

AUCTIONEERS AND AGENTS (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Statutory and Other Offices Remuneration (Council of Auctioneers and Agents) Amendment Bill, 1978, is cognate with this Bill.

The objects of this Bill are—

- (a) to reconstitute the Council of Auctioneers and Agents by providing for—
 - (i) the appointment by the Governor of a full-time Chairman of the Council;
 - (ii) the election to the Council of an additional 3 members, being registered real estate salesmen (Schedule 1);
- (b) to provide for the issue of licenses limited in their operation to a specified region or a specified purpose (Schedule 2);
- (c) to require all the partners in a firm of auctioneers to be licensed-existing firms being given 5 years to comply (Schedule 3 (2) and clause 8 of Schedule 4);
- (d) to repeal the provision requiring the licensing of at least half the directors of a licensed corporation (Schedule 3 (3));
- (e) where a licensee is, when advertising any property, acting as a principal, to require him so to state in the advertisement (Schedule 3 (4));
- (f) to require a real estate dealer to pay the same fees for registration as a licensee is required to pay for the issue of a license and to make the same contributions to the Fidelity Fund as a licensee (Schedule 3 (8), (9), (10), (11), (13), (15), (16) and (17));
- (g) to authorise the investment of not more than 60 per centum of the Fidelity Fund in the purchase of shares in permanent building societies (Schedule 3 (12));
- (h) to increase from \$50,000 to \$200,000 the maximum amount payable from the Fidelity Fund in respect of theft or fraudulent misapplication by any one person (Schedule 3 (14));
- (i) to penalise the making of a materially false or misleading statement in promoting the leasing of property (Schedule 3 (18));
- (j) to authorise the making of regulations prescribing rules of conduct in carrying on their business for licensees and registered persons (Schedule 3 (22));

- (k) to enable accounting records kept under the Principal Act to be kept otherwise than in a book (Schedule 3 (22));
- (l) to enact savings and transitional provisions (Schedule 4); and
- (m) to make provisions consequential upon or ancillary to the foregoing.

**AUCTIONEERS AND AGENTS (AMENDMENT)
BILL, 1978**

No. , 1978.

A BILL FOR

An Act to amend the Auctioneers and Agents Act, 1941, to provide for the reconstitution of the Council of Auctioneers and Agents, to provide for restricted licenses under that Act and to make further provision with respect to the Auctioneers and Agents Fidelity Guarantee Fund.

[MR EINFELD—7 March, 1978.]

Auctioneers and Agents (Amendment).

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

5 1. This Act may be cited as the "Auctioneers and Agents Short title.
(Amendment) Act, 1978".

2. (1) Except as provided in subsections (2) and (3), this Commence-
Act shall commence on the date of assent to this Act. ment.

(2) Section 5 shall, in its application to a Schedule to this
10 Act, commence on the day on which the Schedule commences.

(3) Schedules 1 and 2 shall commence on such day or days
as may be appointed by the Governor in respect thereof and as may
be notified by proclamation published in the Gazette.

3. The Auctioneers and Agents Act, 1941, is in this Act Principal
15 referred to as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RECONSTITUTING THE COUNCIL OF AUCTIONEERS AND
AGENTS.

20 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
WITH RESPECT TO LICENSES.

Auctioneers and Agents (Amendment).

SCHEDULE 3.—FURTHER AMENDMENTS TO THE
PRINCIPAL ACT.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in Amendment
5 Schedules 1–3. of Act No.
28, 1941.

6. Schedule 4 has effect.

Savings and
transitional
provisions.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING
THE COUNCIL OF AUCTIONEERS AND AGENTS.

10 (1) Section 2—

Omit “SCHEDULE”, insert instead “SCHEDULES”.

(2) (a) Section 3 (1), definition of “Chairman”—

Before the definition of “Council”, insert :—

“Chairman” means chairman of the council.

15 (b) Section 3 (1), definition of “Member”—

After the definition of “Livestock”, insert :—

“Member” means member of the council.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(3) (a) Section 8 (1)—

5 Omit the subsection, insert instead :—

(1) The council shall consist of a Chairman appointed under section 8A, an official member appointed under subsection (3) and 15 elected members.

10 (b) Section 8 (2) (b) (iv)—

Omit “agents.”, insert instead :—
agents;

(v) three shall be real estate salesmen.

(c) Section 8 (2A)—

15 After section 8 (2), insert :—

(2A) Each of the elected members referred to in subsection (2) (v) shall be a holder of a certificate of registration as a real estate salesman elected by the members of the Real Estate Salesmen’s Association of New South Wales and certified by that Association to have been so elected.

(d) Section 8 (7)—

Omit the subsection.

(e) Section 8 (8)–(10)—

25 After section 8 (7), insert :—

(8) The Chairman and the official member—

(a) shall assume office on the day on which the elected members assume office;

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) shall hold office for 3 years; and

(c) shall be eligible for re-appointment.

(9) A person is not eligible for appointment as Chairman or official member, or for election as a member, or for appointment under section 11, 12 or 13, if he has, in the case of the Chairman, attained the age of 65 years or, in any other case, attained the age of 70 years or if he would attain that age before the expiration of the term of office for which, but for this subsection, he could be appointed or elected.

(10) The provisions of the Public Service Act, 1902, do not apply to or in respect of the Chairman or the official member and they are not subject to those provisions during their respective terms of office.

(4) Section 8A—

After section 8, insert :—

8A. (1) The Chairman shall be appointed by the Governor on the recommendation of the Minister and shall devote the whole of his time to the duties of his office.

(2) The Chairman is entitled to be paid—

(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

5 (b) such travelling and subsistence allowances as the
Minister may from time to time determine in
respect of him.

10 (3) Section 9 (e) does not apply to or in respect
of the Chairman but the Chairman shall be deemed to
have vacated his office if he resigns his office by writing
under his hand delivered to the Minister and the Governor
accepts the resignation.

(4) The Minister may appoint such number of
officers of the Public Service within his administration as
he thinks fit to be Deputy Chairmen of the council.

15 (5) Except to the extent of any inconsistency with
this section, a reference in this Act to a member of the
council includes a reference to the Chairman and, while
a Deputy Chairman presides at a meeting of the council,
to that Deputy Chairman.

20 (6) Schedule 2 has effect.

(5) Section 9 (g)—

Omit “or an appointed member, his license”, insert instead
“, his license or registration”.

(6) (a) Section 11—

25 Omit “council”, insert instead “Governor on the
recommendation of the Minister”.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) Section 11 (2), (3)—

5 At the end of section 11, insert :—

(2) Where a vacancy occurs in the office of the
Chairman or the official member, the vacancy shall
be filled—

10 (a) in the case of the Chairman—by a person
appointed to the vacancy by the Governor
on the recommendation of the Minister; or

15 (b) in the case of the official member—by a
practising solicitor of the Supreme Court of
New South Wales appointed to the vacancy
by the Governor.

(3) A person appointed to an office under sub-
section (2) holds the office for the residue of the term
of office of his predecessor.

(7) Section 14—

20 Omit the section, insert instead :—

14. (1) A member of the council other than the Chair- Fees and
man is entitled to be paid such remuneration and such expenses.
travelling and subsistence allowances as the Minister may
from time to time determine in respect of him.

25 (2) The office of a member of the council other
than the Chairman shall, for the purposes of the Constitu-
tion Act, 1902, be deemed not to be an office or place of
profit under the Crown.

(8) Section 15—

30 Omit "Six", insert instead "Nine".

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(9) Section 16 (2)—

- 5 Omit “the members present shall elect one of their number to”, insert instead “a Deputy Chairman appointed under section 8A (4) shall”.

(10) Schedule 2—

At the end of the Act, insert :—

10

SCHEDULE 2.

Sec. 8A.

1. In this Schedule—

“statutory body” means a statutory body representing the Crown and any body declared under clause 6 to be a statutory body for the purposes of this Schedule;

- 15 “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

2. Subject to clause 3 and to the terms of his appointment, where the Chairman was, immediately before his appointment as Chairman—

- 20 (a) an officer of the Public Service;
(b) an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970;
(c) a contributor to a superannuation scheme;
(d) an officer employed by a statutory body; or
25 (e) a person in respect of whom provision was made by an Act that he retain any rights accrued or accruing to him as an officer or employee,
he—
(f) shall retain any rights accrued or accruing to him as such an
30 officer, contributor or person;
(g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chairman; and

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

5 (h) shall be entitled to receive any deferred or extended leave and
any payment, pension or gratuity,
as if he had continued to be such an officer, contributor or person during
his service as Chairman and—

10 (i) his service as Chairman shall be deemed to be service as an
officer or employee for the purpose of any law under which those
rights accrued or were accruing, under which he continues to
contribute or by which that entitlement is conferred; and

15 (j) he shall be deemed to be an officer or employee, and the council
shall be deemed to be his employer, for the purpose of the super-
annuation scheme to which he is entitled to contribute under this
clause.

3. If the Chairman would, but for this clause, be entitled under clause
2 to contribute to a superannuation scheme or to receive any payment,
pension or gratuity under the scheme he shall not be so entitled upon his
becoming (whether upon his appointment as Chairman or at any later time
20 while he holds office as Chairman) a contributor to any other superannua-
tion scheme and the provisions of clause 2 (j) cease to apply to or in
respect of him and the council upon his becoming a contributor to that
other superannuation scheme.

25 4. Clause 3 does not prevent the payment to the Chairman upon his
ceasing to be a contributor to a superannuation scheme of such amount as
would have been payable to him if he had ceased, by reason of his
resignation, to be an officer or employee for the purposes of the scheme.

5. (1) In this clause "retiring age" means—

30 (a) in relation to a person who was, immediately before his appoint-
ment as Chairman, an officer of the Public Service or the Teaching
Service within the meaning of the Teaching Service Act, 1970—
the age of 60 years; and

35 (b) in relation to a person who, was, immediately before his appoint-
ment as Chairman, an officer or employee of a statutory body—
the age at which officers or employees (being officers or employees
of the class to which the person belonged immediately before his
appointment as Chairman), as the case may be, of the statutory
body are entitled to retire.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.***

(2) A person who ceases to be Chairman by reason of the expiration
5 of his term of office or his resignation under section 8A (3) shall, if he has
not attained his retiring age, be entitled to be appointed where, immediately
before his appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public
Service;
- 10 (b) an officer of the Teaching Service—to some office in the
Teaching Service; or
- (c) an officer or employee of a statutory body—to some office in the
service of the statutory body,

not lower in classification and salary than that which he held immediately
15 before his appointment as Chairman.

