submissions made by the applicant but it is otherwise bound by the rules of law relating to the admissibility of evidence;

15 (ii) may allow a barrister or solicitor, a member of the police force, or a member of the Public Service, instructed by the Board, or a person employed by the Board as an inspector and instructed by the Board to appear before the Board for the purpose of adducing evidence tending to establish the grounds of objection to the application;

20 (iii) may call and receive evidence as to any matter relevant to the hearing;

(iv) may from time to time as it sees fit adjourn the hearing; and

25 (v) may, subject to section 13 of the Oaths Act, 1900, require evidence at the hearing to be on oath.

(4) The hearing may be held in the absence of the applicant if the Board is satisfied that the applicant was served
30 with reasonable notice of the time and place of the hearing.

(5) Service of any such notification may be proved by the oath of the person who effected the service or by the affidavit of that person.

(6)

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(6) The Board before whom an application for a licence is heard may of its own motion or on the application of the applicant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena
5 is addressed to attend as a witness at the hearing or so to attend and produce at the hearing any books, papers or writings in his possession or under his control relating to any matter relevant to the hearing and specified in the subpoena.

(7) A person who is served with a subpoena
10 addressed to him and to whom, at the time of service, is tendered an amount that is sufficient to cover his travelling and out-of-pocket expenses in attending the hearing specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause,
15 fail or refuse to obey the subpoena.

Penalty : \$200.

(8) A person to whom a subpoena is addressed is entitled to receive—

- 20 (a) where the subpoena was issued by the Board on its own motion, from the Board; or
- (b) where the subpoena was issued by the Board on the application of the applicant, from the applicant,

his reasonable costs, including any loss of earnings, incurred by him in obeying the subpoena, calculated in accordance
25 with the scales relating to subpoenas issued out of a District Court.

(9) Upon determination of the application the registrar shall notify the decision of the Board to the superintendent of licenses.

30 (10) If the Board grants the application, the registrar shall issue the licence.

(11)

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(11) If the Board refuses an application for a licence or a renewal of a licence the determination of the Board has no force or effect until notice of the determination is served on the applicant and the time limited for appealing against the Board's determination has expired or, where within that time an appeal against the determination has been made under Part V, the appeal has been dealt with or withdrawn.

(12) A licence or a renewal of a licence shall not be granted—

- 10 (a) in respect of any individual nominated under section 10 (2), (3) or (4)—
 - (i) unless the individual is of or above the age of eighteen years;
 - 15 (ii) where the individual is disqualified from holding a licence under this Act, or is in the opinion of the Board not of good fame and character or otherwise a fit and proper person, if he were to apply for a licence, to hold the licence;
 - 20 (iii) if the Board is satisfied that the individual is unlikely to be able to perform the duties generally performed by a travel agent by reason of the inadequacy of his educational attainments or experience;
 - 25 (iv) if the individual has been convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he has been convicted elsewhere than in New South Wales of an offence which if committed in
30 New South Wales would be a felony or misdemeanour so punishable;
 - (v) if the individual does not meet such other requirements as may be prescribed; or

(vi)

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- (vi) if the person so nominating the individual is not the holder on his own behalf of a licence;

(b) to an individual on his own behalf—

- 5 (i) unless he is of or above the age of eighteen years;
- (ii) where he is disqualified from holding a licence under this Act, or is in the opinion of the Board not of good fame and character or otherwise a fit and proper person to hold a licence;
- 10 (iii) if the Board is satisfied that he is unlikely to be able to perform the duties generally performed by a travel agent by reason of the inadequacy of his educational attainments or experience;
- 15 (iv) unless the Board is satisfied that he has sufficient financial resources to carry on the business of a travel agent;
- 20 (v) if he has been convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he has been convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable; or
- 25 (vi) if he does not meet such other requirements as may be prescribed;
- 30 (c) to a firm on its own behalf, if the Board would not, on any of the grounds referred to in paragraph (b), grant a licence to any member of the firm if he were to apply for a licence or if the firm is disqualified from holding a licence under this Act; or
- (d)

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(d) to a corporation on its own behalf—

- (i) where the corporation is disqualified from holding a licence under this Act;
- 5 (ii) where the Board is satisfied that the corporation is substantially owned or controlled by a person who is disqualified from holding a licence under this Act or that any director of the corporation is not of good fame or character or otherwise a fit and proper person, if he were to apply for a licence, to hold the licence or that the corporation is not a fit and proper person to hold a licence on its own behalf;
- 10 (iii) unless the Board is satisfied that the corporation has sufficient financial resources to carry on the business of a travel agent; or
- 15 (iv) if the corporation does not meet such other requirements as may be prescribed.

14. (1) Where application for renewal of a licence is not made before the expiration of the licence the person who held such licence may make application for the restoration of the licence.

Restoration of licence.

(2) Any such application shall be made to the registrar in or to the effect of the prescribed form.

25 (3) Upon an application for restoration of any licence being made the like fees and prescribed contribution as are payable on the renewal of a licence shall be paid and the registrar shall issue to that person a provisional licence.

30 (4) Upon the issue of a provisional licence under subsection (3) the applicant shall for all purposes of this Act other than in respect of any proceedings which may have been or may be instituted against him for a contravention of section

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10 be deemed to be and to have been as from the expiration of
the licence in respect of which the application for restoration
is made the holder of a licence until such time as his licence
has been restored to him pursuant to this section or until the
5 application for restoration is refused or withdrawn.

(5) An application for restoration of a licence shall
be heard and determined by the Board.

(6) The Board may, if satisfied that such non-renewal
is due to inadvertence or that for any reason it is just and
10 equitable that the licence should be restored or the result of
such inadvertence should be remedied, order that such licence
be restored and may authorise the issue of a new licence for
the balance of the term for which the licence would have
been available if duly renewed.

15 (7) The provisions of section 12 (subsections (6)
and (11) excepted) shall, with such modifications as may be
necessary, apply to and in respect of an application for the
restoration of a licence under this section in all respects as if
the same were an application for renewal of a licence and shall
20 so apply as if section 12 (8) (b) were amended by omitting
the words "licence was so deemed to continue in force" and
by inserting instead the words "provisional licence had effect".

15. Subject to such conditions and restrictions, and in Variation
such circumstances, as may be prescribed, the registrar may, of licence.
25 on application made in that behalf, vary a licence—

- (a) by substituting for the name of a person nominated
under section 10 (2), (3) or (4) the name of
another person so nominated;
- 30 (b) by adding to the list of members of a firm named in
the licence the name of a new member of the firm,
or by deleting from that list the name of a member
who has ceased to be a member of the firm; or
- (c) in such other manner as may be prescribed.

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16. (1) The fees payable for a licence, or for the variation or renewal of a licence, shall be such fees as may be prescribed. Fees payable for licence.

5 (2) The fees referred to in subsection (1) shall accompany the application for the licence, or for the variation or renewal of the licence, as the case may be.

(3) Each application for a licence or for the variation or renewal of a licence shall also be accompanied by an administration fee of such amount as may be prescribed.

10 (4) The fees payable pursuant to subsection (3) shall be paid into a bank in New South Wales to the credit of a separate account to be called the "Travel Agents Administration Account" and that account shall be operated upon in such manner as the Board may from time to time
15 determine.

(5) There shall be paid out of the account referred to in subsection (4)—

- 20 (a) all costs and expenses incurred by the Board in the exercise and discharge of its powers, authorities, duties and functions under this Act;
- (b) any expenses, fees and allowances payable to members of the Board; and
- 25 (c) such amount as may be determined in respect of the remuneration or allowances payable to the registrar, deputy registrar and any other officer or employee appointed pursuant to section 9.

(6) The amount payable under subsection (5) (c) shall be paid to the Treasurer to be carried by him to the Consolidated Revenue Fund.

30 (7) Any surplus moneys in the account may be invested in any manner in which trustees are for the time being authorised to invest trust funds, or on deposit for such period not exceeding two years as the Board deems proper with any

bank

Travel Agents.

bank or corporation prescribed by the rules of court as a bank or corporation to which trust moneys may be paid under section 15 of the Trustee Act, 1925.

17. (1) Where the Governor is satisfied that in any State ^{Interstate} or Territory of the Commonwealth (other than New South ^{licences.} Wales) a law is in force under which any person holding a licence resident in New South Wales may obtain a licence to carry on the business of a travel agent in that other State or Territory, the Governor may by notification published in
 10 the Gazette declare that on and after a date to be specified in the notification, and while the notification remains in force, this Act shall extend and apply to the granting in New South Wales of a licence to residents in such other State or Territory.

15 (2) The Governor may, if he thinks fit, revoke any such notification.

(3) In the case of a resident in any State or Territory of the Commonwealth with respect to which a notification under this section is in force a licence shall be granted to such
 20 resident only if he holds a licence to carry on the business of a travel agent in that State or Territory.

DIVISION 2.—Licensees Generally.

18. (1) An individual disqualified under this Act shall ^{Effect of dis-} not, while his disqualification continues, be, or continue to be, ^{qualification.}
 25 a director of any corporation, or a member of any firm, carrying on the business of a travel agent in New South Wales.

Penalty : \$1,000 and, in the case of a continuing offence, \$200 for each day on which the offence continues.

(2) A person shall not obtain or continue to hold a
 30 licence in respect of an individual disqualified under this Act.

Penalty : \$500.

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19. Where the Board has made an order that a licence be delivered up to the registrar the holder of the licence shall comply with the order forthwith. Failure to deliver up licence.

Penalty : \$500.

5 20. A licensee shall display, in such manner as may be prescribed, at each place at which the licensee carries on the business of a travel agent, such particulars of his business as may be prescribed. Licensee to display certain particulars.

Penalty : \$500.

10 21. No person shall keep or exhibit or allow to remain unobliterated on or near to his office, house or place of business or exhibit anywhere any sign, writing, painting or other mark implying that such office, house or place of business is that of a person licensed unless he is the holder of a licence. Prohibition against misleading signs.

15 Penalty : In the case of a corporation \$2,000, and in the case of an individual \$500 or six months imprisonment or both.

20 22. (1) A licensee shall not, except with the approval of the Board knowingly employ in any way whatever in connection with his business any individual— Certain persons not to be employed by licensees.

(a) who is for the time being disqualified from holding a licence or whose licence has been cancelled unless a licence has been subsequently granted to him;

25 or

(b)

Travel Agents.

(b) whose application for a licence has been refused (otherwise than pursuant to section 13 (12) (b) (i), (iii), (iv) or (vi)), unless such an application has been subsequently granted.

5 (2) A licensee whose application for approval under section 23 is granted shall comply with such conditions as are imposed pursuant to that section in relation to the approval.

10 (3) Subject to this section no such person shall participate or be in any way concerned in the business of a licensee.

(4) Any licensee or any person who commits any contravention of or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

15 **23.** (1) An application for the approval of the Board referred to in section 22 (1) or for the removal or variation of any conditions imposed under this section in relation to the approval, shall be made by the licensee concerned in or to the effect of the form prescribed and shall be lodged with
20 the registrar.

Procedure
for
approvals
under
section 22.

(2) The Board may require an applicant under this section to supply it with any further information it considers necessary in relation to the application.

(3) The Board may—

25 (a) in the case of an application for the approval referred to in section 22 (1), grant the application conditionally or unconditionally or refuse the application; or

30 (b) in the case of an application for the removal or variation of any conditions imposed under this section, grant or refuse the application and in either case, if it thinks fit, impose other conditions,

and

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and the registrar shall in writing notify the applicant as soon as practicable of the Board's determination.

24. (1) A licensee shall not knowingly enter into any arrangement or act in conjunction with any person, not being
 5 an employee in his business as a licensee, who is not licensed under this Act whereby such person is entitled to a share of the commission, fee, gain or reward payable to such licensee in respect of any transaction by or with him as a licensee or generally.

Licensee not to share commission, etc., with certain persons.

10 Penalty: \$1,000.

(2) A licensee shall not, without the prior consent in writing of the registrar, carry on business as such or advertise or in any manner whatsoever hold out that he carries on business as such—

15 (a) under the name, or a name nearly resembling the name, whereunder a person whose licence has been cancelled under or in pursuance of this Act was carrying on business as a licensee immediately before his licence was cancelled; or

20 (b) under a name implying or capable of being construed as implying that he is the successor in the business, or in any way interested or concerned in continuing the business as a licensee, of a person whose licence has been cancelled under or in
 25 pursuance of this Act.

Penalty: \$2,000.

(3) Nothing in subsection (2) shall prohibit the carrying on by a licensee of his business as such under his true name without any addition or adaptation whatsoever.

Travel Agents.

25. Except where he has reasonable excuse for not doing so, a licensee shall on demand, at the premises upon which he carries on his business, produce his licence to any member of the police force of or above the rank of sergeant, to any officer of the Board authorised by the Board, or to any person with whom such licensee is transacting or attempting to transact any business as a travel agent.

Production
of licence.

Penalty: \$500.

26. Any licensee who lets out, hires or lends any licence held by him to any other person or permits any other person to use his licence shall be guilty of an offence against this Act, and on conviction for such an offence, and in addition to any penalty, any licence held by him shall thereupon become absolutely void and shall be delivered up to the registrar and cancelled.

Licensee
not to lend
licence.

27. Subject to this Act, no person shall be entitled to bring any proceedings in any court to recover any commission, fee, gain or reward for any service done or performed by him in carrying on the business of a travel agent unless he was the holder of a licence at the time of performing such service or such service was done or performed before the expiration of three months after the date of commencement of this Part.

Provisions
as to
commis-
sions, etc.

28. (1) Any licensee who publishes (whether in a newspaper or otherwise) any advertisement relating to or in connection with the business of a travel agent without specifying therein the following particulars—

Publication
of name and
place of
business in
advertisements.

(a) where such licensee is an individual carrying on the business of a travel agent in his own name and is not a member of a firm, his name and the address of his place of business;

(b)

Travel Agents.

- 5 (b) where such licensee is an individual carrying on the business of a travel agent under a business name registered or deemed to be registered under any Act for the time being in force relating to the registration of business names, then either his name or such business name and the address of his place of business;
- 10 (c) where such licensee carries on the business of a travel agent as a member of a firm, then either his name or the name of the firm of which he is a member, or the name under which the firm is registered or deemed to be registered under any Act for the time being in force relating to the registration of business names, and the address of his or its place of business;
- 15 (d) where such licensee is a corporation and the corporation is carrying on the business of a travel agent in its own name, the name of the corporation and the address of its place of business; or
- 20 (e) where such licensee is a corporation and the corporation is carrying on business under a business name registered or deemed to be registered under any Act for the time being in force relating to the registration of business names, then either in its
- 25 own name or such business name, and the address of its place of business,

shall be guilty of an offence against this Act.

(2) Where a licensee carries on business at more than one place of business any such advertisement may specify
30 the address of any one of such places.

29. (1) Any licensee who publishes or causes to be published in the course of his business as such any statement which—

Penalty for publishing false or misleading advertisements.

- 35 (a) is intended or apparently intended by such licensee to promote the sale of any right, matter or thing specified in section 6; and

(b)

Travel Agents.

(b) is (whether to his knowledge or not) false or misleading in any material particular,
shall be guilty of an offence against this Act.

(2) Without limiting the generality of subsection (1)
5 a statement shall, for the purposes of subsection (1), be deemed to be false or misleading if it is of such a nature that it would reasonably tend to lead a person reading it to believe in a state of affairs that does not in fact exist, whether or not the statement indicates that that state of affairs does exist.

