

# CONCURRENCE COPY

## BUSINESS FRANCHISE LICENCES (TOBACCO) AMENDMENT BILL, 1983

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### EXPLANATORY NOTE

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

The object of this Bill is to amend the Business Franchise Licences (Tobacco) Act, 1975 ("the Act"), so as—

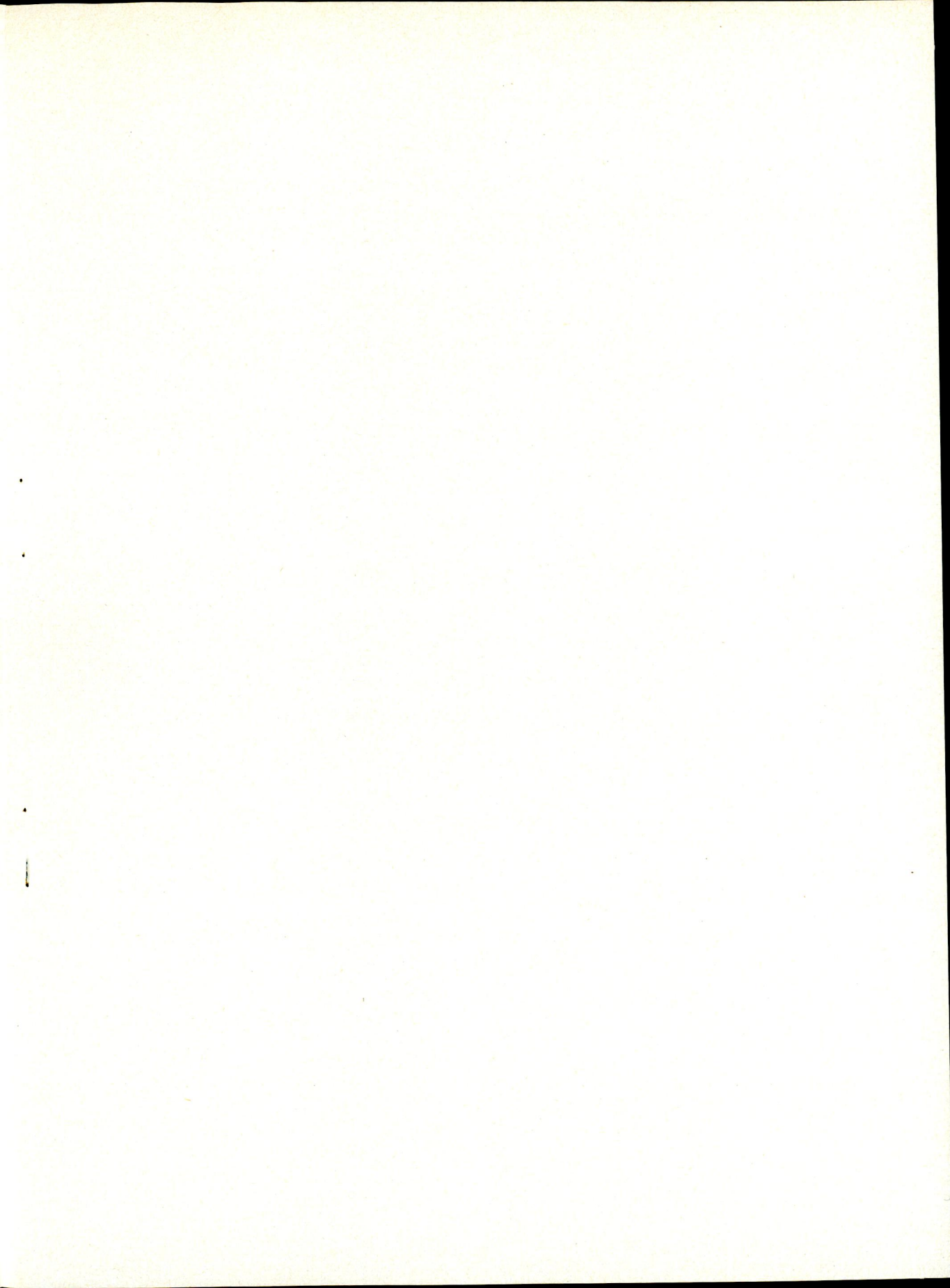
- (a) to increase the fees payable for licences granted or renewed under the Act with effect on or after 28th November, 1983, by providing for the fee for any such licence to be assessed at 15 per cent (instead of 10 per cent) of the value of tobacco sold during the relevant period in relation to the licence (Schedules 1 and 4);
- (b) to provide for a separate licence (with a maximum duration of 6 months) for persons carrying on the business of selling tobacco by means of vending machines (Schedule 2);
- (c) to provide for a group licence for members of a group (within the meaning of the Act) carrying on the business of tobacco retailing or tobacco vending machine operations as well as tobacco wholesaling (Schedule 2);
- (d) to treat the tobacco retailing or vending machine operations of a wholesale tobacco merchant, or of a member of a group which includes a wholesale tobacco merchant, as tobacco wholesaling and to include tobacco sold in the course of those operations in the assessment of the fee payable for the wholesale tobacco merchant's licence or the group wholesale tobacco merchant's licence, as the case may be (Schedule 2—proposed section 3G);
- (e) to provide that where a licence expires it may not be renewed but a further licence may be obtained (Schedule 2);
- (f) to provide that the powers of inspectors and the Chief Commissioner of Business Franchise Licences (Tobacco) ("the Chief Commissioner") in relation to inspection and the furnishing of information may be exercised in relation to the transportation of tobacco as well as the processing, packaging, distribution, sale or purchase of tobacco (Schedule 3 (2) and (3));
- (g) to empower the Chief Commissioner to cancel the licence of any person who contravenes the provisions of the Act or regulations (Schedule 3 (4));
- (h) to provide that a person who objects to or appeals against an assessment under the Act has the responsibility to establish the grounds on which the objection or appeal is made (Schedule 3 (5) and (8) (a));