6. The Governor may, by proclamation published in the Gazette, declare
any body constituted by an Act to be a statutory body for the purposes of
this Schedule.

SCHEDULE 2.

Sec. 5.

20 **AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
LICENSES.**

(1) Section 22 (1A), (1B)—

After section 22 (1), insert :—

25 (1A) A license may be expressed to be restricted in its
operation to a specified region or place or to a specified
purpose or to a specified region or place for a specified
purpose.

Auctioneers and Agents (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
LICENSES—*continued.*

- 5 (1B) A person who takes out a license referred to in
subsection (1A)—
- (a) shall be deemed, in the case of a license of a
class specified in subsection (1) taken out by a
person other than a corporation, not to be the
holder of a license of that class; or
- 10 (b) shall be deemed, in the case of a license taken
out by a corporation, not to be the holder of a
license,
- 15 except in relation to things done or omitted in the region
or place, or for the purpose, to which the operation of the
license is expressed to be restricted.
- (2) Section 22 (2) (a) (i)—
- After “which”, insert “, subject to subsections (1A) and
(1B),”.
- (3) Section 22 (2) (a) (v)—
- 20 After “which”, insert “, subject to subsections (1A) and
(1B),”.

Auctioneers and Agents (Amendment).

SCHEDULE 3.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3 (1), definition of "Real estate dealer"—

After the definition of "Real estate agent", insert :—

- 5 "Real estate dealer" means a person (not being the holder of a license as a real estate agent) whose sole or principal business is the selling, as owner, of allotments of land as defined in section 51.

(2) Section 20 (1)—

- 10 Omit the subsection, insert instead :—

- 15 (1) Subject to this Act, no person shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of an auctioneer unless he is the holder of an auctioneer's license.

(3) Section 23 (9A), (9B)—

Omit the subsections.

(4) Section 43 (2)—

At the end of section 43, insert :—

- 20 (2) Where a licensee has an interest in any real or personal property as a principal, he is guilty of an offence against this Act if, in a newspaper or otherwise, he publishes an advertisement relating to or in connection with the property without disclosing that interest in the
25 advertisement.

Auctioneers and Agents (Amendment).

SCHEDULE 3—continued.**FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.****(5) Section 51, definition of “Real estate dealer”—**

Omit the definition.

5 (6) Section 51A (1A)—

After section 51A (1), insert :—

10 (1A) An application under subsection (1) shall be accompanied by the same fees and contribution as would be required if the application were an application for a license.

(7) Section 51c (1) (b1)—

After section 51c (1) (b), insert :—

(b1) that he has failed to pay a contribution under section 71 (1A);

15 (8) Section 67 (a)—

After “licensees”, insert “and real estate dealers”.

(9) (a) Section 68 (c)—

After “licensees”, insert “and real estate dealers”.

(b) Section 68 (e)—

20 After “renewals”, insert “or for registration as a real estate dealer”.

(c) Section 68 (e)—

After “licenses” where secondly occurring, insert “or any such registration”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Section 71 (1A), (1B)—

After section 71 (1), insert :—

5 (1A) A real estate dealer shall, at the prescribed times,
pay to the fund a contribution equal in amount to the
contribution he would be required to make if he were a
licensee at the time he makes the payment.

10 (1B) For the purposes of subsection (1A), the pre-
scribed times in relation to a real estate dealer are—

(a) before the expiration of—

15 (i) three months after the date of assent to
the Auctioneers and Agents (Amend-
ment) Act, 1978, in the case of a real
estate dealer registered before that date;
or

20 (ii) the year that next succeeds his registra-
tion as a real estate dealer, in the case of
a real estate dealer registered on or after
that date of assent; and

(b) before the expiration of each year that succeeds
the latest time prescribed for the real estate
dealer by paragraph (a).

(11) (a) Section 72 (1)—

25 After “licensee”, insert “and real estate dealer”.

(b) Section 72 (3)—

After “licensee” where firstly and secondly occurring,
insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 72 (3)—

5

Omit “unpaid the licensee shall be deemed not to be the holder of a license under this Act”, insert instead :—

unpaid—

10

(a) in the case of a licensee—he shall be deemed not to be the holder of a license; or

(b) in the case of a real estate dealer—he shall be deemed not to be registered under this Act as a real estate dealer.

(12) Section 73—

15

After “1925”, insert “, or, to an extent involving the expenditure of not more than 60 per centum of the money at credit in the fund and with the consent of the Minister, in the purchase of shares in a permanent building society registered under the Permanent Building Societies Act, 1967”.

20

(13) Section 74 (6)—

After section 74 (5), insert :—

25

(6) This section applies to and in respect of a real estate dealer in the same way as it applies to and in respect of a licensee and so applies as if—

(a) the reference in subsection (1) to the business of the licensee as an auctioneer or a stock and station agent or a business agent were a reference to the business of the real estate dealer as such;

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) subsection (1A) had been omitted; and

5 (c) the reference in subsection (2) to the commencement of this Act were a reference to the date of assent to the Auctioneers and Agents (Amendment) Act, 1978.

(14) Section 75 (10)—

After section 75 (9), insert :—

10 (10) In respect of any theft or fraudulent misapplication after 1st September, 1977, subsections (3) and (4) shall be construed as though the words “five hundred pounds” wherever occurring were omitted therefrom and the matter “\$200,000” substituted therefor.

15 (15) Section 76—

After “licensee”, insert “or real estate dealer”.

(16) Section 78 (2)—

After “licensee”, insert “or real estate dealer”.

(17) Section 79—

20 After “licensee”, insert “or real estate dealer”.

(18) Section 80—

After “licensee”, insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

*SCHEDULE 3—continued.**FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.*

- (19) (a) Section 83 (1) and (3)—

5 After “licensee” wherever occurring, insert “or real estate dealer”.

- (b) Section 83 (3)—

 After “38”, insert “or 55”.

- (20) (a) Section 84 (1)—

 Omit “, as defined in section 51,”.

- 10 (b) Section 84 (1)—

 Omit “any such”.

- (21) (a) Section 84A (1)—

 Omit “, as defined in section 51,”.

- (b) Section 84A (1) (a)—

15 After “sale”, insert “or lease”.

- (22) Section 92 (2A), (2B)—

 After section 92 (2), insert :—

20 (2A) The regulations may prescribe rules of conduct to be observed in the course of carrying on his business by a licensee, the holder of a certificate of registration or a registered real estate dealer.

25 (2B) A provision of the regulations requiring the keeping of any accounting or other records in the form of a book shall be deemed to have been complied with if those accounting or other records are kept in another form approved by the registrar.

Auctioneers and Agents (Amendment).

SCHEDULE 4.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. Words and expressions used in this Schedule have the same meaning as they have in the Principal Act, as amended by this Act.
2. Notwithstanding anything in the Principal Act, as amended by this Act, the first Chairman appointed under the Principal Act, as so amended, shall not hold office beyond the expiration of the term of office of the elected members at the time of his assumption of office, but he shall, if qualified, be eligible for re-appointment.
3. Notwithstanding anything in the Principal Act, as amended by this Act, the official member holding office immediately before the commencement of Schedule 1 shall not continue in that office after that commencement beyond the expiration of the term of office for which the elected members holding office immediately before that commencement were elected but he shall, if qualified, be eligible for re-appointment.
4. Notwithstanding anything in the Principal Act, as amended by this Act, the Governor may, on the recommendation of the Minister, appoint as members of the council 3 persons registered under that Act as real estate salesmen who are members of the Real Estate Salesmen's Association of New South Wales and the persons so appointed—
 - (a) shall assume office on the commencement of Schedule 1;
 - (b) on assuming office shall be deemed to be the elected members referred to in section 8 (2) (b) (v) of that Act, as so amended;
 - (c) subject to paragraph (d), shall not hold office beyond the expiration of the term of office for which the elected members holding office immediately before that commencement were elected; and
 - (d) if qualified, shall be eligible for election or appointment as members of the council.
5. Where a member of the council who, but for this clause, would be holding office immediately before the commencement of Schedule 1 attained the age of 70 years before that commencement, he shall be deemed to have vacated his office immediately before that commencement and a member of the council so holding office who attains that age before the expiration of the term of office for which he was elected shall be deemed to have vacated his office on attaining that age.

Auctioneers and Agents (Amendment).

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

6. A vacancy in the office of a member existing immediately before the commencement of Schedule 1 (whether pursuant to clause 5 or otherwise)
5 shall be filled in accordance with the provisions of the Principal Act, as amended by this Act.

7. Subject to this Schedule and the Principal Act, as amended by this Act, the elected members holding office immediately before the commencement of Schedule 1 shall continue in office as members after that commencement
10 until the expiration of the term of office for which they were elected.

8. Where a partnership is carrying on business immediately before the date of assent to this Act, the amendment made by this Act to section 20 of the Principal Act does not operate in respect of that partnership until the expiration of 5 years after that date.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[24c]

Electioneering and Access (Amended)

SCHEDULE 4 - continued

Electioneering and Access - continued

6. A person in the office of a member of the Council of the District of Columbia shall be deemed to be in violation of this Act if he or she is found to be in violation of the provisions of the principal Act as amended by this Act.

7. Subject to the provisions of the principal Act as amended by this Act, the provisions of the principal Act as amended by this Act shall apply to any person who is found to be in violation of the provisions of the principal Act as amended by this Act.

8. Where a person is found to be in violation of the provisions of the principal Act as amended by this Act, the provisions of the principal Act as amended by this Act shall apply to any person who is found to be in violation of the provisions of the principal Act as amended by this Act.

AUCTIONEERS AND AGENTS (AMENDMENT) BILL

Schedule of the amendments referred to in Legislative Council's
Message of 16 March, 1978.

No. 1.—Pages 4 to 6, Schedule 1, line 4 on page 4 down to and including line 20 on page 6. Omit all words on these lines, insert—

(3) (a) Section 8 (8), (9)—

After section 8 (7), insert:—

(8) A person is not eligible for appointment as Chairman or official member or for election as a member, or for appointment under section 11, 12 or 13 if he has attained the age of 72 years or if he would attain that age before the expiration of the term of office for which, but for this subsection, he could be appointed or elected.

(9) Subsection (8) shall only apply to and take effect from the general election of Council members prescribed to be held in the month of May 1979.

No. 2.—Pages 6 and 7, Schedule 1, line 24 on page 6 down to and including line 28 on page 7. Omit all words on these lines.

No. 3.—Pages 8 to 10, Schedule 1, line 1 on page 8 down to and including line 18 on page 10. Omit all words on these lines.