10 (3) A statement shall be deemed to be published within the meaning of this section if it is—

(a) inserted in any newspaper or any other publication printed and published in New South Wales;

(b) publicly exhibited—

15 (i) in, on, over or under any building, vehicle or place (whether or not a public place and whether on land or water); or

(ii) in the air in view of persons being or passing in or on any street or public place;

20 (c) contained in any document gratuitously sent or delivered to any person or thrown or left upon premises in the occupation of any person; or

(d) broadcast by wireless transmission or television.

(4) It shall be a sufficient defence for a person
25 charged with an offence against this Act arising under subsection (1) if that person proves that—

(a) he took all reasonable precautions against committing the offence;

(b) in relation to a statement—

30 (i) not being a statement referred to in subsection (2), he had reasonable grounds for believing and did in fact believe that the statement was true; or

(ii)

Travel Agents.

5 (ii) referred to in subsection (2), he had reasonable grounds for believing in the existence of the state of affairs first referred to in subsection (2) and did in fact believe that that state of affairs existed; and

(c) he had no reason to suspect that the statement was false or misleading.

10 (5) Notwithstanding any proceedings against any person for an offence under this section (whether resulting in a conviction or otherwise) such person shall remain liable to all civil proceedings in like manner as if the proceedings for an offence had not been taken.

(6) This section shall be read and construed as in aid of and not in derogation from any enactment or law relating to false or misleading advertisements or other statements.

(7) In this section "newspaper" includes any periodical publication.

20 **30.** (1) The registrar shall keep a register of licences which shall be open to inspection, upon payment of the prescribed fee, by any person at the office of the Board at all times when that office is open for business. Register to be kept by the registrar.

(2) Licences shall be numbered consecutively.

(3) The register shall contain—

(a) particulars of—

- 25 (i) all licences;
- (ii) all renewals, restorations, variations and cancellations of licences; and
- (iii) all persons disqualified from holding a licence; and

30 (b) such other particulars as may be prescribed.

31.

Travel Agents.

31. A person shall not, in any application for a licence, wilfully make a false or misleading statement.

Penalty: \$500.

False or misleading statements in applications.

32. (1) A licensee shall not—

Offences by holders of licences.

- 5 (a) except with the approval in writing of the Board, knowingly assist in any way a person who is not a licensee to carry on the business of a travel agent;
- (b) undertake to carry out any travel agent's business under a name other than the name shown in the licence;
- 10 (c) represent to any person that he holds a licence bearing a number other than the number of the licence held by him;
- (d) without reasonable excuse, fail to perform his duties to his client or to carry out the instructions of his client;
- 15 (e) offer or sell, or advertise that he will offer or sell, tickets or rights of passage on any conveyance (not being a prescribed conveyance), or reservations for accommodation at any hotel or other place, that he is not authorised to offer or sell; or
- 20 (f) without reasonable excuse fail to arrange tickets or rights of passage on any conveyance (other than a prescribed conveyance), travel or accommodation or reservations that he has undertaken to arrange.
- 25

Penalty : \$500.

(2) A licensee shall, within seven days after any change in any prescribed particulars as shown on his application for the licence occurs, notify the registrar in writing of that change.

Penalty : \$100.

Travel Agents.

33. A certificate purporting to be under the hand of the registrar certifying—

Certificate
as to whether
a person
is the
holder of a
licence, etc.

- (a) that any person was or was not, on a date specified in the certificate, a licensee;
- 5 (b) that any licence was, on a date so specified, suspended for a period so specified; or
- (c) that any person was or was not, on a date so specified, disqualified, either permanently or for a period so specified, from holding a licence,

10 shall be received in any proceedings as evidence of that fact.

PART IV.

DISCIPLINARY PROVISIONS.

34. A licensee is guilty of improper conduct if—

Improper
conduct.

- 15 (a) he commits an offence against this Act or the regulations, whether or not he has been convicted of the offence;
- 20 (b) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable; or
- 25 (c) he fails or neglects to comply with any provision of this Act or the regulations with which he is required to comply.

Travel Agents.

35. A complaint may be made to the Board by any person that— Complaint
against
holders of
licences,
etc.

- 5 (a) a licence was improperly obtained contrary to the provisions of this Act or the holder of a licence has been guilty of improper conduct;
- (b) an individual is not a fit and proper person to continue to hold a licence;
- 10 (c) an individual nominated pursuant to section 10 (2), (3) or (4) is not a fit and proper person to continue to have a licence held in respect of him, or has been guilty of conduct which, if he had been the holder of a licence, would have amounted to improper conduct;
- 15 (d) a corporation or a firm is not a fit and proper person to continue to hold a licence; or
- (e) a director of a corporation or a member of a firm, that holds a licence, is not a fit and proper person to be a director of the corporation or a member of the firm or has been guilty of conduct which, if he had been the holder of a licence, would have amounted to improper conduct.
- 20

36. (1) In this section "former licensee" means a person who— Complaints
about
former
licensees.

- 25 (a) at any time during a period of five years before a complaint in respect of that person is made under subsection (2), has been the holder of a licence and has ceased to hold that licence;
- (b) has been an individual in respect of whom a licence was, during that period, held by any person and is not the holder of a licence or an individual in respect of whom a licence is held; or
- 30

(c)

Travel Agents.

5 (c) has, at any time during that period, been a director of a corporation, or a member of a firm, which, at any time during that period, has held a licence and is not a director of a corporation, or member of a firm, which holds a licence, or the holder of a licence.

(2) A complaint may be made to the Board by any person that—

10 (a) a former licensee had, as the holder of a licence, been guilty of improper conduct;

15 (b) a former licensee had, as an individual referred to in paragraph (b) of the definition of "former licensee" in subsection (1), been guilty of conduct which, if he had been the holder of a licence, would have amounted to improper conduct;

20 (c) a former licensee is, as an individual referred to in paragraph (b) of the definition of "former licensee" in subsection (1), not a fit and proper person to hold a licence or to have a licence held in respect of him by any person;

25 (d) a former licensee had, as a director of a corporation or member of a firm referred to in paragraph (c) of the definition of "former licensee" in subsection (1), been guilty of conduct that renders him unfit to be a director of a corporation, or a member of a firm, that holds a licence; or

30 (e) a former licensee is, as a corporation or a firm referred to in paragraph (a) of the definition of "former licensee" in subsection (1), not a fit and proper person to hold a licence on its own behalf or in respect of an employee.

35 37. (1) A complaint under section 35 or 36 shall be in Manner of or to the effect of the prescribed form and shall, except as making complaints, provided in subsection (2), be accompanied by a deposit of such amount as may be prescribed.

(2)

Travel Agents.

(2) A complaint need not be accompanied by a deposit if it is made by a member of the Public Service in the performance of his duties, or a person employed by the Board as an inspector in his capacity as such a member or inspector, or by a member of the police force in the performance of his duties.

(3) Where the Board has considered a complaint under section 38 (1) and has decided not to issue a notice under section 38 (1) in respect of the complaint, it shall, if it is of the opinion that the complaint is vexatious or frivolous in its nature, so declare and thereupon the amount deposited by the complainant shall be forfeited but, if it is not of that opinion, that amount shall be refunded by the registrar to the complainant.

38. (1) Upon receipt of a complaint under section 35 or 36, together with any deposit required under section 37, the Board shall consider the complaint and if it is of the opinion that the nature of the complaint warrants it so doing shall cause a notice to be issued calling upon the person (in this Part referred to as "the defendant") to whom the complaint relates to show cause why the licence held by him should not be cancelled or suspended or why he should not be dealt with under this Part and cause that notice to be served on the defendant.

(2) After consideration of the complaint the Board shall, by an instrument in writing served on the complainant, inform him whether or not it has decided that a notice be issued under subsection (1).

(3) The Board may, if in its opinion its investigations warrant its so doing and without having received a complaint, cause a notice to be issued calling upon the person (in this Part referred to as "the defendant") against whom a complaint may be made under section 35 or 36 to show cause why the licence held by him should not be cancelled or suspended or why he should not be dealt with under this Part and shall cause the notice to be served on that person.

(4)

Travel Agents.

(4) A notice served under subsection (1) or (3) shall—

- (a) give particulars of the grounds upon which the defendant is required to show cause; and
- 5 (b) appoint a time and place for the holding of an inquiry for the defendant to show cause, as required by the notice.

(5) Where the defendant is an individual referred to in section 35 (c) or (e), a copy of the notice shall be
10 served on the person who holds a licence in respect of that individual.

(6) Not earlier than the day on which the period fixed under subsection (7) in respect of a defendant expires, the Board shall at the time and place appointed by the notice
15 served on the defendant, or at such other time or place as may be appointed by the Board and notified in writing served on the defendant, cause an inquiry to be made into the grounds upon which the defendant has been called upon to show cause as required by that notice.

20 (7) The period referred to in subsection (6) is—

- (a) where the defendant is not an individual referred to in section 35 (c) or (e), seven days after the service on the defendant of the notice referred to in subsection (4); or
- 25 (b) where the defendant is such an individual, seven days after the service of the notice referred to in subsection (4) or (5), whichever notice was served the later.

39. (1) An inquiry under this Part shall be held as in
30 open court at a meeting of the Board at which a quorum is present. <sup>Inquiries—
how held.</sup>

(2)

Travel Agents.

(2) At an inquiry under this Part—

(a) the defendant may appear by himself or by a barrister, solicitor or agent appointed by the defendant; and

5 (b) the Board—

(i) may receive in evidence any written submissions made by the defendant and, where the defendant is an individual referred to in section 35 (c) or (e), any written submissions made by the person who holds a licence in respect of that individual in answer to the notice served on the defendant under section 38 (4), but is otherwise bound by the rules of law relating to the admissibility of evidence;

10 (ii) may allow a barrister or solicitor, a member of the police force, or a member of the Public Service, instructed by the Board, or a person employed by the Board as an inspector and instructed by the Board to appear before the Board for the purpose of adducing evidence tending to establish the grounds upon which the defendant has been called upon to show cause as referred to in section 38;

15 (iii) may call and receive evidence as to any matter relevant to the inquiry;

(iv) may, from time to time as it sees fit, adjourn the inquiry; and

20 (v) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the inquiry to be given on oath.

25 (3) An inquiry under this Part may be held in the absence of the defendant if the Board is satisfied that the defendant was served with reasonable notice of the time and place of the inquiry.

(4)

Travel Agents.

(4) Service of any such notice may be proved by the oath of the person who effected the service or by the affidavit of that person.

40. (1) The Board before whom an inquiry under this Subpoenas.
 5 Part is held may of its own motion or on the application of the defendant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena is addressed to attend as a witness at the inquiry or so to attend and produce at the inquiry any books, papers or
 10 writings in his possession or under his control relating to any matter relevant to the inquiry and specified in the subpoena.

(2) A person who is served with a subpoena addressed to him and to whom, at the time of service, is
 15 tendered an amount that is sufficient to cover his travelling and out-of-pocket expenses in attending the inquiry specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause, fail or refuse to obey the subpoena.

Penalty : \$200.

20 (3) A person to whom a subpoena is addressed is entitled to receive—

- (a) where the subpoena was issued by the Board on its own motion, from the Board; or
- 25 (b) where the subpoena was issued by the Board on the application of the defendant, from the defendant, his reasonable costs, including any loss of earnings, incurred by him in obeying the subpoena, calculated in accordance with the scales relating to subpoenas issued out of a District Court.

Travel Agents.

41. (1) After an inquiry held under this Part, the Board may make any of the following determinations, that is to say, the Board may—

Determina-
tion of
Board after
inquiry.

- 5 (a) determine that no further action be taken against the defendant;
- (b) caution or reprimand the defendant;
- (c) suspend, for a period not exceeding the unexpired term of the licence, the licence held by or on behalf of the defendant;
- 10 (d) cancel any licence held by the defendant on his own behalf or on behalf of the defendant and disqualify the defendant, either permanently or for such period as may be specified in the determination, from holding a licence or from being a person in respect of whom a licence may be held; or
- 15 (e) where the defendant is—
 - (i) a director of a corporation or a member of a firm, which is the holder of a licence, and is not an employee on whose behalf a licence is held by the corporation or the firm; or
 - 20 (ii) a former licensee as defined in section 36, disqualify him either permanently or for such period as may be specified in the determination, from holding a licence or from being a person in respect of whom a licence may be held,
 - 25

as to the Board may seem proper after considering the evidence given and produced at the inquiry.

- (2) A determination of the Board under subsection (1) (paragraph (a) excepted) has no force or effect until notice of the determination is served on the defendant and the time limited for appealing against the Board's determination has expired and, where within that time an appeal against the determination has been made under Part V, until the appeal has been dealt with or withdrawn.

(3)

Travel Agents.

(3) Where the Board determines that a licence be suspended or cancelled and no appeal against the Board's determination has been made within the time limited for appealing against it, the holder of the licence shall, forthwith after the expiration of that time, lodge the licence with the Board.

Penalty : \$500.

(4) Nothing in subsection (1) affects the liability of a defendant for any offence against this Act or the regulations or against any other Act or any regulations, by-laws, ordinances or rules made under another Act.

PART V.

APPEALS.

- 42.** (1) Where the Board—
- 15 (a) refuses any application under section 13, 14, 15 or 23;
 - (b) grants an application under section 13, 14 or 15 to the granting of which a member of the police force has objected; or
 - 20 (c) makes a determination under section 41,
- the person making the application, or the licensee or the employee, or the director of a corporation or other person, as the case may be, where paragraph (a) applies, or the member of the police force where paragraph (b) applies, or the complainant, or the licensee or the employee, or the director of a corporation or other person, as the case may be, where paragraph (c) applies, may appeal to the District Court exercising jurisdiction in the district within which the person making the application or the employee or other individual resides or has or had his sole or principal place of business, as the case may be.

Right of appeal.

(2)

Travel Agents.

(2) Every such appeal shall be dealt with by way of rehearing.

(3) Notice of appeal shall be given to such persons as may be prescribed by rules of court of the District Court or as the District Court may direct.

(4) The District Court, in deciding any such appeal, may confirm the determination of the Board appealed against or substitute for that determination any determination that the Board might have made.

(5) The decision of the District Court shall be final and shall be deemed to be the determination of the Board.

(6) Where the decision of the District Court is that a licence be suspended or cancelled, the holder of the licence shall, forthwith after the decision is given, lodge the licence with the Board.

Penalty : \$500.

(7) For the purposes of any such appeal the parties to the appeal to the District Court shall be deemed to include any of the following persons—

- (a) the person making the application or the licensee, or employee, or the director of a corporation or member of a firm or other person referred to in the statement of the ground on which the disqualification was imposed, as the case may be;
- (b) the member of the police force who objected to the grant of the application, in any case where the appeal is in proceedings arising out of an application to the granting of which such member of the police force had objected; and
- (c) the member of the police force or other person who made the complaint, in any case where the appeal is in proceedings arising out of a complaint made by him under section 35 or 36.

(8)

Travel Agents.

(8) Any appeal under this section in any case to which subsection (1) (a) applies shall not be commenced after the expiration of twenty-one days after the date of the determination refusing the application.

5 (9) An appeal under this section in any case to which subsection (1) (b) or (c) applies shall not be made by a complainant unless the Minister approves.

10 (10) An appeal under this section in any case to which subsection (1) (c) applies by a person other than a complainant shall not be made after the expiration of twenty-one days after the date upon which the notice of the determination has been served on the defendant under section 41 (2).