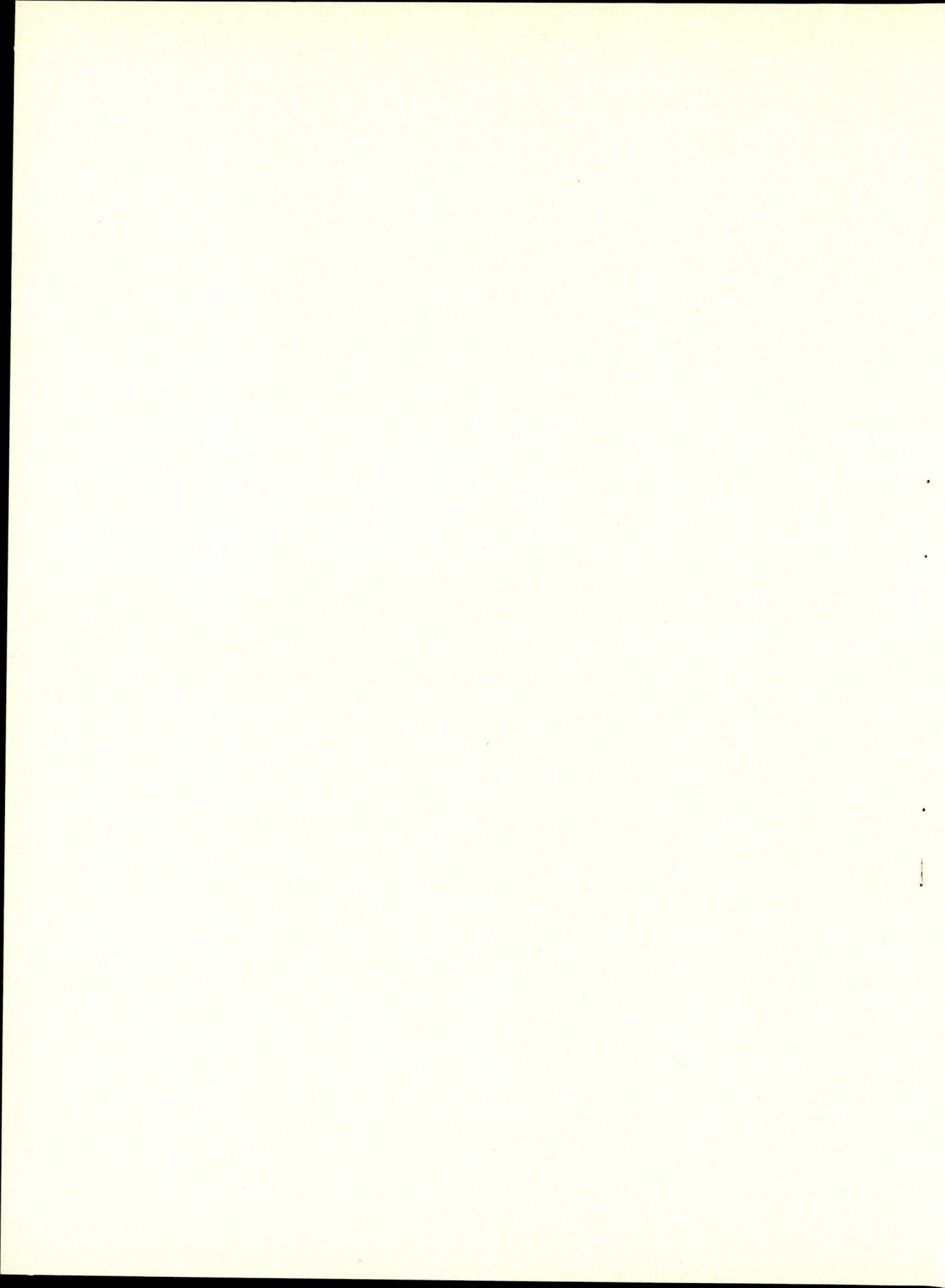
- (i) to require a wholesale tobacco merchant to issue an invoice, consecutively numbered, for any sale of tobacco for purposes of resale and to keep a copy of the invoice (Schedule 3 (6));
- (j) to provide that the Chief Commissioner may reassess an assessment previously made in respect of an unlicensed person instead of only an assessment previously made in respect of a licensed person (Schedule 3 (8) (b)); and
- (k) to make other provisions of a minor or consequential nature.