No. 4.—Page 12, Schedule 3, lines 9 to 17 inclusive. Omit all words on these lines, insert—

(2) Section 23 (9C)—

After section 23 (9B), insert:—

(9C) On the recommendation of the Council, the Minister may exempt a corporation referred to in subsection (9B) from compliance with the provisions of that subsection.

No. 5.—Page 18, Schedule 4, lines 16 to 29 inclusive. Omit all words on these lines.

No. 6.—Page 18, Schedule 4, line 32. Omit “70”, insert “72”.

No. 7.—Page 19, Schedule 4, lines 11 to 14 inclusive. Omit all words on these lines.

AMENDMENTS TO THE ACT

Schedule of the amendments referred to in the Council's
minutes of 19th March 1978.

No. 1—Page 1 to 6, Schedule 1, line 1 on page 4 down to and including line 20 on
page 4. Omit all words on these lines.

(2) (a) Section 8 (2), (3)—

After section 8 (2), insert—

(3) A person is not eligible for appointment as a member or official
member or for election as a member or for appointment under section
11, 12 or 13 if he has attained the age of 72 years or if he would
attain that age before the expiration of the term of office for which
but for this subsection he could be appointed or elected.

(4) Subsection (8) shall only apply to and take effect from the
general election of Council members prescribed to be held in the
month of May 1979.

No. 2—Page 6 and 7, Schedule 1, line 1 on page 6 down to and including line 20 on
page 7. Omit all words on these lines.

No. 3—Page 8 to 10, Schedule 1, line 1 on page 8 down to and including line 18 on
page 10. Omit all words on these lines.

No. 4—Page 12, Schedule 2, lines 9 to 17 inclusive. Omit all words on these lines.
Insert—

(5) Section 21 (2C)—

After section 21 (2B), insert—

(2C) On the recommendation of the Council, the Minister may exempt
a corporation referred to in subsection (2B) from compliance with the
provisions of that subsection.

No. 5—Page 12, Schedule 2, lines 18 to 20 inclusive. Omit all words on these lines.

No. 6—Page 12, Schedule 2, line 22. Omit "20", insert "21".

No. 7—Page 13, Schedule 2, lines 11 to 14 inclusive. Omit all words on these lines.

AUCTIONEERS AND AGENTS (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Statutory and Other Offices Remuneration (Council of Auctioneers and Agents) Amendment Bill, 1978, is cognate with this Bill.

The objects of this Bill are—

- (a) to reconstitute the Council of Auctioneers and Agents by providing for—
 - (i) the appointment by the Governor of a full-time Chairman of the Council;
 - (ii) the election to the Council of an additional 3 members, being registered real estate salesmen (Schedule 1);
- (b) to provide for the issue of licenses limited in their operation to a specified region or a specified purpose (Schedule 2);
- (c) to require all the partners in a firm of auctioneers to be licensed—existing firms being given 5 years to comply (Schedule 3 (2) and clause 8 of Schedule 4);
- (d) to repeal the provision requiring the licensing of at least half the directors of a licensed corporation (Schedule 3 (3));
- (e) where a licensee is, when advertising any property, acting as a principal, to require him so to state in the advertisement (Schedule 3 (4));
- (f) to require a real estate dealer to pay the same fees for registration as a licensee is required to pay for the issue of a license and to make the same contributions to the Fidelity Fund as a licensee (Schedule 3 (8), (9), (10), (11), (13), (15), (16) and (17));
- (g) to authorise the investment of not more than 60 per centum of the Fidelity Fund in the purchase of shares in permanent building societies (Schedule 3 (12));
- (h) to increase from \$50,000 to \$200,000 the maximum amount payable from the Fidelity Fund in respect of theft or fraudulent misapplication by any one person (Schedule 3 (14));
- (i) to penalise the making of a materially false or misleading statement in promoting the leasing of property (Schedule 3 (18));
- (j) to authorise the making of regulations prescribing rules of conduct in carrying on their business for licensees and registered persons (Schedule 3 (22));

- (k) to enable accounting records kept under the Principal Act to be kept otherwise than in a book (Schedule 3 (22));
 - (l) to enact savings and transitional provisions (Schedule 4); and
 - (m) to make provisions consequential upon or ancillary to the foregoing.
-

**AUCTIONEERS AND AGENTS (AMENDMENT)
BILL, 1978**

No. , 1978.

A BILL FOR

An Act to amend the Auctioneers and Agents Act, 1941, to provide for the reconstitution of the Council of Auctioneers and Agents, to provide for restricted licenses under that Act and to make further provision with respect to the Auctioneers and Agents Fidelity Guarantee Fund.

[MR EINFELD—7 March, 1978.]

Auctioneers and Agents (Amendment).

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

5 1. This Act may be cited as the "Auctioneers and Agents Short title.
(Amendment) Act, 1978".

2. (1) Except as provided in subsections (2) and (3), this Commence-
Act shall commence on the date of assent to this Act. ment.

(2) Section 5 shall, in its application to a Schedule to this
10 Act, commence on the day on which the Schedule commences.

(3) Schedules 1 and 2 shall commence on such day or days
as may be appointed by the Governor in respect thereof and as may
be notified by proclamation published in the Gazette.

3. The Auctioneers and Agents Act, 1941, is in this Act Principal
15 referred to as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RECONSTITUTING THE COUNCIL OF AUCTIONEERS AND
AGENTS.

20 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
WITH RESPECT TO LICENSES.

Auctioneers and Agents (Amendment).

**SCHEDULE 3.—FURTHER AMENDMENTS TO THE
PRINCIPAL ACT.**

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

5 **5.** The Principal Act is amended in the manner set forth in
Schedules 1–3. Amendment
of Act No.
28, 1941.

6. Schedule 4 has effect.

Savings and
transitional
provisions.

SCHEDULE 1.

Sec. 5.

**AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING
THE COUNCIL OF AUCTIONEERS AND AGENTS.**

10 **(1) Section 2—**

Omit “SCHEDULE”, insert instead “SCHEDULES”.

(2) (a) Section 3 (1), definition of “Chairman”—

Before the definition of “Council”, insert :—

“Chairman” means chairman of the council.

15 **(b) Section 3 (1), definition of “Member”—**

After the definition of “Livestock”, insert :—

“Member” means member of the council.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(3) (a) Section 8 (1)—

5 Omit the subsection, insert instead :—

(1) The council shall consist of a Chairman appointed under section 8A, an official member appointed under subsection (3) and 15 elected members.

10 (b) Section 8 (2) (b) (iv)—

Omit “agents.”, insert instead :—
agents;

(v) three shall be real estate salesmen.

(c) Section 8 (2A)—

15 After section 8 (2), insert :—

(2A) Each of the elected members referred to in subsection (2) (v) shall be a holder of a certificate of registration as a real estate salesman elected by the members of the Real Estate Salesmen’s Association of New South Wales and certified by that Association to have been so elected.

(d) Section 8 (7)—

Omit the subsection.

(e) Section 8 (8)–(10)—

25 After section 8 (7), insert :—

(8) The Chairman and the official member—

(a) shall assume office on the day on which the elected members assume office;

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) shall hold office for 3 years; and

5 (c) shall be eligible for re-appointment.

10 (9) A person is not eligible for appointment as
Chairman or official member, or for election as a
member, or for appointment under section 11, 12
or 13, if he has, in the case of the Chairman, attained
the age of 65 years or, in any other case, attained the
age of 70 years or if he would attain that age before
the expiration of the term of office for which, but for
this subsection, he could be appointed or elected.

15 (10) The provisions of the Public Service Act,
1902, do not apply to or in respect of the Chairman
or the official member and they are not subject to
those provisions during their respective terms of
office.

(4) Section 8A—

20 After section 8, insert :—

8A. (1) The Chairman shall be appointed by the Chairman
Governor on the recommendation of the Minister and shall of council.
devote the whole of his time to the duties of his office.

(2) The Chairman is entitled to be paid—

25 (a) remuneration in accordance with the Statutory
and Other Offices Remuneration Act, 1975;
and

Auctioneers and Agents (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—continued.**

5 (b) such travelling and subsistence allowances as the
Minister may from time to time determine in
respect of him.

10 (3) Section 9 (e) does not apply to or in respect
of the Chairman but the Chairman shall be deemed to
have vacated his office if he resigns his office by writing
under his hand delivered to the Minister and the Governor
accepts the resignation.

(4) The Minister may appoint such number of
officers of the Public Service within his administration as
he thinks fit to be Deputy Chairmen of the council.

15 (5) Except to the extent of any inconsistency with
this section, a reference in this Act to a member of the
council includes a reference to the Chairman and, while
a Deputy Chairman presides at a meeting of the council,
to that Deputy Chairman.

20 (6) Schedule 2 has effect.

(5) Section 9 (g)—

Omit “or an appointed member, his license”, insert instead
“, his license or registration”.

(6) (a) Section 11—

25 Omit “council”, insert instead “Governor on the
recommendation of the Minister”.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) Section 11 (2), (3)—

5 At the end of section 11, insert :—

(2) Where a vacancy occurs in the office of the
Chairman or the official member, the vacancy shall
be filled—

10 (a) in the case of the Chairman—by a person
appointed to the vacancy by the Governor
on the recommendation of the Minister; or

15 (b) in the case of the official member—by a
practising solicitor of the Supreme Court of
New South Wales appointed to the vacancy
by the Governor.

(3) A person appointed to an office under sub-
section (2) holds the office for the residue of the term
of office of his predecessor.

(7) Section 14—

20 Omit the section, insert instead :—

14. (1) A member of the council other than the Chair- Fees and
man is entitled to be paid such remuneration and such expenses.
travelling and subsistence allowances as the Minister may
from time to time determine in respect of him.

25 (2) The office of a member of the council other
than the Chairman shall, for the purposes of the Constitu-
tion Act, 1902, be deemed not to be an office or place of
profit under the Crown.

(8) Section 15—

30 Omit "Six", insert instead "Nine".

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(9) Section 16 (2)—

- 5 Omit “the members present shall elect one of their number to”, insert instead “a Deputy Chairman appointed under section 8A (4) shall”.

(10) Schedule 2—

At the end of the Act, insert :—

10

SCHEDULE 2.

Sec. 8A.