15 (11) Any statement lodged under section 12 (9) setting out the nature of any objection to the grant of an application or for the renewal of a licence, or ground of complaint made under section 35 or 36 by a member of the police force, or a member of the Public Service or a person employed by the Board as an inspector in his capacity as such a member or inspector in relation to the person making an appeal under
20 this section shall be admissible in evidence under this section.

PART VI.

TRAVEL AGENTS FIDELITY GUARANTEE FUND.

43. (1) There shall be a fund called the "Travel Agents The fund. Fidelity Guarantee Fund".

25 (2) The fund shall be the property of the Board and shall be applied for the purposes set out in this Part.

Travel Agents.

44. All moneys belonging to the fund shall, pending the investment or application thereof, be paid into a bank in New South Wales to the credit of a separate account to be called the "Travel Agents Fidelity Guarantee Account" and the account shall be operated upon in such manner as the Board shall from time to time determine.

Separate
bank
account.

45. The fund shall consist of—

Moneys of
the fund.

- (a) all sums paid by way of contribution or levy by licensees in accordance with this Act;
- 10 (b) the interest from time to time accruing from the investment of the fund; and
- (c) any other moneys that may be lawfully paid into the fund.

46. There shall from time to time be paid out of the fund as required and in such order as the Board deems proper—

Expenditure.

- (a) all legal expenses in connection with claims made against the fund or the Board in respect of the fund or otherwise incurred in relation to the fund;
- 20 (b) the amount of all claims, including costs, allowed or established against the Board in respect of the fund as provided in this Act;
- (c) all refunds made to licensees or their personal representatives pursuant to this Act;
- 25 (d) the expenses involved in the administration of the fund;
- (e) any amounts payable to underwriters by virtue of any arrangement or contract mentioned in section 59; and
- 30 (f) any other moneys payable out of the fund in accordance with any of the provisions of this Act.

Travel Agents.

47. The fund shall be administered by the Board.

Administra-
tion
of fund.

48. (1) An initial contribution to the fund of such amount as may be prescribed shall be paid by every licensee and thereafter such other sum as may be prescribed shall be
5 paid annually by every licensee.

Contribution
to fund.

(2) Such contributions shall be in addition to any fees prescribed.

49. (1) If at any time or times the fund is, in the opinion of the Board, not sufficient to satisfy the liabilities of the Board
10 in relation thereto, the Board may, subject as hereinafter provided, by resolution, impose on every licensee, for payment into the fund, a levy of such amount as the Board thinks fit not exceeding such sum as may be prescribed.

Levies.

(2) The levy shall become payable on a date and in
15 a manner to be fixed by the Board.

(3) The Board may, in any special case, allow time for the payment of any levy or part thereof.

(4) If a licensee does not after the prescribed notice pay any levy the registrar shall report to the Board that such
20 licensee has not paid the levy, and shall upon direction of the Board make due record of the fact in the register and so long as the levy remains unpaid the licensee shall be deemed not to be the holder of a licence under this Act.

50. Any moneys in the fund which are not immediately
25 required for the purposes of the fund may be invested in any manner in which trustees are for the time being authorised to invest trust funds, or on deposit for such period not exceeding two years as the Board deems proper with any bank or corporation prescribed by the rules of court as a bank or
30 corporation to which trust moneys may be paid under section 15 of the Trustee Act, 1925.

Board may
invest funds.

Travel Agents.

51. (1) Subject to the provisions of this Act, the fund shall be held and applied for the purpose of reimbursing persons who may suffer pecuniary loss by reason of the theft or fraudulent misapplication by a licensee or by an employee of a licensee in the course of his employment with such licensee or a person having the apparent control or charge for the time being of any office or business of a licensee, of any money or other valuable property entrusted to the licensee or to such employee or other person in the course of the business of the licensee as a travel agent.

(2) For the purposes of subsection (1) and any other provision of this Part, a reference to a person having the apparent control or charge for the time being of the office or business of a licensee includes a reference to a person or body referred to in section 5 (2) carrying on the business of a licensee or deceased licensee.

(3) No person shall have any claim against the fund in respect of any theft or fraudulent misapplication committed before the commencement of this Part.

(4) In respect of any theft or fraudulent misapplication, in respect of which any claim against the fund arose, no person shall have a claim against the fund unless notice of the theft or fraudulent misapplication is given in writing to the Board as soon as reasonably practicable after the claimant has become aware of the theft or fraudulent misapplication (but in any event within a period of six months after having become so aware), or within a period of two years from the date of commission of the theft or misapplication, whichever period first expires.

(5) No person shall, unless the Board otherwise determines, be entitled to claim against the fund in respect of any loss through any theft or fraudulent misapplication unless and until there has been a conviction of a licensee, employee or other person for the theft or fraudulent misapplication except where the Supreme Court or, in any case where the amount of money or the value of the property the subject of

the

Travel Agents.

the claim does not exceed two hundred dollars, a court of petty sessions held before a stipendiary magistrate, for reasons which to that court or magistrate shall be good and sufficient, has by an order certified that the person claiming to have
5 suffered loss should be permitted to claim against the fund notwithstanding that the licensee, employee or other person has not been convicted in respect of the theft or fraudulent misapplication.

(6) For the purposes of this section, where an offence
10 has been taken into account under section 447B of the Crimes Act 1900, the person who admitted his guilt in respect of the offence shall be deemed to have been convicted of the offence.

52. (1) Subject to section 51, the Board may receive and settle any claim against the fund at any time after the
15 commission of the theft or fraudulent misapplication in respect of which the claim arose but no person shall be entitled, without the leave of the Board, to commence any action in relation to the fund unless the Board has disallowed his claim.

(2) No person shall be entitled to recover from the
20 Board out of the fund by action an amount greater than the balance of the loss suffered by him after deducting from the total amount of that loss the amount or value of all moneys or other benefits received or recovered or which in the opinion of the Board might, but for his neglect or default, have been
25 received or recovered by him from any source other than the fund in reduction of the loss.

(3) The total amount which any person shall be entitled to recover in respect of any one transaction from the fund shall not in any case or in any event exceed ten
30 thousand dollars.

(4) The aggregate sum which may be applied in the reimbursement of all persons who suffer loss through theft or fraudulent misapplication by the same licensee, employee or other person shall not in any case or in any event exceed
35 such sum as may be prescribed.

(5)

Travel Agents.

(5) No amount shall be paid or be payable out of the fund as interest on the amount of any judgment obtained or of any claim allowed against the fund.

53. (1) The Board may cause to be published a notice, ^{Advertisement relating to defaulting licensee and claims.} in or to the effect of the prescribed form, in a newspaper published and circulating in the district in which a defaulting licensee is or was carrying on business, and also in a daily newspaper published and circulating in Sydney, and the notice shall fix a date not being earlier than three months after the publication, or the first publication, as the case may be, before which claims must be made.

(2) Any claim referred to in subsection (1) not made in writing on or before the date so fixed shall be barred unless the Board otherwise determines.

54. After the date so fixed the Board shall be at liberty to ^{Board may distribute sum available.} distribute the sum from time to time available to be applied in reimbursement under section 52 having regard only to judgments obtained and claims allowed against the fund.

55. (1) Any proceedings brought against the Board in ^{Defences.} relation to any claim upon the fund shall be as for a debt due by the Board and shall be brought in a court of competent jurisdiction.

(2) In any of the proceedings referred to in subsection (1) all defences which would have been available to the licensee in relation to whom the claim arose shall be available to the Board, and in any such proceedings all questions of costs shall be in the discretion of the court or, where the proceedings are tried with a jury, the judge presiding at the trial.

Travel Agents.

(3) Any order for the payment of costs made by a court of petty sessions under the provisions of subsection (2) shall operate as a judgment debt under the Courts of Petty Sessions (Civil Claims) Act, 1970, and be enforceable as such under the provisions of that Act.

(4) No proceedings shall be brought against the Board in relation to any claim against the fund after the expiration of a period of six months after the time the Board has notified the claimant that it has disallowed the claim, or such longer period as the court, on sufficient cause being shown, may, on such terms as it thinks fit, permit.

56. On payment out of the fund of moneys in settlement in whole or in part of any claim under this Act, the Board shall be subrogated, to the extent of such payment, to all the rights and remedies of the claimant against the licensee in relation to whom the claim arose, or any other person.

57. The Board may at any time and from time to time require production and delivery up of documents necessary to support any claim made, or available for that purpose or for the purpose of exercising its rights against any defaulting licensee and may in default of delivery up of any such documents reject any claim.

58. (1) No moneys or other property belonging to the Board, other than the fund, shall be available for the satisfaction of any judgment obtained against the Board in relation to the fund, or for the payment of any claim allowed by the Board, and if at any time the fund is not sufficient to provide for the satisfaction of all such judgments and claims, they shall (subject to the limitations fixed by this Act) to the extent to which they are not so satisfied, be satisfied out of future accumulations of the fund.

(2) No proceedings based upon the enforcement of any such judgment shall be taken without leave of the Supreme Court.

(3)

Travel Agents.

(3) Where the total amount of the judgments obtained and claims allowed exceeds the aggregate sum which may be applied in reimbursement under section 52, the Board may, in its discretion, determine the division and allocation among the claimants respectively or any one or more of them, exclusively of the other or others of them, of the moneys for the time being payable out of the fund.

59. (1) The Board may, with the approval of the Minister and subject to such conditions as may be specified in the approval, make such arrangements and enter into such contracts as to it may seem proper for the underwriting of any part of the Board's liability under section 52.

(2) Any arrangement or contract entered into by the Board for the purposes of subsection (1) shall not be subject to stamp duty under the Stamp Duties Act, 1920.

60. (1) For the purpose of safeguarding the fund the chairman or any two members of the Board may at any time and from time to time appoint an accountant to examine any trust accounts of any licensee kept for the purposes of his business as such specified in the appointment and to furnish to the Board a confidential report as to any irregularity or alleged or suspected irregularity in the accounts of such licensee that may be disclosed by such examination, or as to any other matter that in the opinion of such accountant should, in the interest of the fund, be further investigated.

(2) A copy of the report shall forthwith be sent by the Board to the licensee concerned.

(3) Every appointment made under this section shall be in writing signed by the registrar and the chairman or the members of the Board who made such appointment.

(4) Upon production by an accountant of the instrument of his appointment, he may require the licensee in respect of whom the appointment has been made, or in the absence of

Travel Agents.

of the licensee, any person having the apparent control or charge for the time being of the office or business of the licensee to produce to the accountant and any assistant of the accountant all books, papers, accounts, securities or other documents relating to the business or accounts of the licensee, so far as the same relate to the trust accounts of the licensee or any written record made and kept by the licensee pursuant to the regulations, and to give all information in relation thereto and to furnish all authorities and orders to bankers and others that may be reasonably required of him or them, and if any such person without lawful justification or excuse, the proof whereof shall lie on him, refuses or fails so to do, or otherwise hinders, obstructs or delays the accountant in the performance of his duties or the exercise of his powers under this section, he shall be guilty of an offence against this Act.

(5) No accountant appointed to make any examination of accounts for the purposes of this section shall communicate that fact or any matter which may come to his knowledge in the course of the examination to any person except in the course of his report to the Board or in the like circumstances and to the like extent as a person is permitted to disclose information under section 67.

(6) No assistant of an accountant appointed to make an examination of accounts for the purposes of this section shall communicate the fact of the appointment of the accountant or any matter which may come to his knowledge in the course of the examination to any person except to the accountant appointed to make the examination, or if so required, to the Board.

(7) The provisions of this section shall apply to and in respect of any written record preserved in accordance with the regulations by a person who has ceased to hold a licence under this Act or by any person (other than the licensee who made such written record) who has the possession, custody or control of such written record as required by the regulations, as it applies to a licensee.

(8)

Travel Agents.

(8) Any person who commits a breach of any of the provisions of subsection (5) or (6), in addition to any other proceedings, penalty or punishment to which he may be liable, shall be guilty of an offence against this Act.

5

PART VII.

FINANCE.

61. (1) The Board shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts audited by the Auditor-General and in a form approved by him exhibiting a true and correct view of the financial position and transactions of the Board.

Accounts to be kept by the Board.

15 (2) The Minister shall cause the statement of accounts to be laid before Parliament within fourteen sitting days after receipt thereof by him if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

20 62. (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Board and its servants in the same manner as it applies to accounting officers of Public Departments.

Audit of accounts.

(2)

Travel Agents.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- 5 (i) due diligence and care have been shown in the collection and banking of moneys paid to the Board;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised; and
- 10 (iii) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which may be prescribed.

15 (3) Towards defraying the costs and expenses of an audit under this section the Board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

20 **63.** (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Governor. Temporary accommodation.

(2) The Treasurer may advance such moneys to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

Travel Agents.

PART VIII.

GENERAL.

64. Nothing in this Act affects any rights or remedies that a person may have in relation to another person who has exercised or carried on or is exercising or carrying on the business of a travel agent whether or not that other person was or is the holder of a licence. Other rights and remedies not affected by this Act.

65. (1) The Board may, with the approval of the Minister, acquire by purchase or lease premises for the carrying out of its powers, authorities, duties and functions under this Act and the regulations. General powers of the Board.

(2) The Board may enter into contracts or agreements with any person for the performance of services, or for the supply of goods, plant, machinery or material in connection with the exercise or performance by the Board of its powers, authorities, duties and functions under this Act and the regulations.

(3) Any contract or agreement entered into for the purposes of this section shall be deemed, for the purposes of the Constitution Act, 1902, to be a contract or agreement for or on account of the Public Service of New South Wales.

(4) The Board may cause to be published, in such manner as it thinks fit, any information relating to its powers, authorities, duties, functions or activities under this Act and the regulations.

66. (1) The Board may, by instrument in writing under Delegation seal, delegate—

- (a) to any member of the Board;
- (b) to any servant of the Board;
- (c) to any officer, servant or employee of whose services the Board makes use under this Act,

the

Travel Agents.

the exercise or performance of the powers (other than the Board's powers to deal, as provided for in section 13, with an application for a licence, the Board's powers under Part IV or this power of delegation), authorities, duties or functions
5 conferred or imposed on the Board by or under this Act as may be specified in the instrument of delegation.

(2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be
10 exercised or performed from time to time in accordance with the terms of the delegation by the delegate to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise
15 or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Board may continue to exercise or perform all or
20 any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done or suffered had been done or suffered by the Board.

25 **67.** A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made—
Disclosure of information.

- (a) with the consent of the person from whom the information was obtained;
- 30 (b) in connection with the administration or execution of this Act;

(c)

Travel Agents.

- (c) for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings; or
- (d) for the purpose of objecting to an application for a licence or of any investigation or inquiry conducted under Part IV.

Penalty: \$1,000.

68. In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required.

- (a) the due constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member of the Board; or
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

69. A notice, order, determination, certificate or subpoena that may be given, made or issued under this Act may be served—

Service of notices, orders and subpoenas.

- (a) by delivering it personally to the person to whom it is addressed; or
- (b) where it is addressed to the holder of a licence—
 - (i) by delivering it to any place shown on the application for the licence as the holder's place of abode or business and by leaving it there with some person for that holder; or
 - (ii) by posting it by certified mail in an envelope duly stamped and addressed to the person to whom it is addressed at any place shown on the application for the licence as the holder's place of abode or business,

and

Travel Agents.

and shall be deemed to have been served upon its being so delivered or, in the case of a notice, order, certificate or subpoena served as referred to in subparagraph (ii) of paragraph (b), shall be prima facie deemed to have been served
5 when it would be delivered in the ordinary course of post.