The Bill also enacts savings, transitional and other provisions.

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**BUSINESS FRANCHISE LICENCES (TOBACCO) AMENDMENT  
BILL, 1983**

No. , 1983.

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**A BILL FOR**

An Act to amend the Business Franchise Licences (Tobacco) Act, 1975, to increase the fees payable for licences under that Act, to make further provision with respect to licences and for other purposes.

[MR SHEAHAN—23 *November*, 1983.]

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*Business Franchise Licences (Tobacco) Amendment.*

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

**5 Short title.**

1. This Act may be cited as the "Business Franchise Licences (Tobacco) Amendment Act, 1983".

**Commencement.**

2. (1) Except as provided by subsection (2), this Act shall commence 10 on the date of assent to this Act.

(2) Section 5, in its application to Schedule 2, and Schedule 2 shall commence on 28th August, 1984.

**Principal Act.**

3. The Business Franchise Licences (Tobacco) Act, 1975, is referred 15 to in this Act as the Principal Act.

**Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO FEES.

20 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES.

SCHEDULE 3.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.



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*Business Franchise Licences (Tobacco) Amendment.*

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**Amendment of Act No. 63, 1975.**

5. The Principal Act is amended in the manner set forth in Schedules 1-3.

**Savings, transitional and other provisions.**

5 6. Schedule 4 has effect.

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**SCHEDULE 1.**

(Sec. 5.)