1. In this Schedule—

“statutory body” means a statutory body representing the Crown and any body declared under clause 6 to be a statutory body for the purposes of this Schedule;

- 15 “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

2. Subject to clause 3 and to the terms of his appointment, where the Chairman was, immediately before his appointment as Chairman—

- 20 (a) an officer of the Public Service;
- (b) an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970;
- (c) a contributor to a superannuation scheme;
- (d) an officer employed by a statutory body; or
- 25 (e) a person in respect of whom provision was made by an Act that he retain any rights accrued or accruing to him as an officer or employee,
- he—
- 30 (f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chairman; and

Auctioneers and Agents (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—continued.**

5 (h) shall be entitled to receive any deferred or extended leave and
any payment, pension or gratuity,
as if he had continued to be such an officer, contributor or person during
his service as Chairman and—

10 (i) his service as Chairman shall be deemed to be service as an
officer or employee for the purpose of any law under which those
rights accrued or were accruing, under which he continues to
contribute or by which that entitlement is conferred; and

15 (j) he shall be deemed to be an officer or employee, and the council
shall be deemed to be his employer, for the purpose of the super-
annuation scheme to which he is entitled to contribute under this
clause.

20 3. If the Chairman would, but for this clause, be entitled under clause
2 to contribute to a superannuation scheme or to receive any payment,
pension or gratuity under the scheme he shall not be so entitled upon his
becoming (whether upon his appointment as Chairman or at any later time
while he holds office as Chairman) a contributor to any other superannua-
tion scheme and the provisions of clause 2 (j) cease to apply to or in
respect of him and the council upon his becoming a contributor to that
other superannuation scheme.

25 4. Clause 3 does not prevent the payment to the Chairman upon his
ceasing to be a contributor to a superannuation scheme of such amount as
would have been payable to him if he had ceased, by reason of his
resignation, to be an officer or employee for the purposes of the scheme.

5. (1) In this clause “retiring age” means—

30 (a) in relation to a person who was, immediately before his appoint-
ment as Chairman, an officer of the Public Service or the Teaching
Service within the meaning of the Teaching Service Act, 1970—
the age of 60 years; and

35 (b) in relation to a person who, was, immediately before his appoint-
ment as Chairman, an officer or employee of a statutory body—
the age at which officers or employees (being officers or employees
of the class to which the person belonged immediately before his
appointment as Chairman), as the case may be, of the statutory
body are entitled to retire.

Auctioneers and Agents (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—continued.**

(2) A person who ceases to be Chairman by reason of the expiration
5 of his term of office or his resignation under section 8A (3) shall, if he has
not attained his retiring age, be entitled to be appointed where, immediately
before his appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public
Service;
- 10 (b) an officer of the Teaching Service—to some office in the
Teaching Service; or
- (c) an officer or employee of a statutory body—to some office in the
service of the statutory body,

not lower in classification and salary than that which he held immediately
15 before his appointment as Chairman.

6. The Governor may, by proclamation published in the Gazette, declare
any body constituted by an Act to be a statutory body for the purposes of
this Schedule.

SCHEDULE 2.

Sec. 5.

20 **AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
LICENSES.**

(1) Section 22 (1A), (1B)—

After section 22 (1), insert :—

25 (1A) A license may be expressed to be restricted in its
operation to a specified region or place or to a specified
purpose or to a specified region or place for a specified
purpose.

Auctioneers and Agents (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
LICENSES—continued.**

5 (1B) A person who takes out a license referred to in
 subsection (1A)—

 (a) shall be deemed, in the case of a license of a
 class specified in subsection (1) taken out by a
 person other than a corporation, not to be the
 holder of a license of that class; or

10 (b) shall be deemed, in the case of a license taken
 out by a corporation, not to be the holder of a
 license,

15 except in relation to things done or omitted in the region
 or place, or for the purpose, to which the operation of the
 license is expressed to be restricted.

(2) Section 22 (2) (a) (i)—

 After “which”, insert “, subject to subsections (1A) and
 (1B),”.

(3) Section 22 (2) (a) (v)—

20 After “which”, insert “, subject to subsections (1A) and
 (1B),”.

Auctioneers and Agents (Amendment).

SCHEDULE 3.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3 (1), definition of "Real estate dealer"—

After the definition of "Real estate agent", insert :—

5 "Real estate dealer" means a person (not being the holder of a license as a real estate agent) whose sole or principal business is the selling, as owner, of allotments of land as defined in section 51.

(2) Section 20 (1)—

10 Omit the subsection, insert instead :—

15 (1) Subject to this Act, no person shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of an auctioneer unless he is the holder of an auctioneer's license.

(3) Section 23 (9A), (9B)—

Omit the subsections.

(4) Section 43 (2)—

At the end of section 43, insert :—

20 (2) Where a licensee has an interest in any real or personal property as a principal, he is guilty of an offence against this Act if, in a newspaper or otherwise, he publishes an advertisement relating to or in connection with the property without disclosing that interest in the
25 advertisement.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (5) Section 51, definition of “Real estate dealer”—
Omit the definition.

- 5 (6) Section 51A (1A)—

After section 51A (1), insert :—

- 10 (1A) An application under subsection (1) shall be accompanied by the same fees and contribution as would be required if the application were an application for a license.

- (7) Section 51c (1) (b1)—

After section 51c (1) (b), insert :—

- (b1) that he has failed to pay a contribution under section 71 (1A);

- 15 (8) Section 67 (a)—

After “licensees”, insert “and real estate dealers”.

- (9) (a) Section 68 (c)—

After “licensees”, insert “and real estate dealers”.

- (b) Section 68 (e)—

- 20 After “renewals”, insert “or for registration as a real estate dealer”.

- (c) Section 68 (e)—

After “licenses” where secondly occurring, insert “or any such registration”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Section 71 (1A), (1B)—

After section 71 (1), insert :—

5 (1A) A real estate dealer shall, at the prescribed times,
pay to the fund a contribution equal in amount to the
contribution he would be required to make if he were a
licensee at the time he makes the payment.

10 (1B) For the purposes of subsection (1A), the pre-
scribed times in relation to a real estate dealer are—

(a) before the expiration of—

15 (i) three months after the date of assent to
the Auctioneers and Agents (Amend-
ment) Act, 1978, in the case of a real
estate dealer registered before that date;
or

20 (ii) the year that next succeeds his registra-
tion as a real estate dealer, in the case of
a real estate dealer registered on or after
that date of assent; and

(b) before the expiration of each year that succeeds
the latest time prescribed for the real estate
dealer by paragraph (a).

(11) (a) Section 72 (1)—

25 After “licensee”, insert “and real estate dealer”.

(b) Section 72 (3)—

After “licensee” where firstly and secondly occurring,
insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 72 (3)—

5 Omit “unpaid the licensee shall be deemed not to be the holder of a license under this Act”, insert instead :—

unpaid—

10 (a) in the case of a licensee—he shall be deemed not to be the holder of a license;
or

(b) in the case of a real estate dealer—he shall be deemed not to be registered under this Act as a real estate dealer.

(12) Section 73—

15 After “1925”, insert “, or, to an extent involving the expenditure of not more than 60 per centum of the money at credit in the fund and with the consent of the Minister, in the purchase of shares in a permanent building society registered under the Permanent Building Societies Act,
20 1967”.

(13) Section 74 (6)—

After section 74 (5), insert :—

25 (6) This section applies to and in respect of a real estate dealer in the same way as it applies to and in respect of a licensee and so applies as if—

(a) the reference in subsection (1) to the business of the licensee as an auctioneer or a stock and station agent or a business agent were a reference to the business of the real estate dealer as such;

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) subsection (1A) had been omitted; and
- 5 (c) the reference in subsection (2) to the commencement of this Act were a reference to the date of assent to the Auctioneers and Agents (Amendment) Act, 1978.
- (14) Section 75 (10)—
After section 75 (9), insert :—
- 10 (10) In respect of any theft or fraudulent misapplication after 1st September, 1977, subsections (3) and (4) shall be construed as though the words “five hundred pounds” wherever occurring were omitted therefrom and the matter “\$200,000” substituted therefor.
- 15 (15) Section 76—
After “licensee”, insert “or real estate dealer”.
- (16) Section 78 (2)—
After “licensee”, insert “or real estate dealer”.
- (17) Section 79—
20 After “licensee”, insert “or real estate dealer”.
- (18) Section 80—
After “licensee”, insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—continued.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.

(19) (a) Section 83 (1) and (3)—

5 After “licensee” wherever occurring, insert “or real estate dealer”.

(b) Section 83 (3)—

 After “38”, insert “or 55”.

(20) (a) Section 84 (1)—

 Omit “, as defined in section 51,”.

10 (b) Section 84 (1)—

 Omit “any such”.

(21) (a) Section 84A (1)—

 Omit “, as defined in section 51,”.

(b) Section 84A (1) (a)—

15 After “sale”, insert “or lease”.

(22) Section 92 (2A), (2B)—

 After section 92 (2), insert :—

20 (2A) The regulations may prescribe rules of conduct to be observed in the course of carrying on his business by a licensee, the holder of a certificate of registration or a registered real estate dealer.

25 (2B) A provision of the regulations requiring the keeping of any accounting or other records in the form of a book shall be deemed to have been complied with if those accounting or other records are kept in another form approved by the registrar.

Auctioneers and Agents (Amendment).

SCHEDULE 4.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. Words and expressions used in this Schedule have the same meaning as they have in the Principal Act, as amended by this Act.
- 5 2. Notwithstanding anything in the Principal Act, as amended by this Act, the first Chairman appointed under the Principal Act, as so amended, shall not hold office beyond the expiration of the term of office of the elected members at the time of his assumption of office, but he shall, if qualified, be eligible for re-appointment.
- 10 3. Notwithstanding anything in the Principal Act, as amended by this Act, the official member holding office immediately before the commencement of Schedule 1 shall not continue in that office after that commencement beyond the expiration of the term of office for which the elected members holding office immediately before that commencement were
15 elected but he shall, if qualified, be eligible for re-appointment.
4. Notwithstanding anything in the Principal Act, as amended by this Act, the Governor may, on the recommendation of the Minister, appoint as members of the council 3 persons registered under that Act as real estate salesmen who are members of the Real Estate Salesmen's Association
20 of New South Wales and the persons so appointed—
 - (a) shall assume office on the commencement of Schedule 1;
 - (b) on assuming office shall be deemed to be the elected members referred to in section 8 (2) (b) (v) of that Act, as so amended;
 - 25 (c) subject to paragraph (d), shall not hold office beyond the expiration of the term of office for which the elected members holding office immediately before that commencement were elected; and
 - (d) if qualified, shall be eligible for election or appointment as members of the council.
- 30 5. Where a member of the council who, but for this clause, would be holding office immediately before the commencement of Schedule 1 attained the age of 70 years before that commencement, he shall be deemed to have vacated his office immediately before that commencement and a member of the council so holding office who attains that age before the
35 expiration of the term of office for which he was elected shall be deemed to have vacated his office on attaining that age.