70. Any notice, summons, writ or other proceedings required to be served on the Board may be served by being left with some person apparently employed in the administration of this Act at the office of the Board or, in the case of a notice,
10 by posting it by certified mail in an envelope duly stamped and addressed to the Board at its office, and shall be deemed to have been served upon its being left or, in the case of a notice served by so posting it, shall be prima facie deemed to have been served when it would be delivered in the ordinary course
15 of post.

Service of
notice of
proceedings
on the
Board.

71. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the chairman.

Documents—
how
authenti-
cated.

20 72. (1) Proceedings in respect of any damage or injury to a person or to property shall not be commenced against the Board or any member of the Board or any person acting in its or his aid for anything done or intended to be done under this Act, until the expiration of one month after notice in
25 writing has been served on the Board, member or person as provided in this section.

Notice of
action.

(2) The notice shall state—

(a) the cause of action;

30 (b) the time and place at which the damage or injury was sustained; and

(c)

Travel Agents.

(c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

5 (3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, and the amount of money, if any, expended in repairing the damage shall be given to him.

10 (4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action, but at any stage of the proceedings the court in which the
15 action is pending may, if the court deems it to be just or reasonable in the circumstances so to do—

(a) amend any defect in the notice on such terms and conditions, if any, as the court may fix; or

20 (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period (in this section referred to as the "prescribed period") of twelve months next after the occurring of the cause of action
25 but where an application is made to the Supreme Court for an extension of the prescribed period the court may, if it is satisfied that sufficient cause has been shown, or having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed
30 period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

(7)

Travel Agents.

(7) The Board or any member or person to whom any such notice of action is given, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and if the tender is not
5 accepted may plead the tender as a defence to the action.

73. (1) Except as otherwise provided, a person who is guilty of an offence against this Act shall be liable to a penalty not exceeding two hundred dollars and, in the case of a continuing offence, a penalty not exceeding fifty dollars for each
10 day the offence continues. Proceedings
for
offences.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate sitting in petty sessions alone.

(3) A prosecution for an offence under any of the
15 provisions of this Act (other than section 74) may be commenced at any time within one year after the Board first becomes aware of the commission of the offence.

74. (1) Without affecting the generality of the provisions of the Crimes Act 1900, any licensee who— Wrongful
conversion
and false
accounts.

20 (a) fraudulently converts to his own use or to the use of any other person—

(i) any moneys, or any part of any moneys, received by him on behalf of any person in respect of any transaction in his capacity as
25 a travel agent; or

(ii) any moneys, or any part of any moneys, so received which are held by him in trust pending the completion of any transaction;

(b) fraudulently omits to account for, deliver or pay—

30 (i) any such moneys or any part thereof so received by him on behalf of any person to such person; or

(ii)

Travel Agents.

- 5 (ii) any such moneys or any part thereof so received by him which are or were held by him in trust as aforesaid pending the completion of the transaction to the person or persons entitled to such moneys; or
- (c) fraudulently renders an account, knowing such account to be false in any material particular—
- 10 (i) of any such moneys or any part thereof so received by him on behalf of any person;
- (ii) of any moneys so received by him which are or were held by him in trust pending the completion of any transaction or any part of such moneys; or
- 15 (iii) of expenses, commission or other charges incidental to any transaction or proposed or contemplated transaction as a travel agent,

shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years.

- 20 **75.** Except where a penalty is provided for an offence by an individual any act which by this Act is declared to be an offence and which is committed by a body corporate and is proved to have been committed with the consent or approval of any director, or other officer of the body corporate, he, as
- 25 well as the body corporate, shall be deemed to be guilty of the offence, and he may be proceeded against and shall be liable to the pecuniary penalty or imprisonment or both provided by this Act.

- 76.** (1) Any charge, fee, remuneration or money due to the Board under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction.

Recovery
of charges,
etc.

Travel Agents.

(2) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand.

77. (1) The Board shall, as soon as practicable after the ^{Annual} thirtieth day of June in each year, forward to the Minister a report.
5 report of its work and activities for the year ended on the thirtieth day of June then last past.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as
10 practicable after the receipt by him of the report.

78. (1) The Governor may make regulations not ^{Regulations.} inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or
15 giving effect to this Act.

(2) Without prejudice to the generality of the power conferred by subsection (1) the Governor may in and by the regulations—

- (a) prescribe any forms to be used under this Act;
- 20 (b) prescribe the procedure to be followed on applications and other proceedings under this Act;
- (c) prescribe the duties and functions of the registrar;
- (d) prescribe the books, accounts (including trust
25 accounts) and records to be kept by a licensee and the form and mode of keeping such books, accounts and records;
- (e) prescribe different classes of licences having regard to the number of persons employed in the business of a travel agent or the gross annual income of a
30 travel agent or on such other basis as may be determined by the Board;

(f)

Travel Agents.

- (f) prescribe different fees payable under section 16 (3) in respect of different classes of licences referred to in paragraph (e);
- 5 (g) prescribe different initial contributions and different annual contributions payable under section 48 in respect of different classes of licences referred to in paragraph (e).

(3) The regulations may impose a penalty not exceeding two hundred dollars for any offence against the regulations and, in the case of a continuing offence, a further
10 penalty not exceeding fifty dollars for each day the offence continues.

79. The power under section 78 to make regulations may be exercised— Exercise of power under sec. 78.

- 15 (a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified exceptions, or in relation to any specified cases or class of cases; and
- (b) so as to make, as respects the cases in relation to
20 which it is exercised—
- (i) the same provision for all cases to which the power is exercised, a different provision for different cases or classes of cases, or different provisions as respects the same case
25 or class of case for different purposes of this Act; or
- (ii) any such provision either unconditionally or subject to any specified condition.

BY AUTHORITY

V. C. N. BLIGHT, C.B.E., GOVERNMENT PRINTER, NEW SOUTH WALES—1973

[55c]

Article 1973

(1) The power under section 1973 to make regulations may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified cases or class of cases; and

(b) so as to make a regulation in relation to which it is exercised—

(i) the same provision for all cases to which the power is extended, a different provision for different cases or class of cases, or

(ii) any two or more of the following—

(a) the same provision for all cases to which the power is extended, a different provision for different cases or class of cases, or

(b) any two or more of the following—

(i) the same provision for all cases to which the power is extended, a different provision for different cases or class of cases, or

(ii) any two or more of the following—

(a) the same provision for all cases to which the power is extended, a different provision for different cases or class of cases, or

(b) any two or more of the following—

(i) the same provision for all cases to which the power is extended, a different provision for different cases or class of cases, or

(ii) any two or more of the following—

(a) the same provision for all cases to which the power is extended, a different provision for different cases or class of cases, or

(b) any two or more of the following—

PROOF

TRAVEL AGENTS BILL, 1973

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to establish a body corporate to be known as the Travel Agents Registration Board and regulate the proceedings and specify the functions of that Board;
- (b) to provide for the licensing of persons carrying on the business of a travel agent (except in certain cases), and for the renewal and cancellation of any such licence;
- (c) to impose duties on persons carrying on the business of a travel agent;
- (d) to establish a Travel Agents Fidelity Guarantee Fund;
- (e) to make other provisions of a consequential or ancillary nature.

PROOF

No. , 1973.

A BILL

To provide for the licensing of travel agents and for the regulation of their operations; to make provision for the constitution of a Travel Agents Registration Board; and for purposes connected therewith.

[MR LEWIS—10 April, 1973.]

BE

Travel Agents.

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
5 follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Travel Agents Act, Short title.
1973".

10 2. This Act is divided as follows :—

Division of
Act.

PART I.—PRELIMINARY—ss. 1–6.

PART II.—TRAVEL AGENTS REGISTRATION BOARD—
ss. 7–9.

PART III.—TRAVEL AGENTS GENERALLY—ss. 10–33.

15 DIVISION 1.—*Licences*—ss. 10–17.

DIVISION 2.—*Licensees Generally*—ss. 18–33.

PART IV.—DISCIPLINARY PROVISIONS—ss. 34–41.

PART V.—APPEALS—s. 42.

20 PART VI.—TRAVEL AGENTS FIDELITY GUARANTEE
FUND—ss. 43–60.

PART VII.—FINANCE—ss. 61–63.

PART VIII.—GENERAL—ss. 64–79.

3. (1) Part I shall commence on the date of assent to Commence-
this Act. ment.

Travel Agents.

(2) Parts II, VII and VIII (except sections 78 and 79) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

5 (3) Parts III, IV, V and VI shall commence on such day (being a day that is later than the day appointed and notified pursuant to subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

10 (4) Sections 78 and 79 shall commence on the date of assent to this Act but so that any regulation made for or with respect to any matter relating to any provision of this Act shall not take effect until that provision commences.

15 (5) Notwithstanding that a day or days has or have not been appointed pursuant to subsection (3) or (4), or that the day or days so appointed has or have not arrived, the Board may exercise and perform such powers, authorities, duties and functions as the Board thinks necessary for the purpose of preparing for the coming into operation of the provisions of this Act that commence on the day or days so
20 appointed, being powers, authorities, duties and functions that could be exercised or performed by it on or after that day.

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

25 “Board” means the Travel Agents Registration Board constituted under this Act;

“director” includes any person occupying the position of director of a corporation, by whatever name called, and the secretary of a corporation;

30 “firm” means a firm within the meaning of the Business Names Act, 1962;

“fund” means the Travel Agents Fidelity Guarantee Fund established under this Act;

“licence”

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"licence" means a licence in force under this Act;

"licensee" means an individual, corporation or firm, that holds a license granted to him or on his or its own behalf;

5 "money" includes an instrument for the payment of money in any case where the instrument may be paid into a bank;

"person" means an individual, a firm or a corporation;

10 "registrar" means the registrar appointed for the purposes of this Act;

"regulations" means regulations under this Act;

15 "superintendent of licenses" means the individual for the time being holding office as superintendent of licenses under section 119 (1B) of the Liquor Act, 1912.

5. (1) This Act shall not be construed as requiring—

(a) any Minister of the Crown;

(b) any Government Department or any statutory corporation representing the Crown;

20 (c) any prescribed public statutory authority; or

(d) any officer or employee of the Crown or of any such Minister, Department, corporation or authority in the exercise of his functions as such officer or employee,

25 to hold a licence.

(2) Nothing in this Act shall be construed as requiring the Public Trustee or any executor, administrator, trustee, liquidator, official receiver, master in equity, master in the protective division, trustee in bankruptcy of a bankrupt's estate, trustee under a composition or scheme of arrangement

Act not to apply to any Government Department, etc.

or

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or under a deed of arrangement or under a deed of assignment, committee of the estate or person of a mentally ill person or manager of the property of an incapable person, for the purpose of performing his functions, exercising his powers
5 or carrying out his duties as such, to hold a licence.

(3) Notwithstanding anything in subsection (2), it shall not be lawful for any of the persons referred to in that subsection in whom is vested the management of the business of any travel agent to carry on that business at any time after
10 the expiration of three months from the date upon which the management of that business was so vested, unless that person holds a licence.

(4) Nothing in this Act shall be construed—

- 15 (a) as rendering any person referred to in subsection (2) liable to any proceedings or to any penalty for performing any of his functions, or exercising any of his powers or carrying out any of his duties as such; or
- 20 (b) as relieving any person from the obligation to take out a licence from any Department of the Government or under any Act (other than this Act) for the performance of any function, the exercise of any power or the carrying out of any duty for which a licence would have been required if this Act had
25 not been passed or to pay the fees payable in respect of any such licence.

6. (1) Subject to this section, a person carries on the business of a travel agent if the person—

- 30 (a) sells tickets entitling an individual to travel, or otherwise arranges for an individual a right of passage, on any conveyance (not being a prescribed conveyance);

(b)

Business
of travel
agent.

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- 5 (b) sells to, or arranges or makes available for, an individual rights of passage to, and hotel or other accommodation at, one or more places (being places within or beyond New South Wales, or some of which are within and others of which are beyond New South Wales);
- (c) purchases for resale the right of passage on any conveyance (not being a prescribed conveyance);
- (d) carries on any activity which may be prescribed; or
- 10 (e) holds himself out as, or advertises that he is, willing to carry on any activity referred to in paragraph (a), (b), (c) or (d).

(2) An individual does not carry on the business of a travel agent by reason only of carrying on in the course of
15 his employment, any activity referred to in subsection (1) (a), (b), (c), (d) or (e).

(3) A person does not carry on the business of a travel agent in respect of any activity referred to in—

- 20 (a) subsection (1) (a) if he carries on that activity in respect of a conveyance of which he is the owner; or
- (b) subsection (1) (b) if he carries on that activity in respect of a conveyance and place of accommodation of which he is the owner.

25 (4) A person does not carry on the business of a travel agent by reason only of holding himself out as, or advertising that he is, willing to carry on any activity to which subsection (3) (a) or (b) applies.

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PART II.

TRAVEL AGENTS REGISTRATION BOARD.

7. (1) There is hereby constituted a corporation under Constitution the corporate name of the "Travel Agents Registration Board" of Board.
5 which shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act.

(2) The Board shall consist of three members, appointed by the Governor, of whom—

- 10 (a) one shall be a person nominated by the Minister and shall in and by the instrument of his appointment or by a subsequent instrument executed by the Governor, be appointed as the chairman of the Board;
- 15 (b) one shall be an officer or an employee within the meaning of the Public Service Act, 1902, nominated by the Minister; and
- (c) one shall be a representative of the tourist industry nominated by the Minister.

20 (3) A member of the Board shall, subject to this Act, be appointed for such term as is specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for such term as is specified in the instrument of his re-appointment.

25 (4) On the occurrence of a vacancy in the office of a member of the Board, the Governor may appoint a person to fill the vacant office so that the Board consists of persons appointed in accordance with subsection (2).

(5) A person who is of or over the age of seventy
30 years shall not be appointed as a member of the Board.

(6)

Travel Agents.

(6) The Minister may appoint a person to act as a member during the absence and in the place of any member who is on leave of absence granted by the Board and that person while he is so acting—

- 5 (a) shall have and may exercise and perform the powers, authorities, duties and functions of the member in whose place he has been appointed to act; and
- (b) shall be deemed to be the chairman of the Board or a member other than the chairman, according to
10 whether he is appointed to act in the place of the chairman or another member.

- (7) A person shall not, under subsection (6), be appointed to act as a member in the place of a member who was nominated for appointment under subsection (2) (b) or
15 (c), unless upon the appointment of that person the Board would consist of persons appointed in accordance with subsection (2).

- (8) Each member of the Board shall be entitled to receive such expenses and, if the Minister so approves, such
20 fees and allowances for attending meetings and transacting the business of the Board as the Minister may from time to time determine.

- (9) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a
25 person to act as a member in the place of another member, and all things done or omitted by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by that member.

- (10) Where by or under any Act provision is made
30 requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, such provisions shall not operate to disqualify him from holding that office and also the office of a member of the Board and retaining any expenses, fees and allowances payable to him under this
35 section.

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(11) The office of a member of the Board shall not, for the purpose of any Act, be deemed to be an office or place of profit under the Crown.

5 (12) The provisions of the Public Service Act, 1902, shall not apply to or in respect of any member of the Board in his capacity as such a member during his term of office.