**AMENDMENT TO THE PRINCIPAL ACT RELATING TO FEES.**

Section 12 (1)—

10 Omit "10 per centum" wherever occurring, insert instead "15 per cent".

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**SCHEDULE 2.**

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES.**

15 (1) (a) Section 3 (1), definitions of "group licence", "group retail tobacconist's licence", "group tobacco vending machine operator's licence"—

After the definition of "Commissioner", insert:—

20 "group licence" means a group retail tobacconist's licence, a group tobacco vending machine operator's licence or a group wholesale tobacco merchant's licence;



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

“group retail tobacconist’s licence” means a group retail tobacconist’s licence referred to in section 11 (2) (b) and in force under this Act;

“group tobacco vending machine operator’s licence” means a group tobacco vending machine operator’s licence referred to in section 11 (2) (c) and in force under this Act;

(b) Section 3 (1), definition of “relevant period”—

Omit the definition, insert instead:—

“relevant period” means—

(a) in relation to a retail tobacconist’s licence or a group retail tobacconist’s licence—the period of 1 year that ended on 30th June that last preceded 27th August that last preceded the day on and from which the licence, if granted, would be in force;

(b) in relation to a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence—the period of 6 months that ended—

(i) where the licence, if granted, would be in force on and from a day after 27th February in any year and before the next succeeding 28th August—on 31st December in the previous year; or

(ii) where the licence, if granted, would be in force on and from a day after 27th August in any year and before the next succeeding 28th February—on 30th June in that year; or

(c) in relation to a wholesale tobacco merchant’s licence or a group wholesale tobacco merchant’s licence—the month specified in column 2 of Schedule 1 that last preceded the month—

(i) specified in column 1 of Schedule 1 opposite the firstmentioned month; and



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- 5 (ii) on the 27th day of which the licence, if granted and in force for the whole of its term, would expire;
- (c) Section 3 (1), definitions of “tobacco retailing”, “tobacco vending machine operations”, “tobacco vending machine operator’s licence”, “tobacco wholesaling”—

10 Omit the definitions of “tobacco retailing” and “tobacco wholesaling”, insert instead:—

15 “tobacco retailing” means the business of selling tobacco by retail in the course of intrastate trade either alone or in conjunction with any other merchandise, and includes any such business carried on as part of or in conjunction with any other business, but does not include—

(a) the business of tobacco vending machine operations; or

(b) any business referred to in section 3G;

20 “tobacco vending machine operations” means the business of selling tobacco by means of vending machines in the course of intrastate trade either alone or in conjunction with any other merchandise, and includes any such business carried on as part of or in conjunction with any other business, but does not include any business referred to in section 3G;

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“tobacco vending machine operator’s licence” means a tobacco vending machine operator’s licence referred to in section 11 (2) (c) and in force under this Act;

30 “tobacco wholesaling” means the business of selling tobacco in the course of intrastate trade either alone or in conjunction with any other merchandise, and includes any such business carried on as part of or in conjunction

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

5 with any other business, but does not include the business of tobacco retailing or the business of tobacco vending machine operations;

## (d) Section 3 (2)—

Omit the subsection, insert instead:—

10 (2) The presence on any premises of a vending machine from which tobacco may be obtained shall be deemed to constitute the carrying on of tobacco vending machine operations by the occupier of the premises, unless a licensee is carrying on those operations by means of that machine in accordance with the licence.

## (e) Section 3 (6A)—

15 Omit the subsection, insert instead:—

(6A) A reference in this Act to a holder of a group licence of any class includes a reference to each person whose name is, under section 11 (3A), specified in a group licence of that class that is in force under this Act.

## 20 (2) (a) Section 3A (1), (2)—

Omit “of wholesale tobacco merchants” wherever occurring.

## (b) Section 3A (2), (3), (5), (8)—

Omit “tobacco wholesaling” wherever occurring, insert instead “the business of selling tobacco”.



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (3) Section 3G—

After section 3F, insert:—

5       **Retail or vending machine sales by tobacco wholesaler.**

3G. (1) For the purposes of this Act, a person who carries on tobacco wholesaling and who also carries on the business of selling tobacco by retail in the course of intrastate trade—

- 10       (a) shall be deemed not to be carrying on tobacco retailing; and  
(b) shall be deemed to have sold in the course of tobacco wholesaling any tobacco so sold by retail.

15       (2) For the purposes of this Act, a person who carries on tobacco wholesaling and who also carries on the business of selling tobacco by means of vending machines in the course of intrastate trade—

- (a) shall be deemed not to be carrying on tobacco vending machine operations; and  
(b) shall be deemed to have sold in the course of tobacco wholesaling any tobacco so sold by means of vending machines.