Auctioneers and Agents (Amendment).

SCHEDULE 4—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

6. A vacancy in the office of a member existing immediately before the commencement of Schedule 1 (whether pursuant to clause 5 or otherwise) shall be filled in accordance with the provisions of the Principal Act, as amended by this Act.

7. Subject to this Schedule and the Principal Act, as amended by this Act, the elected members holding office immediately before the commencement of Schedule 1 shall continue in office as members after that commencement until the expiration of the term of office for which they were elected.

8. Where a partnership is carrying on business immediately before the date of assent to this Act, the amendment made by this Act to section 20 of the Principal Act does not operate in respect of that partnership until the expiration of 5 years after that date.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[24c]

CONCURRENCE COPY

AUCTIONEERS AND AGENTS (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Statutory and Other Offices Remuneration (Council of Auctioneers and Agents) Amendment Bill, 1978, is cognate with this Bill.

The objects of this Bill are—

- (a) to reconstitute the Council of Auctioneers and Agents by providing for—
 - (i) the appointment by the Governor of a full-time Chairman of the Council;
 - (ii) the election to the Council of an additional 3 members, being registered real estate salesmen (Schedule 1);
- (b) to provide for the issue of licenses limited in their operation to a specified region or a specified purpose (Schedule 2);
- (c) to require all the partners in a firm of auctioneers to be licensed-existing firms being given 5 years to comply (Schedule 3 (2) and clause 8 of Schedule 4);
- (d) to repeal the provision requiring the licensing of at least half the directors of a licensed corporation (Schedule 3 (3));
- (e) where a licensee is, when advertising any property, acting as a principal, to require him so to state in the advertisement (Schedule 3 (4));
- (f) to require a real estate dealer to pay the same fees for registration as a licensee is required to pay for the issue of a license and to make the same contributions to the Fidelity Fund as a licensee (Schedule 3 (8), (9), (10), (11), (13), (15), (16) and (17));
- (g) to authorise the investment of not more than 60 per centum of the Fidelity Fund in the purchase of shares in permanent building societies (Schedule 3 (12));
- (h) to increase from \$50,000 to \$200,000 the maximum amount payable from the Fidelity Fund in respect of theft or fraudulent misapplication by any one person (Schedule 3 (14));
- (i) to penalise the making of a materially false or misleading statement in promoting the leasing of property (Schedule 3 (18));
- (j) to authorise the making of regulations prescribing rules of conduct in carrying on their business for licensees and registered persons (Schedule 3 (22));

- (k) to enable accounting records kept under the Principal Act to be kept otherwise than in a book (Schedule 3 (22));
- (l) to enact savings and transitional provisions (Schedule 4); and
- (m) to make provisions consequential upon or ancillary to the foregoing.

EXPLANATORY NOTE

(This explanatory note forms part of the Bill as introduced into Parliament.)

The Secretary and Chief Officer (Administration) (Council) and the Secretary and Chief Officer (Finance) (Council) are to be appointed by the Secretary of State.

The objects of the Bill are—

(1) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(2) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(3) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(4) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(5) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(6) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(7) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(8) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(9) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(10) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(11) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

(12) to provide for the appointment of a Secretary and Chief Officer (Administration) (Council) and a Secretary and Chief Officer (Finance) (Council) by the Secretary of State.

**AUCTIONEERS AND AGENTS (AMENDMENT)
BILL, 1978**

No. , 1978.

A BILL FOR

An Act to amend the Auctioneers and Agents Act, 1941, to provide for the reconstitution of the Council of Auctioneers and Agents, to provide for restricted licenses under that Act and to make further provision with respect to the Auctioneers and Agents Fidelity Guarantee Fund.

[MR EINFELD—7 March, 1978.]

Auctioneers and Agents (Amendment).

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

5 1. This Act may be cited as the "Auctioneers and Agents Short title.
(Amendment) Act, 1978".

2. (1) Except as provided in subsections (2) and (3), this Commence-
Act shall commence on the date of assent to this Act. ment.

(2) Section 5 shall, in its application to a Schedule to this
10 Act, commence on the day on which the Schedule commences.

(3) Schedules 1 and 2 shall commence on such day or days
as may be appointed by the Governor in respect thereof and as may
be notified by proclamation published in the Gazette.

3. The Auctioneers and Agents Act, 1941, is in this Act Principal
15 referred to as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RECONSTITUTING THE COUNCIL OF AUCTIONEERS AND
AGENTS.

20 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
WITH RESPECT TO LICENSES.

Auctioneers and Agents (Amendment).

SCHEDULE 3.—FURTHER AMENDMENTS TO THE
PRINCIPAL ACT.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in
5 Schedules 1–3. Amendment
of Act No.
28, 1941.

6. Schedule 4 has effect.

Savings and
transitional
provisions.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING
THE COUNCIL OF AUCTIONEERS AND AGENTS.

10 (1) Section 2—

Omit “SCHEDULE”, insert instead “SCHEDULES”.

(2) (a) Section 3 (1), definition of “Chairman”—

Before the definition of “Council”, insert :—

“Chairman” means chairman of the council.

15 (b) Section 3 (1), definition of “Member”—

After the definition of “Livestock”, insert :—

“Member” means member of the council.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(3) (a) Section 8 (1)—

5 Omit the subsection, insert instead :—

(1) The council shall consist of a Chairman appointed under section 8A, an official member appointed under subsection (3) and 15 elected members.

10 (b) Section 8 (2) (b) (iv)—

Omit “agents.”, insert instead :—
agents;

(v) three shall be real estate salesmen.

(c) Section 8 (2A)—

15 After section 8 (2), insert :—

(2A) Each of the elected members referred to in subsection (2) (v) shall be a holder of a certificate of registration as a real estate salesman elected by the members of the Real Estate Salesmen’s Association of New South Wales and certified by that Association to have been so elected.

(d) Section 8 (7)—

Omit the subsection.

(e) Section 8 (8)–(10)—

25 After section 8 (7), insert :—

(8) The Chairman and the official member—

(a) shall assume office on the day on which the elected members assume office;

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) shall hold office for 3 years; and

5 (c) shall be eligible for re-appointment.

10 (9) A person is not eligible for appointment as
Chairman or official member, or for election as a
member, or for appointment under section 11, 12
or 13, if he has, in the case of the Chairman, attained
the age of 65 years or, in any other case, attained the
age of 70 years or if he would attain that age before
the expiration of the term of office for which, but for
this subsection, he could be appointed or elected.

15 (10) The provisions of the Public Service Act,
1902, do not apply to or in respect of the Chairman
or the official member and they are not subject to
those provisions during their respective terms of
office.

(4) Section 8A—

20 After section 8, insert :—

8A. (1) The Chairman shall be appointed by the Chairman
Governor on the recommendation of the Minister and shall of council.
devote the whole of his time to the duties of his office.

(2) The Chairman is entitled to be paid—

25 (a) remuneration in accordance with the Statutory
and Other Offices Remuneration Act, 1975;
and

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

5 (b) such travelling and subsistence allowances as the
Minister may from time to time determine in
respect of him.

10 (3) Section 9 (e) does not apply to or in respect
of the Chairman but the Chairman shall be deemed to
have vacated his office if he resigns his office by writing
under his hand delivered to the Minister and the Governor
accepts the resignation.

(4) The Minister may appoint such number of
officers of the Public Service within his administration as
he thinks fit to be Deputy Chairmen of the council.

15 (5) Except to the extent of any inconsistency with
this section, a reference in this Act to a member of the
council includes a reference to the Chairman and, while
a Deputy Chairman presides at a meeting of the council,
to that Deputy Chairman.

20 (6) Schedule 2 has effect.

(5) Section 9 (g)—

Omit “or an appointed member, his license”, insert instead
“, his license or registration”.

(6) (a) Section 11—

25 Omit “council”, insert instead “Governor on the
recommendation of the Minister”.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) Section 11 (2), (3)—

5 At the end of section 11, insert :—

(2) Where a vacancy occurs in the office of the
Chairman or the official member, the vacancy shall
be filled—

10 (a) in the case of the Chairman—by a person
appointed to the vacancy by the Governor
on the recommendation of the Minister; or

15 (b) in the case of the official member—by a
practising solicitor of the Supreme Court of
New South Wales appointed to the vacancy
by the Governor.

(3) A person appointed to an office under sub-
section (2) holds the office for the residue of the term
of office of his predecessor.

(7) Section 14—

20 Omit the section, insert instead :—

14. (1) A member of the council other than the Chair- Fees and
man is entitled to be paid such remuneration and such expenses.
travelling and subsistence allowances as the Minister may
from time to time determine in respect of him.

25 (2) The office of a member of the council other
than the Chairman shall, for the purposes of the Constitu-
tion Act, 1902, be deemed not to be an office or place of
profit under the Crown.

(8) Section 15—

30 Omit "Six", insert instead "Nine".

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(9) Section 16 (2)—

- 5 Omit “the members present shall elect one of their number to”, insert instead “a Deputy Chairman appointed under section 8A (4) shall”.

(10) Schedule 2—

At the end of the Act, insert :—

10

SCHEDULE 2.

Sec. 8A.

1. In this Schedule—

“statutory body” means a statutory body representing the Crown and any body declared under clause 6 to be a statutory body for the purposes of this Schedule;

15

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

2. Subject to clause 3 and to the terms of his appointment, where the Chairman was, immediately before his appointment as Chairman—

20

- (a) an officer of the Public Service;
- (b) an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970;
- (c) a contributor to a superannuation scheme;
- (d) an officer employed by a statutory body; or

25

- (e) a person in respect of whom provision was made by an Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

30

- (f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chairman; and

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

- 5 (h) shall be entitled to receive any deferred or extended leave and
any payment, pension or gratuity,
as if he had continued to be such an officer, contributor or person during
his service as Chairman and—
- 10 (i) his service as Chairman shall be deemed to be service as an
officer or employee for the purpose of any law under which those
rights accrued or were accruing, under which he continues to
contribute or by which that entitlement is conferred; and
- 15 (j) he shall be deemed to be an officer or employee, and the council
shall be deemed to be his employer, for the purpose of the super-
annuation scheme to which he is entitled to contribute under this
clause.
- 20 3. If the Chairman would, but for this clause, be entitled under clause
2 to contribute to a superannuation scheme or to receive any payment,
pension or gratuity under the scheme he shall not be so entitled upon his
becoming (whether upon his appointment as Chairman or at any later time
while he holds office as Chairman) a contributor to any other superannua-
tion scheme and the provisions of clause 2 (j) cease to apply to or in
respect of him and the council upon his becoming a contributor to that
other superannuation scheme.
- 25 4. Clause 3 does not prevent the payment to the Chairman upon his
ceasing to be a contributor to a superannuation scheme of such amount as
would have been payable to him if he had ceased, by reason of his
resignation, to be an officer or employee for the purposes of the scheme.
5. (1) In this clause “retiring age” means—
- 30 (a) in relation to a person who was, immediately before his appoint-
ment as Chairman, an officer of the Public Service or the Teaching
Service within the meaning of the Teaching Service Act, 1970—
the age of 60 years; and
- 35 (b) in relation to a person who, was, immediately before his appoint-
ment as Chairman, an officer or employee of a statutory body—
the age at which officers or employees (being officers or employees
of the class to which the person belonged immediately before his
appointment as Chairman), as the case may be, of the statutory
body are entitled to retire.