(13) A member of the Board shall be deemed to have vacated his office—

- (a) if he dies;
- 10 (b) if he is absent from four consecutive ordinary meetings of the Board of which reasonable notice has been given him personally or in the ordinary course of post except on leave granted by the Board, unless he is, before the expiration of four weeks after the
- 15 last of such meetings, excused by the Board for his absence from those meetings;
- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any
- 20 assignment of his fees, allowances or estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- 25 (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of a felony or
- 30 misdemeanour which if committed in New South Wales would be a felony or misdemeanour so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Governor, and the Governor accepts the resignation;

(g)

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- (g) if he is removed from office by the Governor;
- (h) where he is a member (other than the member appointed under subsection (2) (b) or under subsection (4) or (6) to replace that member), on the day on which he attains the age of seventy years; or
- (i) where he is the member appointed under subsection (2) (b) or under subsection (4) or (6) to replace that member, on the day on which he ceases to be an officer or employee within the meaning of the Public Service Act, 1902.

(14) The Governor may, for any cause which appears to him sufficient, remove any member of the Board from office.

8. (1) The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

(2) The chairman of the Board shall preside at any meeting of the Board.

(3) The chairman of the Board and one other member shall form a quorum and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

(4) The chairman of the Board shall, in the event of an equality of votes, have in addition to a deliberative vote a second and casting vote.

(5) A decision of a majority of the members present at a meeting of the Board at which a quorum is present shall be the decision of the Board.

(6)

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(6) The Board shall cause full and accurate minutes to be kept of its proceedings at meetings.

5 (7) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member of the Board or by any person whomsoever acting under the direction of the Board shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act, subject the member or person so acting personally to any action, liability, claim or demand whatsoever.

10 (8) Nothing in subsection (7) shall exempt any member of the Board from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which the member authorised or joined in authorising.

15 9. (1) Except as provided by subsection (7), a registrar, deputy registrar and such other officers and employees as may be necessary for the purpose of carrying out the provisions of this Act may be appointed by the Governor under and subject to the Public Service Act, 1902. ^{Officers and employees.}

20 (2) The registrar shall have and may exercise and perform the powers, authorities, duties and functions conferred and imposed upon the registrar by or under this Act.

25 (3) The registrar may, by an instrument in writing, delegate all or any of his powers or functions under this Act (except this power of delegation) to the deputy registrar who, when acting in pursuance of any such delegation, shall be deemed to be the registrar.

(4) A delegation by the registrar under this section—
 30 (a) shall not prevent the registrar from exercising any power or function under this Act; and
 (b) may be revoked at any time by the registrar.

(5)

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(5) For the purposes of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Board by this or any other Act, the Board may, with the approval of the Minister of the Department
5 concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(6) The Board may for like purposes, with the approval of any public authority and on such terms as may
10 be arranged, make use of the service of any of the officers, servants or employees of that public authority.

(7) The Board may, with the approval of the Public Service Board, appoint and employ, on a casual basis and on such other terms and conditions as may be approved by the
15 Board, individuals to act as inspectors of the accounts and activities of—

- (a) applicants for a licence;
- (b) licensees, or the members of a firm or the directors of a corporation, that is the holder of a licence;
- 20 (c) former licensees, or the members of a firm or the directors of a corporation that was the holder of a licence.

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PART III.

TRAVEL AGENTS GENERALLY.

DIVISION 1.—*Licences.*

10. (1) An individual, firm or corporation shall not carry
5 on the business of a travel agent unless he or it is the holder
of a licence granted to him or it on his or its own behalf.
- Persons carrying on business of travel agent to be licensed.
- Penalty : \$2,000 and, in the case of a continuing offence,
15 \$200 for each day the offence continues.

- (2) An individual who carries on the business of a
10 travel agent shall have in charge at each place at which he
carries on that business (other than the place at which he is in
charge) an individual nominated by him and in respect of
whom he is the holder of a licence.

Penalty : \$1,000 and, in the case of a continuing offence,
15 \$200 for each day the offence continues.

- (3) A firm that carries on the business of a travel
agent shall have in charge at each place at which it carries
on that business (other than a place at which a member of
the firm is in charge) an individual nominated by the firm and
20 in respect of whom it is the holder of a licence.

Penalty : \$1,000 and, in the case of a continuing offence,
\$200 for each day the offence continues.

- (4) A corporation that carries on the business of a
travel agent shall have in charge at each place at which it
25 carries on that business an individual nominated by the cor-
poration and in respect of whom it is the holder of a licence.

Penalty : \$1,000 and, in the case of a continuing offence,
\$200 for each day the offence continues.

- (5) An individual shall not be nominated under sub-
30 section (2), (3) or (4) to be in charge at more than one place
of business.

(6)

Travel Agents.

(6) This section shall not have effect until the date that is three months after the date of commencement of this Part.

11. (1) A licence shall be in or to the effect of such Form of
5 form and contain such particulars as may be prescribed. licences.

(2) A licence taken out by a firm shall name the members of the firm.

(3) Subject to this Act, a licence shall be in force for a period of twelve months from the date of its issue.

10 (4) A licence may be renewed and on each such renewal, subject to this Act, be in force for a further period of twelve months.

(5) The holder of a licence who desires to surrender the licence may by instrument in writing so notify the registrar
15 and may deliver the licence to the registrar, and upon his so notifying the registrar the licence shall cease to be in force.

(6) The registrar shall, upon receipt of the notification and the licence referred to in subsection (5), endorse on the licence the word "surrendered" and record in the register
20 kept by him under section 30 the fact that the licence has been surrendered.

(7) In any case where satisfactory proof has been given of the loss or destruction of a licence, the registrar may issue a duplicate licence subject to payment of the prescribed
25 fee.

12. (1) An application for a licence or for the renewal Procedure.
of a licence shall be made in the form prescribed.

(2)

Travel Agents.

(2) Such application shall—

- (a) contain such particulars as are prescribed;
- (b) be lodged with the registrar; and
- 5 (c) be accompanied by the prescribed fees and the prescribed initial contribution or the prescribed annual contribution, as the case may be.

(3) At least seven days before a person applies for a licence (not being a renewal of a licence) that person shall cause a notice in the prescribed form to be published in a
10 newspaper circulating generally throughout the State.

(4) Upon receipt of an application (not being an application under section 17) for a licence (not being an application for a renewal of a licence), the registrar shall forward particulars of the application to the superintendent of
15 licenses.

(5) The superintendent of licenses, upon receipt of the particulars referred to in subsection (4), shall inquire and report to the Board upon such matters as may be prescribed.

(6) Where an application for the renewal of a
20 licence is made before the day on which the licence would, but for this subsection, expire (which day is, in this subsection and subsection (7), referred to as "the date of expiry") and—

- (a) the renewal of the licence is not issued before the date of expiry; and
- 25 (b) the application is not refused or withdrawn before the date of expiry,

the licence shall be deemed to continue in force after the date of expiry until—

- (c) a renewal of the licence is issued;
- 30 (d) the application is refused or withdrawn; or

(e)

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(e) the expiration of twelve months after the date of expiry,
whichever first occurs.

(7) Where a renewal of a licence is, after the date
5 of expiry, issued in respect of the licence referred to in sub-
section (6), the renewal shall take effect as from the date of
expiry of the licence.

(8) Upon the refusal or withdrawal of an
application—

10 (a) for a licence (not being an application for a renewal
of a licence) there shall be refunded to the
applicant, or to any other person who appears to
the registrar to be entitled thereto, the fees paid
15 (other than the fees referred to in section 16 (3))
and the initial contribution paid by the applicant;

or

(b) for a renewal of a licence deemed by subsection
20 (6) to continue in force after the day on which the
licence would, but for that subsection, have expired,
there shall be refunded to the applicant or to any
other person who appears to the registrar to be
entitled thereto—

25 (i) the fees paid by the applicant in respect of
that application (other than the fees referred
to in section 16 (3)) reduced by such
amount as bears to those fees the same
proportion as the period in months (dis-
regarding any fraction of a month) for
30 which the licence was so deemed to continue
in force bears to twelve months; and

(ii) the initial contribution paid by the applicant
in respect of that application reduced by
such amount as the Board may determine.

(9)

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(9) A member of the police force, with the approval in writing of the superintendent of licenses, may object to the grant of an application (not being an application under section 17) for a licence (not being an application for a renewal of a licence) or a member of the Public Service or a person employed by the Board as an inspector in his capacity as such a member or inspector, or any other person within the time prescribed, may object to the grant of a licence (not being a renewal of a licence) or a member of the Public Service or a person employed by the Board as an inspector in his capacity as such a member or inspector may object to the renewal of a licence and, where an objection is proposed to be made under this section, a statement setting out the nature of the objection shall be lodged by that member of the police force, member of the Public Service or inspector or other person, as the case may be, with the registrar.

(10) A copy of a statement referred to in subsection (9) so lodged by a member of the police force shall be included in any report furnished pursuant to subsection (5).

(11) Where no objection to the grant of an application for the licence has been made, the registrar shall, subject to the provisions of this Part, issue the licence.

(12) Where any person objects pursuant to subsection (9) to the grant of the application the registrar shall notify the applicant, and shall set out shortly in the notice the nature of the objection proposed to be made.

(13) Any notice under subsection (12) shall set forth the time and place of hearing of the application.

13. (1) An application in respect of which an objection has been lodged pursuant to section 12 (9) shall be heard and determined as in open court at a meeting of the Board at which a quorum is present. Hearing of applications.

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(2) Such a meeting shall not take place until after the expiration of seven days after the lodging of the application.

(3) At the hearing of an application—

5 (a) the applicant may appear by himself or by a barrister, solicitor or agent appointed by the applicant; and

(b) the Board—

10 (i) may receive in evidence any written submissions made by the applicant but it is otherwise bound by the rules of law relating to the admissibility of evidence;

15 (ii) may allow a barrister or solicitor, a member of the police force, or a member of the Public Service, instructed by the Board, or a person employed by the Board as an inspector and instructed by the Board to appear before the Board for the purpose of adducing evidence tending to establish the grounds of objection to the application;

20 (iii) may call and receive evidence as to any matter relevant to the hearing;

(iv) may from time to time as it sees fit adjourn the hearing; and

25 (v) may, subject to section 13 of the Oaths Act, 1900, require evidence at the hearing to be on oath.

(4) The hearing may be held in the absence of the applicant if the Board is satisfied that the applicant was served 30 with reasonable notice of the time and place of the hearing.

(5) Service of any such notification may be proved by the oath of the person who effected the service or by the affidavit of that person.

(6)

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(6) The Board before whom an application for a licence is heard may of its own motion or on the application of the applicant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena
5 is addressed to attend as a witness at the hearing or so to attend and produce at the hearing any books, papers or writings in his possession or under his control relating to any matter relevant to the hearing and specified in the subpoena.

(7) A person who is served with a subpoena
10 addressed to him and to whom, at the time of service, is tendered an amount that is sufficient to cover his travelling and out-of-pocket expenses in attending the hearing specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause,
15 fail or refuse to obey the subpoena.

Penalty : \$200.

(8) A person to whom a subpoena is addressed is entitled to receive—

- 20 (a) where the subpoena was issued by the Board on its own motion, from the Board; or
- (b) where the subpoena was issued by the Board on the application of the applicant, from the applicant,

his reasonable costs, including any loss of earnings, incurred by him in obeying the subpoena, calculated in accordance
25 with the scales relating to subpoenas issued out of a District Court.

(9) Upon determination of the application the registrar shall notify the decision of the Board to the superintendent of licenses.

30 (10) If the Board grants the application, the registrar shall issue the licence.

(11)

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(11) If the Board refuses an application for a licence or a renewal of a licence the determination of the Board has no force or effect until notice of the determination is served on the applicant and the time limited for appealing against the Board's determination has expired or, where within that time an appeal against the determination has been made under Part V, the appeal has been dealt with or withdrawn.

(12) A licence or a renewal of a licence shall not be granted—

10 (a) in respect of any individual nominated under section 10 (2), (3) or (4)—

(i) unless the individual is of or above the age of eighteen years;

15 (ii) where the individual is disqualified from holding a licence under this Act, or is in the opinion of the Board not of good fame and character or otherwise a fit and proper person, if he were to apply for a licence, to hold the licence;

20 (iii) if the Board is satisfied that the individual is unlikely to be able to perform the duties generally performed by a travel agent by reason of the inadequacy of his educational attainments or experience;

25 (iv) if the individual has been convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he has been convicted elsewhere than in New South
30 Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable;

(v) if the individual does not meet such other requirements as may be prescribed; or

(vi)

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- (vi) if the person so nominating the individual is not the holder on his own behalf of a licence;

(b) to an individual on his own behalf—

- 5 (i) unless he is of or above the age of eighteen years;
- 10 (ii) where he is disqualified from holding a licence under this Act, or is in the opinion of the Board not of good fame and character or otherwise a fit and proper person to hold a licence;
- 15 (iii) if the Board is satisfied that he is unlikely to be able to perform the duties generally performed by a travel agent by reason of the inadequacy of his educational attainments or experience;
- (iv) unless the Board is satisfied that he has sufficient financial resources to carry on the business of a travel agent;
- 20 (v) if he has been convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he has been convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable; or
- 25 (vi) if he does not meet such other requirements as may be prescribed;
- 30 (c) to a firm on its own behalf, if the Board would not, on any of the grounds referred to in paragraph (b), grant a licence to any member of the firm if he were to apply for a licence or if the firm is disqualified from holding a licence under this Act; or
- (d)

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(d) to a corporation on its own behalf—

- (i) where the corporation is disqualified from holding a licence under this Act;
- 5 (ii) where the Board is satisfied that the corporation is substantially owned or controlled by a person who is disqualified from holding a licence under this Act or that any director of the corporation is not of good fame or character or otherwise a fit and proper person, if he were to apply for a licence, to hold the licence or that the corporation is not a fit and proper person to hold a licence on its own behalf;
- 10 (iii) unless the Board is satisfied that the corporation has sufficient financial resources to carry on the business of a travel agent; or
- 15 (iv) if the corporation does not meet such other requirements as may be prescribed.

14. (1) Where application for renewal of a licence is not made before the expiration of the licence the person who held such licence may make application for the restoration of the licence. Restoration of licence.

(2) Any such application shall be made to the registrar in or to the effect of the prescribed form.

25 (3) Upon an application for restoration of any licence being made the like fees and prescribed contribution as are payable on the renewal of a licence shall be paid and the registrar shall issue to that person a provisional licence.

(4) Upon the issue of a provisional licence under subsection (3) the applicant shall for all purposes of this Act other than in respect of any proceedings which may have been or may be instituted against him for a contravention of section

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10 be deemed to be and to have been as from the expiration of the licence in respect of which the application for restoration is made the holder of a licence until such time as his licence has been restored to him pursuant to this section or until the
5 application for restoration is refused or withdrawn.

(5) An application for restoration of a licence shall be heard and determined by the Board.

(6) The Board may, if satisfied that such non-renewal is due to inadvertence or that for any reason it is just and
10 equitable that the licence should be restored or the result of such inadvertence should be remedied, order that such licence be restored and may authorise the issue of a new licence for the balance of the term for which the licence would have been available if duly renewed.

15 (7) The provisions of section 12 (subsections (6) and (11) excepted) shall, with such modifications as may be necessary, apply to and in respect of an application for the restoration of a licence under this section in all respects as if the same were an application for renewal of a licence and shall
20 so apply as if section 12 (8) (b) were amended by omitting the words "licence was so deemed to continue in force" and by inserting instead the words "provisional licence had effect".

15. Subject to such conditions and restrictions, and in Variation of licence.
such circumstances, as may be prescribed, the registrar may,
25 on application made in that behalf, vary a licence—

- (a) by substituting for the name of a person nominated under section 10 (2), (3) or (4) the name of another person so nominated;
- 30 (b) by adding to the list of members of a firm named in the licence the name of a new member of the firm, or by deleting from that list the name of a member who has ceased to be a member of the firm; or
- (c) in such other manner as may be prescribed.

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16. (1) The fees payable for a licence, or for the variation or renewal of a licence, shall be such fees as may be prescribed. Fees payable for licence.

5 (2) The fees referred to in subsection (1) shall accompany the application for the licence, or for the variation or renewal of the licence, as the case may be.

(3) Each application for a licence or for the variation or renewal of a licence shall also be accompanied by an administration fee of such amount as may be prescribed.

10 (4) The fees payable pursuant to subsection (3) shall be paid into a bank in New South Wales to the credit of a separate account to be called the "Travel Agents Administration Account" and that account shall be operated upon in such manner as the Board may from time to time
15 determine.

(5) There shall be paid out of the account referred to in subsection (4)—

- 20 (a) all costs and expenses incurred by the Board in the exercise and discharge of its powers, authorities, duties and functions under this Act;
- (b) any expenses, fees and allowances payable to members of the Board; and
- 25 (c) such amount as may be determined in respect of the remuneration or allowances payable to the registrar, deputy registrar and any other officer or employee appointed pursuant to section 9.

(6) The amount payable under subsection (5) (c) shall be paid to the Treasurer to be carried by him to the Consolidated Revenue Fund.

30 (7) Any surplus moneys in the account may be invested in any manner in which trustees are for the time being authorised to invest trust funds, or on deposit for such period not exceeding two years as the Board deems proper with any

bank

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bank or corporation prescribed by the rules of court as a bank or corporation to which trust moneys may be paid under section 15 of the Trustee Act, 1925.

17. (1) Where the Governor is satisfied that in any State ^{Interstate} or Territory of the Commonwealth (other than New South ^{licences.} Wales) a law is in force under which any person holding a licence resident in New South Wales may obtain a licence to carry on the business of a travel agent in that other State or Territory, the Governor may by notification published in the Gazette declare that on and after a date to be specified in the notification, and while the notification remains in force, this Act shall extend and apply to the granting in New South Wales of a licence to residents in such other State or Territory.

15 (2) The Governor may, if he thinks fit, revoke any such notification.

(3) In the case of a resident in any State or Territory of the Commonwealth with respect to which a notification under this section is in force a licence shall be granted to such resident only if he holds a licence to carry on the business of a travel agent in that State or Territory.

DIVISION 2.—Licensees Generally.

18. (1) An individual disqualified under this Act shall ^{Effect of dis-} not, while his disqualification continues, be, or continue to be, ^{qualification.} a director of any corporation, or a member of any firm, carrying on the business of a travel agent in New South Wales.

Penalty : \$1,000 and, in the case of a continuing offence, \$200 for each day on which the offence continues.

(2) A person shall not obtain or continue to hold a licence in respect of an individual disqualified under this Act.

Penalty : \$500.

19.

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19. Where the Board has made an order that a licence be delivered up to the registrar the holder of the licence shall comply with the order forthwith.

Failure to deliver up licence.

Penalty : \$500.

20. A licensee shall display, in such manner as may be prescribed, at each place at which the licensee carries on the business of a travel agent, such particulars of his business as may be prescribed.

Licensee to display certain particulars.

Penalty : \$500.

21. No person shall keep or exhibit or allow to remain unobliterated on or near to his office, house or place of business or exhibit anywhere any sign, writing, painting or other mark implying that such office, house or place of business is that of a person licensed unless he is the holder of a licence.

Prohibition against misleading signs.

Penalty : In the case of a corporation \$2,000, and in the case of an individual \$500 or six months imprisonment or both.

22. (1) A licensee shall not, except with the approval of the Board knowingly employ in any way whatever in connection with his business any individual—

Certain persons not to be employed by licensees.

(a) who is for the time being disqualified from holding a licence or whose licence has been cancelled unless a licence has been subsequently granted to him;

or

(b)

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(b) whose application for a licence has been refused (otherwise than pursuant to section 13 (12) (b) (i), (iii), (iv) or (vi)), unless such an application has been subsequently granted.

5 (2) A licensee whose application for approval under section 23 is granted shall comply with such conditions as are imposed pursuant to that section in relation to the approval.

10 (3) Subject to this section no such person shall participate or be in any way concerned in the business of a licensee.

(4) Any licensee or any person who commits any contravention of or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

15 **23.** (1) An application for the approval of the Board referred to in section 22 (1) or for the removal or variation of any conditions imposed under this section in relation to the approval, shall be made by the licensee concerned in or to the effect of the form prescribed and shall be lodged with
20 the registrar.

Procedure
for
approvals
under
section 22.

(2) The Board may require an applicant under this section to supply it with any further information it considers necessary in relation to the application.

(3) The Board may—

25 (a) in the case of an application for the approval referred to in section 22 (1), grant the application conditionally or unconditionally or refuse the application; or

30 (b) in the case of an application for the removal or variation of any conditions imposed under this section, grant or refuse the application and in either case, if it thinks fit, impose other conditions,

and

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and the registrar shall in writing notify the applicant as soon as practicable of the Board's determination.

24. (1) A licensee shall not knowingly enter into any arrangement or act in conjunction with any person, not being
5 an employee in his business as a licensee, who is not licensed under this Act whereby such person is entitled to a share of the commission, fee, gain or reward payable to such licensee in respect of any transaction by or with him as a licensee or generally.
- Licensee not to share commission, etc., with certain persons.

10 Penalty: \$1,000.

(2) A licensee shall not, without the prior consent in writing of the registrar, carry on business as such or advertise or in any manner whatsoever hold out that he carries on business as such—

- 15 (a) under the name, or a name nearly resembling the name, whereunder a person whose licence has been cancelled under or in pursuance of this Act was carrying on business as a licensee immediately before his licence was cancelled; or
- 20 (b) under a name implying or capable of being construed as implying that he is the successor in the business, or in any way interested or concerned in continuing the business as a licensee, of a person whose licence has been cancelled under or in
- 25 pursuance of this Act.

Penalty: \$2,000.

(3) Nothing in subsection (2) shall prohibit the carrying on by a licensee of his business as such under his true name without any addition or adaptation whatsoever.

Travel Agents.

25. Except where he has reasonable excuse for not doing so, a licensee shall on demand, at the premises upon which he carries on his business, produce his licence to any member of the police force of or above the rank of sergeant, to any
5 officer of the Board authorised by the Board, or to any person with whom such licensee is transacting or attempting to transact any business as a travel agent.

Production
of licence.

Penalty: \$500.

26. Any licensee who lets out, hires or lends any licence
10 held by him to any other person or permits any other person to use his licence shall be guilty of an offence against this Act, and on conviction for such an offence, and in addition to any penalty, any licence held by him shall thereupon become absolutely void and shall be delivered up to the registrar and
15 cancelled.

Licensee
not to lend
licence.

27. Subject to this Act, no person shall be entitled to bring any proceedings in any court to recover any commission, fee, gain or reward for any service done or performed by him in carrying on the business of a travel agent unless he was
20 the holder of a licence at the time of performing such service or such service was done or performed before the expiration of three months after the date of commencement of this Part.

Provisions
as to
commis-
sions, etc.

28. (1) Any licensee who publishes (whether in a news-
paper or otherwise) any advertisement relating to or in
25 connection with the business of a travel agent without specifying therein the following particulars—

Publication
of name and
place of
business in
advertisements.

(a) where such licensee is an individual carrying on the business of a travel agent in his own name and is not a member of a firm, his name and the address
30 of his place of business;

(b)

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- 5 (b) where such licensee is an individual carrying on the business of a travel agent under a business name registered or deemed to be registered under any Act for the time being in force relating to the registration of business names, then either his name or such business name and the address of his place of business;
- 10 (c) where such licensee carries on the business of a travel agent as a member of a firm, then either his name or the name of the firm of which he is a member, or the name under which the firm is registered or deemed to be registered under any Act for the time being in force relating to the registration of business names, and the address of his or its place of business;
- 15 (d) where such licensee is a corporation and the corporation is carrying on the business of a travel agent in its own name, the name of the corporation and the address of its place of business; or
- 20 (e) where such licensee is a corporation and the corporation is carrying on business under a business name registered or deemed to be registered under any Act for the time being in force relating to the registration of business names, then either in its
- 25 own name or such business name, and the address of its place of business,

shall be guilty of an offence against this Act.

(2) Where a licensee carries on business at more than one place of business any such advertisement may specify
30 the address of any one of such places.

29. (1) Any licensee who publishes or causes to be published in the course of his business as such any statement which—

Penalty for publishing false or misleading advertisements.

- 35 (a) is intended or apparently intended by such licensee to promote the sale of any right, matter or thing specified in section 6; and

(b)

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(b) is (whether to his knowledge or not) false or misleading in any material particular,

shall be guilty of an offence against this Act.

(2) Without limiting the generality of subsection (1) a statement shall, for the purposes of subsection (1), be deemed to be false or misleading if it is of such a nature that it would reasonably tend to lead a person reading it to believe in a state of affairs that does not in fact exist, whether or not the statement indicates that that state of affairs does exist.

(3) A statement shall be deemed to be published within the meaning of this section if it is—

(a) inserted in any newspaper or any other publication printed and published in New South Wales;

(b) publicly exhibited—

(i) in, on, over or under any building, vehicle or place (whether or not a public place and whether on land or water); or

(ii) in the air in view of persons being or passing in or on any street or public place;

(c) contained in any document gratuitously sent or delivered to any person or thrown or left upon premises in the occupation of any person; or

(d) broadcast by wireless transmission or television.

(4) It shall be a sufficient defence for a person charged with an offence against this Act arising under subsection (1) if that person proves that—

(a) he took all reasonable precautions against committing the offence;

(b) in relation to a statement—

(i) not being a statement referred to in subsection (2), he had reasonable grounds for believing and did in fact believe that the statement was true; or

(ii)

Travel Agents.

(ii) referred to in subsection (2), he had reasonable grounds for believing in the existence of the state of affairs first referred to in subsection (2) and did in fact believe that that state of affairs existed; and

(c) he had no reason to suspect that the statement was false or misleading.

(5) Notwithstanding any proceedings against any person for an offence under this section (whether resulting in a conviction or otherwise) such person shall remain liable to all civil proceedings in like manner as if the proceedings for an offence had not been taken.

(6) This section shall be read and construed as in aid of and not in derogation from any enactment or law relating to false or misleading advertisements or other statements.

(7) In this section "newspaper" includes any periodical publication.

30. (1) The registrar shall keep a register of licences which shall be open to inspection, upon payment of the prescribed fee, by any person at the office of the Board at all times when that office is open for business. Register to be kept by the registrar.

(2) Licences shall be numbered consecutively.

(3) The register shall contain—

(a) particulars of—

- (i) all licences;
- (ii) all renewals, restorations, variations and cancellations of licences; and
- (iii) all persons disqualified from holding a licence; and

(b) such other particulars as may be prescribed.

31.

Travel Agents.

31. A person shall not, in any application for a licence, wilfully make a false or misleading statement.
Penalty: \$500.

False or
misleading
statements
in
applications.

32. (1) A licensee shall not—

Offences by
holders of
licences.

- 5 (a) except with the approval in writing of the Board,
knowingly assist in any way a person who is not a
licensee to carry on the business of a travel agent;
- 10 (b) undertake to carry out any travel agent's business
under a name other than the name shown in the
licence;
- (c) represent to any person that he holds a licence bear-
ing a number other than the number of the licence
held by him;
- 15 (d) without reasonable excuse, fail to perform his duties
to his client or to carry out the instructions of his
client;
- 20 (e) offer or sell, or advertise that he will offer or sell,
tickets or rights of passage on any conveyance (not
being a prescribed conveyance), or reservations for
accommodation at any hotel or other place, that he
is not authorised to offer or sell; or
- 25 (f) without reasonable excuse fail to arrange tickets or
rights of passage on any conveyance (other than a
prescribed conveyance), travel or accommodation
or reservations that he has undertaken to arrange.

Penalty : \$500.

(2) A licensee shall, within seven days after any
change in any prescribed particulars as shown on his applica-
tion for the licence occurs, notify the registrar in writing of that
30 change.

Penalty : \$100.

Travel Agents.

33. A certificate purporting to be under the hand of the registrar certifying—

Certificate as to whether a person is the holder of a licence, etc.

- (a) that any person was or was not, on a date specified in the certificate, a licensee;
- 5 (b) that any licence was, on a date so specified, suspended for a period so specified; or
- (c) that any person was or was not, on a date so specified, disqualified, either permanently or for a period so specified, from holding a licence,

10 shall be received in any proceedings as evidence of that fact.

PART IV.

DISCIPLINARY PROVISIONS.

34. A licensee is guilty of improper conduct if—

Improper conduct.

- 15 (a) he commits an offence against this Act or the regulations, whether or not he has been convicted of the offence;
- (b) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if
- 20 he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable; or
- (c) he fails or neglects to comply with any provision of
- 25 this Act or the regulations with which he is required to comply.

35.

Travel Agents.

35. A complaint may be made to the Board by any person that—

Complaint
against
holders of
licences,
etc.

- 5 (a) a licence was improperly obtained contrary to the provisions of this Act or the holder of a licence has been guilty of improper conduct;
- (b) an individual is not a fit and proper person to continue to hold a licence;
- 10 (c) an individual nominated pursuant to section 10 (2), (3) or (4) is not a fit and proper person to continue to have a licence held in respect of him, or has been guilty of conduct which, if he had been the holder of a licence, would have amounted to improper conduct;
- 15 (d) a corporation or a firm is not a fit and proper person to continue to hold a licence; or
- 20 (e) a director of a corporation or a member of a firm, that holds a licence, is not a fit and proper person to be a director of the corporation or a member of the firm or has been guilty of conduct which, if he had been the holder of a licence, would have amounted to improper conduct.

36. (1) In this section "former licensee" means a person who—

Complaints
about
former
licensees.

- 25 (a) at any time during a period of five years before a complaint in respect of that person is made under subsection (2), has been the holder of a licence and has ceased to hold that licence;
- (b) has been an individual in respect of whom a licence was, during that period, held by any person and is not the holder of a licence or an individual in respect of whom a licence is held; or
- 30 (c)

Travel Agents.

- 5 (c) has, at any time during that period, been a director of a corporation, or a member of a firm, which, at any time during that period, has held a licence and is not a director of a corporation, or member of a firm, which holds a licence, or the holder of a licence.

(2) A complaint may be made to the Board by any person that—

- 10 (a) a former licensee had, as the holder of a licence, been guilty of improper conduct;
- (b) a former licensee had, as an individual referred to in paragraph (b) of the definition of "former licensee" in subsection (1), been guilty of conduct which, if he had been the holder of a licence, would have
- 15 amounted to improper conduct;
- (c) a former licensee is, as an individual referred to in paragraph (b) of the definition of "former licensee" in subsection (1), not a fit and proper person to hold a licence or to have a licence held in respect of
- 20 him by any person;
- (d) a former licensee had, as a director of a corporation or member of a firm referred to in paragraph (c) of the definition of "former licensee" in subsection (1), been guilty of conduct that renders him unfit
- 25 to be a director of a corporation, or a member of a firm, that holds a licence; or
- (e) a former licensee is, as a corporation or a firm referred to in paragraph (a) of the definition of "former licensee" in subsection (1), not a fit and
- 30 proper person to hold a licence on its own behalf or in respect of an employee.