Auctioneers and Agents (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE COUNCIL OF AUCTIONEERS AND AGENTS—continued.

(2) A person who ceases to be Chairman by reason of the expiration
5 of his term of office or his resignation under section 8A (3) shall, if he has not attained his retiring age, be entitled to be appointed where, immediately before his appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- 10 (b) an officer of the Teaching Service—to some office in the Teaching Service; or
- (c) an officer or employee of a statutory body—to some office in the service of the statutory body,

not lower in classification and salary than that which he held immediately
15 before his appointment as Chairman.

6. The Governor may, by proclamation published in the Gazette, declare any body constituted by an Act to be a statutory body for the purposes of this Schedule.

SCHEDULE 2.

Sec. 5.

20 **AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO LICENSES.**

(1) Section 22 (1A), (1B)—

After section 22 (1), insert :—

25 (1A) A license may be expressed to be restricted in its operation to a specified region or place or to a specified purpose or to a specified region or place for a specified purpose.

Auctioneers and Agents (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
LICENSES—*continued.*

5 (1B) A person who takes out a license referred to in
subsection (1A)—

(a) shall be deemed, in the case of a license of a
class specified in subsection (1) taken out by a
person other than a corporation, not to be the
holder of a license of that class; or

10 (b) shall be deemed, in the case of a license taken
out by a corporation, not to be the holder of a
license,

15 except in relation to things done or omitted in the region
or place, or for the purpose, to which the operation of the
license is expressed to be restricted.

(2) Section 22 (2) (a) (i)—

After “which”, insert “, subject to subsections (1A) and
(1B),”.

(3) Section 22 (2) (a) (v)—

20 After “which”, insert “, subject to subsections (1A) and
(1B),”.

Auctioneers and Agents (Amendment).

SCHEDULE 3.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3 (1), definition of "Real estate dealer"—

After the definition of "Real estate agent", insert :—

5 "Real estate dealer" means a person (not being the holder of a license as a real estate agent) whose sole or principal business is the selling, as owner, of allotments of land as defined in section 51.

(2) Section 20 (1)—

10 Omit the subsection, insert instead :—

(1) Subject to this Act, no person shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of an auctioneer unless he is the holder of an auctioneer's license.

(3) Section 23 (9A), (9B)—

Omit the subsections.

(4) Section 43 (2)—

At the end of section 43, insert :—

20 (2) Where a licensee has an interest in any real or personal property as a principal, he is guilty of an offence against this Act if, in a newspaper or otherwise, he publishes an advertisement relating to or in connection with the property without disclosing that interest in the advertisement.

25

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Section 51, definition of “Real estate dealer”—

Omit the definition.

5 (6) Section 51A (1A)—

After section 51A (1), insert :—

(1A) An application under subsection (1) shall be accompanied by the same fees and contribution as would be required if the application were an application for a license.

10

(7) Section 51c (1) (b1)—

After section 51c (1) (b), insert :—

(b1) that he has failed to pay a contribution under section 71 (1A);

15 (8) Section 67 (a)—

After “licensees”, insert “and real estate dealers”.

(9) (a) Section 68 (c)—

After “licensees”, insert “and real estate dealers”.

(b) Section 68 (e)—

20 After “renewals”, insert “or for registration as a real estate dealer”.

(c) Section 68 (e)—

After “licenses” where secondly occurring, insert “or any such registration”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Section 71 (1A), (1B)—

After section 71 (1), insert :—

5 (1A) A real estate dealer shall, at the prescribed times, pay to the fund a contribution equal in amount to the contribution he would be required to make if he were a licensee at the time he makes the payment.

10 (1B) For the purposes of subsection (1A), the prescribed times in relation to a real estate dealer are—

(a) before the expiration of—

15 (i) three months after the date of assent to the Auctioneers and Agents (Amendment) Act, 1978, in the case of a real estate dealer registered before that date; or

20 (ii) the year that next succeeds his registration as a real estate dealer, in the case of a real estate dealer registered on or after that date of assent; and

(b) before the expiration of each year that succeeds the latest time prescribed for the real estate dealer by paragraph (a).

(11) (a) Section 72 (1)—

25 After “licensee”, insert “and real estate dealer”.

(b) Section 72 (3)—

After “licensee” where firstly and secondly occurring, insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 72 (3)—

5 Omit “unpaid the licensee shall be deemed not to be
the holder of a license under this Act”, insert
instead :—

unpaid—

10 (a) in the case of a licensee—he shall be
deemed not to be the holder of a license;
or

(b) in the case of a real estate dealer—he shall
be deemed not to be registered under this
Act as a real estate dealer.

(12) Section 73—

15 After “1925”, insert “, or, to an extent involving the
expenditure of not more than 60 per centum of the money
at credit in the fund and with the consent of the Minister,
in the purchase of shares in a permanent building society
20 registered under the Permanent Building Societies Act,
1967”.

(13) Section 74 (6)—

After section 74 (5), insert :—

25 (6) This section applies to and in respect of a real
estate dealer in the same way as it applies to and in respect
of a licensee and so applies as if—

(a) the reference in subsection (1) to the business
of the licensee as an auctioneer or a stock and
station agent or a business agent were a reference
to the business of the real estate dealer as such;

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) subsection (1A) had been omitted; and

5 (c) the reference in subsection (2) to the commencement of this Act were a reference to the date of assent to the Auctioneers and Agents (Amendment) Act, 1978.

(14) Section 75 (10)—

After section 75 (9), insert :—

10 (10) In respect of any theft or fraudulent misapplication after 1st September, 1977, subsections (3) and (4) shall be construed as though the words “five hundred pounds” wherever occurring were omitted therefrom and the matter “\$200,000” substituted therefor.

15 (15) Section 76—

After “licensee”, insert “or real estate dealer”.

(16) Section 78 (2)—

After “licensee”, insert “or real estate dealer”.

(17) Section 79—

20 After “licensee”, insert “or real estate dealer”.

(18) Section 80—

After “licensee”, insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

*SCHEDULE 3—continued.**FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.*

- (19) (a) Section 83 (1) and (3)—

5 After “licensee” wherever occurring, insert “or real estate dealer”.

- (b) Section 83 (3)—

 After “38”, insert “or 55”.

- (20) (a) Section 84 (1)—

 Omit “, as defined in section 51,”.

- 10 (b) Section 84 (1)—

 Omit “any such”.

- (21) (a) Section 84A (1)—

 Omit “, as defined in section 51,”.

- (b) Section 84A (1) (a)—

15 After “sale”, insert “or lease”.

- (22) Section 92 (2A), (2B)—

 After section 92 (2), insert :—

20 (2A) The regulations may prescribe rules of conduct to be observed in the course of carrying on his business by a licensee, the holder of a certificate of registration or a registered real estate dealer.

25 (2B) A provision of the regulations requiring the keeping of any accounting or other records in the form of a book shall be deemed to have been complied with if those accounting or other records are kept in another form approved by the registrar.

Auctioneers and Agents (Amendment).

SCHEDULE 4.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. Words and expressions used in this Schedule have the same meaning as they have in the Principal Act, as amended by this Act.
- 5 2. Notwithstanding anything in the Principal Act, as amended by this Act, the first Chairman appointed under the Principal Act, as so amended, shall not hold office beyond the expiration of the term of office of the elected members at the time of his assumption of office, but he shall, if qualified, be eligible for re-appointment.
- 10 3. Notwithstanding anything in the Principal Act, as amended by this Act, the official member holding office immediately before the commencement of Schedule 1 shall not continue in that office after that commencement beyond the expiration of the term of office for which the elected members holding office immediately before that commencement were
15 elected but he shall, if qualified, be eligible for re-appointment.
4. Notwithstanding anything in the Principal Act, as amended by this Act, the Governor may, on the recommendation of the Minister, appoint as members of the council 3 persons registered under that Act as real estate salesmen who are members of the Real Estate Salesmen's Association
20 of New South Wales and the persons so appointed—
- (a) shall assume office on the commencement of Schedule 1;
- (b) on assuming office shall be deemed to be the elected members referred to in section 8 (2) (b) (v) of that Act, as so amended;
- 25 (c) subject to paragraph (d), shall not hold office beyond the expiration of the term of office for which the elected members holding office immediately before that commencement were elected; and
- (d) if qualified, shall be eligible for election or appointment as members of the council.
- 30 5. Where a member of the council who, but for this clause, would be holding office immediately before the commencement of Schedule 1 attained the age of 70 years before that commencement, he shall be deemed to have vacated his office immediately before that commencement and a member of the council so holding office who attains that age before the
35 expiration of the term of office for which he was elected shall be deemed to have vacated his office on attaining that age.

Auctioneers and Agents (Amendment).

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

6. A vacancy in the office of a member existing immediately before the commencement of Schedule 1 (whether pursuant to clause 5 or otherwise)
5 shall be filled in accordance with the provisions of the Principal Act, as amended by this Act.

7. Subject to this Schedule and the Principal Act, as amended by this Act, the elected members holding office immediately before the commencement of Schedule 1 shall continue in office as members after that commence-
10 ment until the expiration of the term of office for which they were elected.

8. Where a partnership is carrying on business immediately before the date of assent to this Act, the amendment made by this Act to section 20 of the Principal Act does not operate in respect of that partnership until the expiration of 5 years after that date.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[24c]

Auctioneers and Agents (Amendment)

SCHEDULE 4—continued

Lawyer and Trustee's Powers—continued

6. A vacancy in the office of a partner existing immediately before the commencement of Schedule 1 continues in force to clause 7 of otherwise shall be filled in accordance with the provisions of the Principal Act as amended by this Act.