37. (1) A complaint under section 35 or 36 shall be in Manner of or to the effect of the prescribed form and shall, except as making, provided in subsection (2), be accompanied by a deposit of complaints. 00

35 such amount as may be prescribed.

(2)

Travel Agents.

(2) A complaint need not be accompanied by a deposit if it is made by a member of the Public Service in the performance of his duties, or a person employed by the Board as an inspector in his capacity as such a member or inspector, or by a member of the police force in the performance of his duties.

(3) Where the Board has considered a complaint under section 38 (1) and has decided not to issue a notice under section 38 (1) in respect of the complaint, it shall, if it is of the opinion that the complaint is vexatious or frivolous in its nature, so declare and thereupon the amount deposited by the complainant shall be forfeited but, if it is not of that opinion, that amount shall be refunded by the registrar to the complainant.

38. (1) Upon receipt of a complaint under section 35 or 36, together with any deposit required under section 37, the Board shall consider the complaint and if it is of the opinion that the nature of the complaint warrants it so doing shall cause a notice to be issued calling upon the person (in this Part referred to as "the defendant") to whom the complaint relates to show cause why the licence held by him should not be cancelled or suspended or why he should not be dealt with under this Part and cause that notice to be served on the defendant.

(2) After consideration of the complaint the Board shall, by an instrument in writing served on the complainant, inform him whether or not it has decided that a notice be issued under subsection (1).

(3) The Board may, if in its opinion its investigations warrant its so doing and without having received a complaint, cause a notice to be issued calling upon the person (in this Part referred to as "the defendant") against whom a complaint may be made under section 35 or 36 to show cause why the licence held by him should not be cancelled or suspended or why he should not be dealt with under this Part and shall cause the notice to be served on that person.

(4)

Travel Agents.

(4) A notice served under subsection (1) or (3) shall—

- (a) give particulars of the grounds upon which the defendant is required to show cause; and
- 5 (b) appoint a time and place for the holding of an inquiry for the defendant to show cause, as required by the notice.

(5) Where the defendant is an individual referred to in section 35 (c) or (e), a copy of the notice shall be
10 served on the person who holds a licence in respect of that individual.

(6) Not earlier than the day on which the period fixed under subsection (7) in respect of a defendant expires, the Board shall at the time and place appointed by the notice
15 served on the defendant, or at such other time or place as may be appointed by the Board and notified in writing served on the defendant, cause an inquiry to be made into the grounds upon which the defendant has been called upon to show cause as required by that notice.

20 (7) The period referred to in subsection (6) is—

- (a) where the defendant is not an individual referred to in section 35 (c) or (e), seven days after the service on the defendant of the notice referred to in subsection (4); or
- 25 (b) where the defendant is such an individual, seven days after the service of the notice referred to in subsection (4) or (5), whichever notice was served the later.

39. (1) An inquiry under this Part shall be held as in
30 open court at a meeting of the Board at which a quorum is present.

*Inquiries—
how held.*

(2)

Travel Agents.

(2) At an inquiry under this Part—

(a) the defendant may appear by himself or by a barrister, solicitor or agent appointed by the defendant; and

5 (b) the Board—

(i) may receive in evidence any written submissions made by the defendant and, where the defendant is an individual referred to in section 35 (c) or (e), any written submissions made by the person who holds a licence in respect of that individual in answer to the notice served on the defendant under section 38 (4), but is otherwise bound by the rules of law relating to the admissibility of evidence;

10 (ii) may allow a barrister or solicitor, a member of the police force, or a member of the Public Service, instructed by the Board, or a person employed by the Board as an inspector and instructed by the Board to appear before the Board for the purpose of adducing evidence tending to establish the grounds upon which the defendant has been called upon to show cause as referred to in section 38;

15 (iii) may call and receive evidence as to any matter relevant to the inquiry;

(iv) may, from time to time as it sees fit, adjourn the inquiry; and

20 (v) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the inquiry to be given on oath.

(3) An inquiry under this Part may be held in the absence of the defendant if the Board is satisfied that the
35 defendant was served with reasonable notice of the time and place of the inquiry.

(4)

Travel Agents.

(4) Service of any such notice may be proved by the oath of the person who effected the service or by the affidavit of that person.

40. (1) The Board before whom an inquiry under this Subpoenas.
5 Part is held may of its own motion or on the application of the defendant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena is addressed to attend as a witness at the inquiry or so to attend and produce at the inquiry any books, papers or
10 writings in his possession or under his control relating to any matter relevant to the inquiry and specified in the subpoena.

(2) A person who is served with a subpoena addressed to him and to whom, at the time of service, is tendered an amount that is sufficient to cover his travelling
15 and out-of-pocket expenses in attending the inquiry specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause, fail or refuse to obey the subpoena.

Penalty : \$200.

20 (3) A person to whom a subpoena is addressed is entitled to receive—

- (a) where the subpoena was issued by the Board on its own motion, from the Board; or
- 25 (b) where the subpoena was issued by the Board on the application of the defendant, from the defendant, his reasonable costs, including any loss of earnings, incurred by him in obeying the subpoena, calculated in accordance with the scales relating to subpoenas issued out of a District Court.

Travel Agents.

41. (1) After an inquiry held under this Part, the Board may make any of the following determinations, that is to say, the Board may—

Determina-
tion of
Board after
inquiry.

- 5 (a) determine that no further action be taken against the defendant;
- (b) caution or reprimand the defendant;
- (c) suspend, for a period not exceeding the unexpired term of the licence, the licence held by or on behalf of the defendant;
- 10 (d) cancel any licence held by the defendant on his own behalf or on behalf of the defendant and disqualify the defendant, either permanently or for such period as may be specified in the determination, from holding a licence or from being a person in respect
- 15 of whom a licence may be held; or
- (e) where the defendant is—
 - (i) a director of a corporation or a member of a firm, which is the holder of a licence, and is not an employee on whose behalf a
 - 20 licence is held by the corporation or the firm; or
 - (ii) a former licensee as defined in section 36, disqualify him either permanently or for such period as may be specified in the determination, from
 - 25 holding a licence or from being a person in respect of whom a licence may be held,

as to the Board may seem proper after considering the evidence given and produced at the inquiry.

- (2) A determination of the Board under subsection
- 30 (1) (paragraph (a) excepted) has no force or effect until notice of the determination is served on the defendant and the time limited for appealing against the Board's determination has expired and, where within that time an appeal against the determination has been made under Part V, until
- 35 the appeal has been dealt with or withdrawn.

(3)

Travel Agents.

(3) Where the Board determines that a licence be suspended or cancelled and no appeal against the Board's determination has been made within the time limited for appealing against it, the holder of the licence shall, forthwith after the expiration of that time, lodge the licence with the Board.

Penalty : \$500.

(4) Nothing in subsection (1) affects the liability of a defendant for any offence against this Act or the regulations or against any other Act or any regulations, by-laws, ordinances or rules made under another Act.

PART V.

APPEALS.

- 42.** (1) Where the Board—
- 15 (a) refuses any application under section 13, 14, 15 or 23;
 - (b) grants an application under section 13, 14 or 15 to the granting of which a member of the police force has objected; or
 - 20 (c) makes a determination under section 41,
- the person making the application, or the licensee or the employee, or the director of a corporation or other person, as the case may be, where paragraph (a) applies, or the member of the police force where paragraph (b) applies, or the com-
 25 plainant, or the licensee or the employee, or the director of a corporation or other person, as the case may be, where paragraph (c) applies, may appeal to the District Court exercising jurisdiction in the district within which the person making the application or the employee or other individual resides
 30 or has or had his sole or principal place of business, as the case may be.

Right of
appeal.

(2)

Travel Agents.

(2) Every such appeal shall be dealt with by way of rehearing.

(3) Notice of appeal shall be given to such persons as may be prescribed by rules of court of the District Court or as the District Court may direct.

(4) The District Court, in deciding any such appeal, may confirm the determination of the Board appealed against or substitute for that determination any determination that the Board might have made.

(5) The decision of the District Court shall be final and shall be deemed to be the determination of the Board.

(6) Where the decision of the District Court is that a licence be suspended or cancelled, the holder of the licence shall, forthwith after the decision is given, lodge the licence with the Board.

Penalty : \$500.

(7) For the purposes of any such appeal the parties to the appeal to the District Court shall be deemed to include any of the following persons—

- (a) the person making the application or the licensee, or employee, or the director of a corporation or member of a firm or other person referred to in the statement of the ground on which the disqualification was imposed, as the case may be;
- (b) the member of the police force who objected to the grant of the application, in any case where the appeal is in proceedings arising out of an application to the granting of which such member of the police force had objected; and
- (c) the member of the police force or other person who made the complaint, in any case where the appeal is in proceedings arising out of a complaint made by him under section 35 or 36.

(8)

Travel Agents.

(8) Any appeal under this section in any case to which subsection (1) (a) applies shall not be commenced after the expiration of twenty-one days after the date of the determination refusing the application.

5 (9) An appeal under this section in any case to which subsection (1) (b) or (c) applies shall not be made by a complainant unless the Minister approves.

(10) An appeal under this section in any case to which subsection (1) (c) applies by a person other than a
10 complainant shall not be made after the expiration of twenty-one days after the date upon which the notice of the determination has been served on the defendant under section 41 (2).

(11) Any statement lodged under section 12 (9) setting out the nature of any objection to the grant of an
15 application or for the renewal of a licence, or ground of complaint made under section 35 or 36 by a member of the police force, or a member of the Public Service or a person employed by the Board as an inspector in his capacity as such a member or inspector in relation to the person making an appeal under
20 this section shall be admissible in evidence under this section.

PART VI.

TRAVEL AGENTS FIDELITY GUARANTEE FUND.

43. (1) There shall be a fund called the "Travel Agents The fund. Fidelity Guarantee Fund".

25 (2) The fund shall be the property of the Board and shall be applied for the purposes set out in this Part.

Travel Agents.

44. All moneys belonging to the fund shall, pending the investment or application thereof, be paid into a bank in New South Wales to the credit of a separate account to be called the "Travel Agents Fidelity Guarantee Account" and the account shall be operated upon in such manner as the Board shall from time to time determine. Separate bank account.

45. The fund shall consist of—

Moneys of the fund.

- (a) all sums paid by way of contribution or levy by licensees in accordance with this Act;
- 10 (b) the interest from time to time accruing from the investment of the fund; and
- (c) any other moneys that may be lawfully paid into the fund.

46. There shall from time to time be paid out of the fund as required and in such order as the Board deems proper— Expenditure.

- (a) all legal expenses in connection with claims made against the fund or the Board in respect of the fund or otherwise incurred in relation to the fund;
- 20 (b) the amount of all claims, including costs, allowed or established against the Board in respect of the fund as provided in this Act;
- (c) all refunds made to licensees or their personal representatives pursuant to this Act;
- 25 (d) the expenses involved in the administration of the fund;
- (e) any amounts payable to underwriters by virtue of any arrangement or contract mentioned in section 59; and
- 30 (f) any other moneys payable out of the fund in accordance with any of the provisions of this Act.

Travel Agents.

47. The fund shall be administered by the Board.

Administra-
tion
of fund.

48. (1) An initial contribution to the fund of such amount as may be prescribed shall be paid by every licensee and thereafter such other sum as may be prescribed shall be
5 paid annually by every licensee.

Contribution
to fund.

(2) Such contributions shall be in addition to any fees prescribed.

49. (1) If at any time or times the fund is, in the opinion of the Board, not sufficient to satisfy the liabilities of the Board
10 in relation thereto, the Board may, subject as hereinafter provided, by resolution, impose on every licensee, for payment into the fund, a levy of such amount as the Board thinks fit not exceeding such sum as may be prescribed.

Levies.

(2) The levy shall become payable on a date and in
15 a manner to be fixed by the Board.

(3) The Board may, in any special case, allow time for the payment of any levy or part thereof.

(4) If a licensee does not after the prescribed notice pay any levy the registrar shall report to the Board that such
20 licensee has not paid the levy, and shall upon direction of the Board make due record of the fact in the register and so long as the levy remains unpaid the licensee shall be deemed not to be the holder of a licence under this Act.

50. Any moneys in the fund which are not immediately
25 required for the purposes of the fund may be invested in any manner in which trustees are for the time being authorised to invest trust funds, or on deposit for such period not exceeding two years as the Board deems proper with any bank or corporation prescribed by the rules of court as a bank or
30 corporation to which trust moneys may be paid under section 15 of the Trustee Act, 1925.

Board may
invest funds.

Travel Agents.

51. (1) Subject to the provisions of this Act, the fund shall be held and applied for the purpose of reimbursing persons who may suffer pecuniary loss by reason of the theft or fraudulent misapplication by a licensee or by an employee of a licensee in the course of his employment with such licensee or a person having the apparent control or charge for the time being of any office or business of a licensee, of any money or other valuable property entrusted to the licensee or to such employee or other person in the course of the business of the licensee as a travel agent.

Application
of fund.

(2) For the purposes of subsection (1) and any other provision of this Part, a reference to a person having the apparent control or charge for the time being of the office or business of a licensee includes a reference to a person or body referred to in section 5 (2) carrying on the business of a licensee or deceased licensee.

(3) No person shall have any claim against the fund in respect of any theft or fraudulent misapplication committed before the commencement of this Part.

(4) In respect of any theft or fraudulent misapplication, in respect of which any claim against the fund arose, no person shall have a claim against the fund unless notice of the theft or fraudulent misapplication is given in writing to the Board as soon as reasonably practicable after the claimant has become aware of the theft or fraudulent misapplication (but in any event within a period of six months after having become so aware), or within a period of two years from the date of commission of the theft or misapplication, whichever period first expires.

(5) No person shall, unless the Board otherwise determines, be entitled to claim against the fund in respect of any loss through any theft or fraudulent misapplication unless and until there has been a conviction of a licensee, employee or other person for the theft or fraudulent misapplication except where the Supreme Court or, in any case where the amount of money or the value of the property the subject of

the

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the claim does not exceed two hundred dollars, a court of petty sessions held before a stipendiary magistrate, for reasons which to that court or magistrate shall be good and sufficient, has by an order certified that the person claiming to have
5 suffered loss should be permitted to claim against the fund notwithstanding that the licensee, employee or other person has not been convicted in respect of the theft or fraudulent misapplication.

(6) For the purposes of this section, where an offence
10 has been taken into account under section 447B of the Crimes Act 1900, the person who admitted his guilt in respect of the offence shall be deemed to have been convicted of the offence.

52. (1) Subject to section 51, the Board may receive and settle any claim against the fund at any time after the
15 commission of the theft or fraudulent misapplication in respect of which the claim arose but no person shall be entitled, without the leave of the Board, to commence any action in relation to the fund unless the Board has disallowed his claim. Claims against the fund.

(2) No person shall be entitled to recover from the
20 Board out of the fund by action an amount greater than the balance of the loss suffered by him after deducting from the total amount of that loss the amount or value of all moneys or other benefits received or recovered or which in the opinion of the Board might, but for his neglect or default, have been
25 received or recovered by him from any source other than the fund in reduction of the loss.

(3) The total amount which any person shall be entitled to recover in respect of any one transaction from the fund shall not in any case or in any event exceed ten
30 thousand dollars.

(4) The aggregate sum which may be applied in the reimbursement of all persons who suffer loss through theft or fraudulent misapplication by the same licensee, employee or other person shall not in any case or in any event exceed
35 such sum as may be prescribed.

(5)

Travel Agents.

(5) No amount shall be paid or be payable out of the fund as interest on the amount of any judgment obtained or of any claim allowed against the fund.

53. (1) The Board may cause to be published a notice, Advertise-
ment relat-
ing to
defaulting
licensee and
claims.
5 in or to the effect of the prescribed form, in a newspaper
published and circulating in the district in which a defaulting
licensee is or was carrying on business, and also in a daily
newspaper published and circulating in Sydney, and the
notice shall fix a date not being earlier than three months after
10 the publication, or the first publication, as the case may be,
before which claims must be made.

(2) Any claim referred to in subsection (1) not
made in writing on or before the date so fixed shall be barred
unless the Board otherwise determines.

15 54. After the date so fixed the Board shall be at liberty to Board may
distribute
sum
available.
distribute the sum from time to time available to be applied
in reimbursement under section 52 having regard only to
judgments obtained and claims allowed against the fund.

55. (1) Any proceedings brought against the Board in Defences.
20 relation to any claim upon the fund shall be as for a debt due
by the Board and shall be brought in a court of competent
jurisdiction.

(2) In any of the proceedings referred to in subsec-
tion (1) all defences which would have been available to the
25 licensee in relation to whom the claim arose shall be available
to the Board, and in any such proceedings all questions of
costs shall be in the discretion of the court or, where the pro-
ceedings are tried with a jury, the judge presiding at the trial.

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(3) Any order for the payment of costs made by a court of petty sessions under the provisions of subsection (2) shall operate as a judgment debt under the Courts of Petty Sessions (Civil Claims) Act, 1970, and be enforceable as such
5 under the provisions of that Act.

(4) No proceedings shall be brought against the Board in relation to any claim against the fund after the expiration of a period of six months after the time the Board has notified the claimant that it has disallowed the claim, or such
10 longer period as the court, on sufficient cause being shown, may, on such terms as it thinks fit, permit.

56. On payment out of the fund of moneys in settlement Subrogation.
in whole or in part of any claim under this Act, the Board shall be subrogated, to the extent of such payment, to all the
15 rights and remedies of the claimant against the licensee in relation to whom the claim arose, or any other person.

57. The Board may at any time and from time to time Board may
require production and delivery up of documents necessary require pro-
to support any claim made, or available for that purpose or duction, etc.,
20 for the purpose of exercising its rights against any defaulting of docu-
licensee and may in default of delivery up of any such ments.
documents reject any claim.

58. (1) No moneys or other property belonging to the Moneys
Board, other than the fund, shall be available for the satisfac- of Board
25 tion of any judgment obtained against the Board in relation not available
to the fund, or for the payment of any claim allowed by the to satisfy
Board, and if at any time the fund is not sufficient to provide judgments.
for the satisfaction of all such judgments and claims, they shall
(subject to the limitations fixed by this Act) to the extent to
30 which they are not so satisfied, be satisfied out of future
accumulations of the fund.

(2) No proceedings based upon the enforcement of any such judgment shall be taken without leave of the Supreme Court.

(3)

Travel Agents.

(3) Where the total amount of the judgments obtained and claims allowed exceeds the aggregate sum which may be applied in reimbursement under section 52, the Board may, in its discretion, determine the division and allocation
5 among the claimants respectively or any one or more of them, exclusively of the other or others of them, of the moneys for the time being payable out of the fund.

59. (1) The Board may, with the approval of the Minister and subject to such conditions as may be specified in the
10 approval, make such arrangements and enter into such contracts as to it may seem proper for the underwriting of any part of the Board's liability under section 52. Under-writers.

(2) Any arrangement or contract entered into by the Board for the purposes of subsection (1) shall not be subject
15 to stamp duty under the Stamp Duties Act, 1920.

60. (1) For the purpose of safeguarding the fund the chairman or any two members of the Board may at any time
20 and from time to time appoint an accountant to examine any trust accounts of any licensee kept for the purposes of his business as such specified in the appointment and to furnish to the Board a confidential report as to any irregularity or alleged or suspected irregularity in the accounts of such licensee that may be disclosed by such examination, or as to
25 any other matter that in the opinion of such accountant should, in the interest of the fund, be further investigated. Examination of account.

(2) A copy of the report shall forthwith be sent by the Board to the licensee concerned.

(3) Every appointment made under this section shall be in writing signed by the registrar and the chairman or the
30 members of the Board who made such appointment.

(4) Upon production by an accountant of the instrument of his appointment, he may require the licensee in respect of whom the appointment has been made, or in the absence
of

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of the licensee, any person having the apparent control or charge for the time being of the office or business of the licensee to produce to the accountant and any assistant of the accountant all books, papers, accounts, securities or other
5 documents relating to the business or accounts of the licensee, so far as the same relate to the trust accounts of the licensee or any written record made and kept by the licensee pursuant to the regulations, and to give all information in relation thereto and to furnish all authorities and orders to bankers
10 and others that may be reasonably required of him or them, and if any such person without lawful justification or excuse, the proof whereof shall lie on him, refuses or fails so to do, or otherwise hinders, obstructs or delays the accountant in the performance of his duties or the exercise of his powers
15 under this section, he shall be guilty of an offence against this Act.

(5) No accountant appointed to make any examination of accounts for the purposes of this section shall communicate that fact or any matter which may come to his
20 knowledge in the course of the examination to any person except in the course of his report to the Board or in the like circumstances and to the like extent as a person is permitted to disclose information under section 67.

(6) No assistant of an accountant appointed to make
25 an examination of accounts for the purposes of this section shall communicate the fact of the appointment of the accountant or any matter which may come to his knowledge in the course of the examination to any person except to the accountant appointed to make the examination, or if so
30 required, to the Board.

(7) The provisions of this section shall apply to and in respect of any written record preserved in accordance with the regulations by a person who has ceased to hold a licence under this Act or by any person (other than the licensee who
35 made such written record) who has the possession, custody or control of such written record as required by the regulations, as it applies to a licensee.

(8)

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(8) Any person who commits a breach of any of the provisions of subsection (5) or (6), in addition to any other proceedings, penalty or punishment to which he may be liable, shall be guilty of an offence against this Act.

5 **PART VII.**

FINANCE.

10 **61.** (1) The Board shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts audited by the Auditor-General and in a form approved by him exhibiting a true and correct view of the financial position and transactions of the Board.

Accounts to be kept by the Board.

15 (2) The Minister shall cause the statement of accounts to be laid before Parliament within fourteen sitting days after receipt thereof by him if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

20 **62.** (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Board and its servants in the same manner as it applies to accounting officers of Public Departments.

Audit of accounts.

(2)

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(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- 5 (i) due diligence and care have been shown in the collection and banking of moneys paid to the Board;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised; and
- 10 (iii) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which may be prescribed.

15 (3) Towards defraying the costs and expenses of an audit under this section the Board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

63. (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Governor. ^{Temporary accommodation.}

20

(2) The Treasurer may advance such moneys to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

PART

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PART VIII.

GENERAL.

64. Nothing in this Act affects any rights or remedies that a person may have in relation to another person who has exercised or carried on or is exercising or carrying on the business of a travel agent whether or not that other person was or is the holder of a licence. Other rights and remedies not affected by this Act.

65. (1) The Board may, with the approval of the Minister, acquire by purchase or lease premises for the carrying out of its powers, authorities, duties and functions under this Act and the regulations. General powers of the Board.

(2) The Board may enter into contracts or agreements with any person for the performance of services, or for the supply of goods, plant, machinery or material in connection with the exercise or performance by the Board of its powers, authorities, duties and functions under this Act and the regulations.

(3) Any contract or agreement entered into for the purposes of this section shall be deemed, for the purposes of the Constitution Act, 1902, to be a contract or agreement for or on account of the Public Service of New South Wales.

(4) The Board may cause to be published, in such manner as it thinks fit, any information relating to its powers, authorities, duties, functions or activities under this Act and the regulations.

66. (1) The Board may, by instrument in writing under seal, delegate—

- (a) to any member of the Board;
- (b) to any servant of the Board;
- (c) to any officer, servant or employee of whose services the Board makes use under this Act,

the

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the exercise or performance of the powers (other than the Board's powers to deal, as provided for in section 13, with an application for a licence, the Board's powers under Part IV or this power of delegation), authorities, duties or functions
5 conferred or imposed on the Board by or under this Act as may be specified in the instrument of delegation.

(2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be
10 exercised or performed from time to time in accordance with the terms of the delegation by the delegate to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise
15 or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Board may continue to exercise or perform all or
20 any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done or suffered had been done or suffered by the Board.

25 **67.** A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made—
Disclosure of information.

- (a) with the consent of the person from whom the information was obtained;
- 30 (b) in connection with the administration or execution of this Act;

(c)

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- (c) for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings; or
- (d) for the purpose of objecting to an application for a licence or of any investigation or inquiry conducted under Part IV.

Penalty: \$1,000.

68. In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required.

- (a) the due constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member of the Board; or
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

69. A notice, order, determination, certificate or subpoena that may be given, made or issued under this Act may be served—

Service of notices, orders and subpoenas.

- (a) by delivering it personally to the person to whom it is addressed; or
- (b) where it is addressed to the holder of a licence—
 - (i) by delivering it to any place shown on the application for the licence as the holder's place of abode or business and by leaving it there with some person for that holder; or
 - (ii) by posting it by certified mail in an envelope duly stamped and addressed to the person to whom it is addressed at any place shown on the application for the licence as the holder's place of abode or business,

and

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and shall be deemed to have been served upon its being so delivered or, in the case of a notice, order, certificate or subpoena served as referred to in subparagraph (ii) of paragraph (b), shall be prima facie deemed to have been served
5 when it would be delivered in the ordinary course of post.

70. Any notice, summons, writ or other proceedings required to be served on the Board may be served by being left with some person apparently employed in the administration of this Act at the office of the Board or, in the case of a notice,
10 by posting it by certified mail in an envelope duly stamped and addressed to the Board at its office, and shall be deemed to have been served upon its being left or, in the case of a notice served by so posting it, shall be prima facie deemed to have been served when it would be delivered in the ordinary course
15 of post.

Service of
notice of
proceedings
on the
Board.

71. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the chairman.

Documents—
how
authenti-
cated.

20 72. (1) Proceedings in respect of any damage or injury to a person or to property shall not be commenced against the Board or any member of the Board or any person acting in its or his aid for anything done or intended to be done under this Act, until the expiration of one month after notice in
25 writing has been served on the Board, member or person as provided in this section.

Notice of
action.

(2) The notice shall state—

(a) the cause of action;

(b) the time and place at which the damage or injury was sustained; and
30

(c)

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(c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

5 (3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, and the amount of money, if any, expended in repairing the damage shall be given to him.

10 (4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action, but at any stage of the proceedings the court in which the
15 action is pending may, if the court deems it to be just or reasonable in the circumstances so to do—

(a) amend any defect in the notice on such terms and conditions, if any, as the court may fix; or

20 (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period (in this section referred to as the "prescribed period") of twelve months next after the occurring of the cause of action
25 but where an application is made to the Supreme Court for an extension of the prescribed period the court may, if it is satisfied that sufficient cause has been shown, or having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed
30 period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

(7)

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(7) The Board or any member or person to whom any such notice of action is given, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and if the tender is not
5 accepted may plead the tender as a defence to the action.

73. (1) Except as otherwise provided, a person who is guilty of an offence against this Act shall be liable to a penalty not exceeding two hundred dollars and, in the case of a continuing offence, a penalty not exceeding fifty dollars for each
10 day the offence continues. Proceedings
for
offences.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate sitting in petty sessions alone.

(3) A prosecution for an offence under any of the
15 provisions of this Act (other than section 74) may be commenced at any time within one year after the Board first becomes aware of the commission of the offence.

74. (1) Without affecting the generality of the provisions of the Crimes Act 1900, any licensee who— Wrongful
conversion
and false
accounts.

20 (a) fraudulently converts to his own use or to the use of any other person—

(i) any moneys, or any part of any moneys, received by him on behalf of any person in respect of any transaction in his capacity as
25 a travel agent; or

(ii) any moneys, or any part of any moneys, so received which are held by him in trust pending the completion of any transaction;

(b) fraudulently omits to account for, deliver or pay—
30 (i) any such moneys or any part thereof so received by him on behalf of any person to such person; or

(ii)

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- 5 (ii) any such moneys or any part thereof so received by him which are or were held by him in trust as aforesaid pending the completion of the transaction to the person or persons entitled to such moneys; or
- (c) fraudulently renders an account, knowing such account to be false in any material particular—
- 10 (i) of any such moneys or any part thereof so received by him on behalf of any person;
- (ii) of any moneys so received by him which are or were held by him in trust pending the completion of any transaction or any part of such moneys; or
- 15 (iii) of expenses, commission or other charges incidental to any transaction or proposed or contemplated transaction as a travel agent,

shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years.

- 20 75. Except where a penalty is provided for an offence by an individual any act which by this Act is declared to be an offence and which is committed by a body corporate and is proved to have been committed with the consent or approval of any director, or other officer of the body corporate, he, as
- 25 well as the body corporate, shall be deemed to be guilty of the offence, and he may be proceeded against and shall be liable to the pecuniary penalty or imprisonment or both provided by this Act.

- 30 76. (1) Any charge, fee, remuneration or money due to the Board under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction.

Corporations.

Recovery of charges, etc.

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(2) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand.

77. (1) The Board shall, as soon as practicable after the ^{Annual report.} thirtieth day of June in each year, forward to the Minister a report of its work and activities for the year ended on the thirtieth day of June then last past.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

78. (1) The Governor may make regulations not ^{Regulations.} inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the power conferred by subsection (1) the Governor may in and by the regulations—

- (a) prescribe any forms to be used under this Act;
- 20 (b) prescribe the procedure to be followed on applications and other proceedings under this Act;
- (c) prescribe the duties and functions of the registrar;
- (d) prescribe the books, accounts (including trust accounts) and records to be kept by a licensee and
25 the form and mode of keeping such books, accounts and records;
- (e) prescribe different classes of licences having regard to the number of persons employed in the business of a travel agent or the gross annual income of a
30 travel agent or on such other basis as may be determined by the Board;

(f)

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- (f) prescribe different fees payable under section 16 (3) in respect of different classes of licences referred to in paragraph (e);
- 5 (g) prescribe different initial contributions and different annual contributions payable under section 48 in respect of different classes of licences referred to in paragraph (e).
- (3) The regulations may impose a penalty not exceeding two hundred dollars for any offence against the regulations and, in the case of a continuing offence, a further
10 penalty not exceeding fifty dollars for each day the offence continues.

79. The power under section 78 to make regulations may be exercised— Exercise of power under sec. 78.

- 15 (a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified exceptions, or in relation to any specified cases or class of cases; and
- (b) so as to make, as respects the cases in relation to which it is exercised—
20
 - (i) the same provision for all cases to which the power is exercised, a different provision for different cases or classes of cases, or different provisions as respects the same case or class of case for different purposes of
25 this Act; or
 - (ii) any such provision either unconditionally or subject to any specified condition.

1. The power of the President to appoint and remove officers of the United States is vested in him by the Constitution.

2. The President may grant pardons and reprieves for offenses against the United States, except in cases of impeachment.

3. The President may make treaties, provided two-thirds of the Senate concur in the ratification.

4. The President may nominate and appoint judges of the Supreme Court and inferior courts, provided the Senate concur in the appointment.

5. The President may grant commissions and receive ambassadors and other public ministers.

6. The President may call forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

7. The President may declare war, provided Congress declare war before he does, and he may grant letters of marque and reprisal in time of war.

8. The President may receive and send ambassadors and other public ministers.