7. Subject to this Schedule and the Principal Act as amended by this Act, the clerk in charge of the office immediately before the commencement of Schedule 1 shall continue in office as clerk after that commencement until the expiration of the term of office for which they were elected.

8. Where a partnership is formed on or before the commencement of the date of assent to this Act, the partnership shall be deemed to have been formed on or before the date of assent to this Act so as to ensure that the provisions of this Act shall apply to the partnership from the date of its formation.

BY AUTHORITY

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Government of Western Australia at Perth this 12th day of May 1978.

[Signature]



AUCTIONEERS AND AGENTS (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Statutory and Other Offices Remuneration (Council of Auctioneers and Agents) Amendment Bill, 1978, is cognate with this Bill.

The objects of this Bill are—

- (a) to reconstitute the Council of Auctioneers and Agents by providing for—
 - (i) the appointment by the Governor of a full-time Chairman of the Council;
 - (ii) the election to the Council of an additional 3 members, being registered real estate salesmen (Schedule 1);
- (b) to provide for the issue of licenses limited in their operation to a specified region or a specified purpose (Schedule 2);
- (c) to require all the partners in a firm of auctioneers to be licensed—existing firms being given 5 years to comply (Schedule 3 (2) and clause 8 of Schedule 4);
- (d) to repeal the provision requiring the licensing of at least half the directors of a licensed corporation (Schedule 3 (3));
- (e) where a licensee is, when advertising any property, acting as a principal, to require him so to state in the advertisement (Schedule 3 (4));
- (f) to require a real estate dealer to pay the same fees for registration as a licensee is required to pay for the issue of a license and to make the same contributions to the Fidelity Fund as a licensee (Schedule 3 (8), (9), (10), (11), (13), (15), (16) and (17));
- (g) to authorise the investment of not more than 60 per centum of the Fidelity Fund in the purchase of shares in permanent building societies (Schedule 3 (12));
- (h) to increase from \$50,000 to \$200,000 the maximum amount payable from the Fidelity Fund in respect of theft or fraudulent misapplication by any one person (Schedule 3 (14));
- (i) to penalise the making of a materially false or misleading statement in promoting the leasing of property (Schedule 3 (18));
- (j) to authorise the making of regulations prescribing rules of conduct in carrying on their business for licensees and registered persons (Schedule 3 (22));

- (k) to enable accounting records kept under the Principal Act to be kept otherwise than in a book (Schedule 3 (22));
- (l) to enact savings and transitional provisions (Schedule 4); and
- (m) to make provisions consequential upon or ancillary to the foregoing.

AUCTIONEERS AND AGENTS (AMENDMENT) BILL, 1978

No. , 1978.

A BILL FOR

An Act to amend the Auctioneers and Agents Act, 1941, to provide for the reconstitution of the Council of Auctioneers and Agents, to provide for restricted licenses under that Act and to make further provision with respect to the Auctioneers and Agents Fidelity Guarantee Fund.

[MR EINFELD—7 March, 1978.]

Auctioneers and Agents (Amendment).

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

5 **1.** This Act may be cited as the “Auctioneers and Agents Short title.
(Amendment) Act, 1978”.

2. (1) Except as provided in subsections (2) and (3), this Commence-
Act shall commence on the date of assent to this Act. ment.

 (2) Section 5 shall, in its application to a Schedule to this
10 Act, commence on the day on which the Schedule commences.

 (3) Schedules 1 and 2 shall commence on such day or days
as may be appointed by the Governor in respect thereof and as may
be notified by proclamation published in the Gazette.

3. The Auctioneers and Agents Act, 1941, is in this Act Principal
15 referred to as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

**SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RECONSTITUTING THE COUNCIL OF AUCTIONEERS AND
AGENTS.**

20 **SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
WITH RESPECT TO LICENSES.**

Auctioneers and Agents (Amendment).

**SCHEDULE 3.—FURTHER AMENDMENTS TO THE
PRINCIPAL ACT.**

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in Amendment
5 Schedules 1–3. of Act No.
28, 1941.

6. Schedule 4 has effect.

Savings and
transitional
provisions.

SCHEDULE 1.

Sec. 5.

**AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING
THE COUNCIL OF AUCTIONEERS AND AGENTS.**

10 (1) Section 2—

Omit “SCHEDULE”, insert instead “SCHEDULES”.

(2) (a) Section 3 (1), definition of “Chairman”—

Before the definition of “Council”, insert :—

“Chairman” means chairman of the council.

15 (b) Section 3 (1), definition of “Member”—

After the definition of “Livestock”, insert :—

“Member” means member of the council.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(3) (a) Section 8 (1)—

5 Omit the subsection, insert instead :—

(1) The council shall consist of a Chairman appointed under section 8A, an official member appointed under subsection (3) and 15 elected members.

10 (b) Section 8 (2) (b) (iv)—

Omit “agents.”, insert instead :—
agents;

(v) three shall be real estate salesmen.

(c) Section 8 (2A)—

15 After section 8 (2), insert :—

(2A) Each of the elected members referred to in subsection (2) (v) shall be a holder of a certificate of registration as a real estate salesman elected by the members of the Real Estate Salesmen’s Association of New South Wales and certified by that Association to have been so elected.

(d) Section 8 (7)—

Omit the subsection.

(e) Section 8 (8)–(10)—

25 After section 8 (7), insert :—

(8) The Chairman and the official member—

(a) shall assume office on the day on which the elected members assume office;

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) shall hold office for 3 years; and

5 (c) shall be eligible for re-appointment.

(9) A person is not eligible for appointment as
Chairman or official member, or for election as a
member, or for appointment under section 11, 12
10 or 13, if he has, in the case of the Chairman, attained
the age of 65 years or, in any other case, attained the
age of 70 years or if he would attain that age before
the expiration of the term of office for which, but for
this subsection, he could be appointed or elected.

(10) The provisions of the Public Service Act,
15 1902, do not apply to or in respect of the Chairman
or the official member and they are not subject to
those provisions during their respective terms of
office.

(4) Section 8A—

20 After section 8, insert :—

8A. (1) The Chairman shall be appointed by the Chairman
Governor on the recommendation of the Minister and shall of council.
devote the whole of his time to the duties of his office.

(2) The Chairman is entitled to be paid—

25 (a) remuneration in accordance with the Statutory
and Other Offices Remuneration Act, 1975;
and

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

5 (b) such travelling and subsistence allowances as the
Minister may from time to time determine in
respect of him.

10 (3) Section 9 (e) does not apply to or in respect
of the Chairman but the Chairman shall be deemed to
have vacated his office if he resigns his office by writing
under his hand delivered to the Minister and the Governor
accepts the resignation.

(4) The Minister may appoint such number of
officers of the Public Service within his administration as
he thinks fit to be Deputy Chairmen of the council.

15 (5) Except to the extent of any inconsistency with
this section, a reference in this Act to a member of the
council includes a reference to the Chairman and, while
a Deputy Chairman presides at a meeting of the council,
to that Deputy Chairman.

20 (6) Schedule 2 has effect.

(5) Section 9 (g)—

Omit “or an appointed member, his license”, insert instead
“, his license or registration”.

(6) (a) Section 11—

25 Omit “council”, insert instead “Governor on the
recommendation of the Minister”.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(b) Section 11 (2), (3)—

5 At the end of section 11, insert :—

(2) Where a vacancy occurs in the office of the
Chairman or the official member, the vacancy shall
be filled—

10 (a) in the case of the Chairman—by a person
appointed to the vacancy by the Governor
on the recommendation of the Minister; or

15 (b) in the case of the official member—by a
practising solicitor of the Supreme Court of
New South Wales appointed to the vacancy
by the Governor.

(3) A person appointed to an office under sub-
section (2) holds the office for the residue of the term
of office of his predecessor.

(7) Section 14—

20 Omit the section, insert instead :—

14. (1) A member of the council other than the Chair- Fees and
man is entitled to be paid such remuneration and such expenses.
travelling and subsistence allowances as the Minister may
from time to time determine in respect of him.

25 (2) The office of a member of the council other
than the Chairman shall, for the purposes of the Constitu-
tion Act, 1902, be deemed not to be an office or place of
profit under the Crown.

(8) Section 15—

30 Omit "Six", insert instead "Nine".

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(9) Section 16 (2)—

- 5 Omit “the members present shall elect one of their number to”, insert instead “a Deputy Chairman appointed under section 8A (4) shall”.

(10) Schedule 2—

At the end of the Act, insert :—

10

SCHEDULE 2.

Sec. 8A.

1. In this Schedule—

“statutory body” means a statutory body representing the Crown and any body declared under clause 6 to be a statutory body for the purposes of this Schedule;

15

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

2. Subject to clause 3 and to the terms of his appointment, where the Chairman was, immediately before his appointment as Chairman—

20

- (a) an officer of the Public Service;
- (b) an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970;
- (c) a contributor to a superannuation scheme;
- (d) an officer employed by a statutory body; or
- 25 (e) a person in respect of whom provision was made by an Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

30

- (f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chairman; and

Auctioneers and Agents (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—continued.**

- 5 (h) shall be entitled to receive any deferred or extended leave and
any payment, pension or gratuity,
as if he had continued to be such an officer, contributor or person during
his service as Chairman and—
- 10 (i) his service as Chairman shall be deemed to be service as an
officer or employee for the purpose of any law under which those
rights accrued or were accruing, under which he continues to
contribute or by which that entitlement is conferred; and
- 15 (j) he shall be deemed to be an officer or employee, and the council
shall be deemed to be his employer, for the purpose of the super-
annuation scheme to which he is entitled to contribute under this
clause.
- 20 3. If the Chairman would, but for this clause, be entitled under clause
2 to contribute to a superannuation scheme or to receive any payment,
pension or gratuity under the scheme he shall not be so entitled upon his
becoming (whether upon his appointment as Chairman or at any later time
while he holds office as Chairman) a contributor to any other superannua-
tion scheme and the provisions of clause 2 (j) cease to apply to or in
respect of him and the council upon his becoming a contributor to that
other superannuation scheme.
- 25 4. Clause 3 does not prevent the payment to the Chairman upon his
ceasing to be a contributor to a superannuation scheme of such amount as
would have been payable to him if he had ceased, by reason of his
resignation, to be an officer or employee for the purposes of the scheme.
5. (1) In this clause “retiring age” means—
- 30 (a) in relation to a person who was, immediately before his appoint-
ment as Chairman, an officer of the Public Service or the Teaching
Service within the meaning of the Teaching Service Act, 1970—
the age of 60 years; and
- 35 (b) in relation to a person who, was, immediately before his appoint-
ment as Chairman, an officer or employee of a statutory body—
the age at which officers or employees (being officers or employees
of the class to which the person belonged immediately before his
appointment as Chairman), as the case may be, of the statutory
body are entitled to retire.

Auctioneers and Agents (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RECONSTITUTING THE
COUNCIL OF AUCTIONEERS AND AGENTS—*continued.*

(2) A person who ceases to be Chairman by reason of the expiration
5 of his term of office or his resignation under section 8A (3) shall, if he has
not attained his retiring age, be entitled to be appointed where, immediately
before his appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public
Service;
- 10 (b) an officer of the Teaching Service—to some office in the
Teaching Service; or
- (c) an officer or employee of a statutory body—to some office in the
service of the statutory body,

not lower in classification and salary than that which he held immediately
15 before his appointment as Chairman.

6. The Governor may, by proclamation published in the Gazette, declare
any body constituted by an Act to be a statutory body for the purposes of
this Schedule.

SCHEDULE 2.

Sec. 5.

20 AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
LICENSES.

(1) Section 22 (1A), (1B)—

After section 22 (1), insert :—

25 (1A) A license may be expressed to be restricted in its
operation to a specified region or place or to a specified
purpose or to a specified region or place for a specified
purpose.

Auctioneers and Agents (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
LICENSES—continued.**

- 5 (1B) A person who takes out a license referred to in
 subsection (1A)—
- (a) shall be deemed, in the case of a license of a
 class specified in subsection (1) taken out by a
 person other than a corporation, not to be the
 holder of a license of that class; or
- 10 (b) shall be deemed, in the case of a license taken
 out by a corporation, not to be the holder of a
 license,
- except in relation to things done or omitted in the region
 or place, or for the purpose, to which the operation of the
15 license is expressed to be restricted.
- (2) Section 22 (2) (a) (i)—
- After “which”, insert “, subject to subsections (1A) and
 (1B),”.
- (3) Section 22 (2) (a) (v)—
- 20 After “which”, insert “, subject to subsections (1A) and
 (1B),”.

Auctioneers and Agents (Amendment).

SCHEDULE 3.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3 (1), definition of "Real estate dealer"—

After the definition of "Real estate agent", insert :—

- 5 "Real estate dealer" means a person (not being the holder of a license as a real estate agent) whose sole or principal business is the selling, as owner, of allotments of land as defined in section 51.

(2) Section 20 (1)—

10 Omit the subsection, insert instead :—

- 15 (1) Subject to this Act, no person shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of an auctioneer unless he is the holder of an auctioneer's license.

(3) Section 23 (9A), (9B)—

Omit the subsections.

(4) Section 43 (2)—

At the end of section 43, insert :—

- 20 (2) Where a licensee has an interest in any real or personal property as a principal, he is guilty of an offence against this Act if, in a newspaper or otherwise, he publishes an advertisement relating to or in connection with the property without disclosing that interest in the
25 advertisement.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (5) Section 51, definition of “Real estate dealer”—
Omit the definition.

- 5 (6) Section 51A (1A)—

After section 51A (1), insert :—

- 10 (1A) An application under subsection (1) shall be accompanied by the same fees and contribution as would be required if the application were an application for a license.

- (7) Section 51C (1) (b1)—

After section 51C (1) (b), insert :—

- (b1) that he has failed to pay a contribution under section 71 (1A);

- 15 (8) Section 67 (a)—

After “licensees”, insert “and real estate dealers”.

- (9) (a) Section 68 (c)—

After “licensees”, insert “and real estate dealers”.

- (b) Section 68 (e)—

- 20 After “renewals”, insert “or for registration as a real estate dealer”.

- (c) Section 68 (e)—

After “licenses” where secondly occurring, insert “or any such registration”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Section 71 (1A), (1B)—

After section 71 (1), insert :—

5 (1A) A real estate dealer shall, at the prescribed times, pay to the fund a contribution equal in amount to the contribution he would be required to make if he were a licensee at the time he makes the payment.

10 (1B) For the purposes of subsection (1A), the prescribed times in relation to a real estate dealer are—

(a) before the expiration of—

15 (i) three months after the date of assent to the Auctioneers and Agents (Amendment) Act, 1978, in the case of a real estate dealer registered before that date; or

20 (ii) the year that next succeeds his registration as a real estate dealer, in the case of a real estate dealer registered on or after that date of assent; and

(b) before the expiration of each year that succeeds the latest time prescribed for the real estate dealer by paragraph (a).

(11) (a) Section 72 (1)—

25 After “licensee”, insert “and real estate dealer”.

(b) Section 72 (3)—

After “licensee” where firstly and secondly occurring, insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 72 (3)—

5 Omit “unpaid the licensee shall be deemed not to be the holder of a license under this Act”, insert instead :—

unpaid—

10 (a) in the case of a licensee—he shall be deemed not to be the holder of a license; or

(b) in the case of a real estate dealer—he shall be deemed not to be registered under this Act as a real estate dealer.

(12) Section 73—

15 After “1925”, insert “, or, to an extent involving the expenditure of not more than 60 per centum of the money at credit in the fund and with the consent of the Minister, in the purchase of shares in a permanent building society registered under the Permanent Building Societies Act, 20 1967”.

(13) Section 74 (6)—

After section 74 (5), insert :—

25 (6) This section applies to and in respect of a real estate dealer in the same way as it applies to and in respect of a licensee and so applies as if—

(a) the reference in subsection (1) to the business of the licensee as an auctioneer or a stock and station agent or a business agent were a reference to the business of the real estate dealer as such;

Auctioneers and Agents (Amendment).

SCHEDULE 3—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) subsection (1A) had been omitted; and

5 (c) the reference in subsection (2) to the commencement of this Act were a reference to the date of assent to the Auctioneers and Agents (Amendment) Act, 1978.

(14) Section 75 (10)—

After section 75 (9), insert :—

10 (10) In respect of any theft or fraudulent misapplication after 1st September, 1977, subsections (3) and (4) shall be construed as though the words “five hundred pounds” wherever occurring were omitted therefrom and the matter “\$200,000” substituted therefor.

15 (15) Section 76—

After “licensee”, insert “or real estate dealer”.

(16) Section 78 (2)—

After “licensee”, insert “or real estate dealer”.

(17) Section 79—

20 After “licensee”, insert “or real estate dealer”.

(18) Section 80—

After “licensee”, insert “or real estate dealer”.

Auctioneers and Agents (Amendment).

SCHEDULE 3—continued.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.

(19) (a) Section 83 (1) and (3)—

5 After “licensee” wherever occurring, insert “or real estate dealer”.

(b) Section 83 (3)—

After “38”, insert “or 55”.

(20) (a) Section 84 (1)—

Omit “, as defined in section 51,”.

10 (b) Section 84 (1)—

Omit “any such”.

(21) (a) Section 84A (1)—

Omit “, as defined in section 51,”.

(b) Section 84A (1) (a)—

15 After “sale”, insert “or lease”.

(22) Section 92 (2A), (2B)—

After section 92 (2), insert :—

20 (2A) The regulations may prescribe rules of conduct to be observed in the course of carrying on his business by a licensee, the holder of a certificate of registration or a registered real estate dealer.

25 (2B) A provision of the regulations requiring the keeping of any accounting or other records in the form of a book shall be deemed to have been complied with if those accounting or other records are kept in another form approved by the registrar.

Auctioneers and Agents (Amendment).

SCHEDULE 4.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. Words and expressions used in this Schedule have the same meaning as they have in the Principal Act, as amended by this Act.
- 5 2. Notwithstanding anything in the Principal Act, as amended by this Act, the first Chairman appointed under the Principal Act, as so amended, shall not hold office beyond the expiration of the term of office of the elected members at the time of his assumption of office, but he shall, if qualified, be eligible for re-appointment.
- 10 3. Notwithstanding anything in the Principal Act, as amended by this Act, the official member holding office immediately before the commencement of Schedule 1 shall not continue in that office after that commencement beyond the expiration of the term of office for which the elected members holding office immediately before that commencement were
15 elected but he shall, if qualified, be eligible for re-appointment.
4. Notwithstanding anything in the Principal Act, as amended by this Act, the Governor may, on the recommendation of the Minister, appoint as members of the council 3 persons registered under that Act as real estate salesmen who are members of the Real Estate Salesmen's Association
20 of New South Wales and the persons so appointed—
- (a) shall assume office on the commencement of Schedule 1;
 - (b) on assuming office shall be deemed to be the elected members referred to in section 8 (2) (b) (v) of that Act, as so amended;
 - (c) subject to paragraph (d), shall not hold office beyond the
25 expiration of the term of office for which the elected members holding office immediately before that commencement were elected; and
 - (d) if qualified, shall be eligible for election or appointment as members of the council.
- 30 5. Where a member of the council who, but for this clause, would be holding office immediately before the commencement of Schedule 1 attained the age of 70 years before that commencement, he shall be deemed to have vacated his office immediately before that commencement and a member of the council so holding office who attains that age before the
35 expiration of the term of office for which he was elected shall be deemed to have vacated his office on attaining that age.

Auctioneers and Agents (Amendment).

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

6. A vacancy in the office of a member existing immediately before the commencement of Schedule 1 (whether pursuant to clause 5 or otherwise)
5 shall be filled in accordance with the provisions of the Principal Act, as amended by this Act.
7. Subject to this Schedule and the Principal Act, as amended by this Act, the elected members holding office immediately before the commencement of Schedule 1 shall continue in office as members after that commencement
10 until the expiration of the term of office for which they were elected.
8. Where a partnership is carrying on business immediately before the date of assent to this Act, the amendment made by this Act to section 20 of the Principal Act does not operate in respect of that partnership until the expiration of 5 years after that date.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

Auctioneers and Auctioneers' Licenses

SCHEDULE 1—continued

SCHEDULE 1—continued

6. A vacancy in the office of a member elected immediately before the commencement of Schedule 1 (whether pursuant to clause 5 or otherwise) shall be filled in accordance with the provisions of the Principal Act, as amended by this Act.

7. Subject to this Schedule and the Principal Act, as amended by this Act, the elected members holding office immediately before the commencement of Schedule 1 shall continue in office as members after that commencement until the expiration of the term of office for which they were elected.

8. Where a partnership is carrying on business immediately before the date of assent to this Act, the amendment made by this Act to section 20 of the Principal Act does not operate in respect of that partnership until the expiration of 2 years after that date.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978