20       (3) For the purposes of this Act, a person—

- (a) who carries on the business of selling tobacco by retail, or by means of vending machines, in the course of intrastate trade; and  
25       (b) who is a member of a group, being a group which includes a person who carries on tobacco wholesaling,

shall be deemed to be carrying on tobacco wholesaling and to have sold in the course of tobacco wholesaling any tobacco so sold by retail or by means of vending machines, as the case may be.



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

(4) (a) Section 10 (2)—

After “licence”, insert “or a group retail tobacconist’s licence”.

5 (b) Section 10 (2A)—

After section 10 (2), insert:—

(2A) On or after 28th August, 1984, a person shall not carry on tobacco vending machine operations unless the person is the holder of a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence.

10

Penalty: \$250 for every day on which the person carries on the business.

(c) Section 10 (4)—

After “licensee”, insert “(other than the holder of a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence)”.

15

(5) (a) Section 11 (1) (c) (ii)—

Omit “is an applicant for a retail tobacconist’s licence and”.

(b) Section 11 (1A) (b)—

20

Omit “and”.

(c) Section 11 (1A) (c)–(f)—

Omit section 11 (1A) (c), insert instead:—

(c) for a retail tobacconist’s licence—may be made by any person other than a person who is a member of a group of retail tobacconists;

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(d) for a group retail tobacconist’s licence—may be made on behalf of all or any of the members of a group of retail tobacconists by any member of the group;



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- 5 (e) for a tobacco vending machine operator's licence—may be made by any person other than a person who is a member of a group of tobacco vending machine operators; and
- 10 (f) for a group tobacco vending machine operator's licence—may be made on behalf of all or any of the members of a group of tobacco vending machine operators by any member of the group.

(d) Section 11 (2)—

Omit the subsection, insert instead:—

- (2) A licence shall be any one of the following:—
- 15 (a) a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence, which authorises the licensee to carry on tobacco wholesaling at the premises specified in the licence;
- 20 (b) a retail tobacconist's licence or a group retail tobacconist's licence, which authorises the licensee to carry on tobacco retailing at the premises specified in the licence;
- 25 (c) a tobacco vending machine operator's licence or a group tobacco vending machine operator's licence, which authorises the licensee to carry on tobacco vending machine operations.

(e) Section 11 (3)—

After "licence" where firstly occurring, insert "(other than a tobacco vending machine operator's licence or a group tobacco vending machine operator's licence)".



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

(f) Section 11 (3A), (4)—

Omit the subsections, insert instead:—

5           (3A) The Chief Commissioner shall, on the grant of a group licence, cause the name of each person on whose behalf the application for the licence was made to be specified in the licence.

(6) (a) Section 12 (1) (a1)—

10           Omit “or a renewal thereof”.

(b) Section 12 (1) (b)—

Omit “equal to”, insert instead “of”.

(c) Section 12 (1) (b)—

15           Omit “licence.”, insert instead “licence or a group wholesale tobacco merchant’s licence);”;

(d) Section 12 (1) (c)–(e)—

After section 12 (1) (b), insert:—

20           (c) for a group retail tobacconist’s licence—a fee of \$10 together with an amount of 15 per cent of the value of tobacco sold by all persons who are members of the group of retail tobacconists of which the applicant for the licence is a member (whether or not the application was made by them or on their behalf and whether or not they were members of that group during the whole or any part of the relevant period) in the course of tobacco retailing during the relevant period (other than tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant’s licence or

25           a group wholesale tobacco merchant’s licence);



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- 10 (d) for a tobacco vending machine operator's licence—a fee of \$5 together with an amount of 15 per cent of the value of tobacco sold by the applicant in the course of tobacco vending machine operations during the relevant period (other than tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence);
- 15 (e) for a group tobacco vending machine operator's licence—a fee of \$5 together with an amount of 15 per cent of the value of tobacco sold by all persons who are members of the group of tobacco vending machine operators of which the applicant for the licence is a member (whether or not the application was made by them or on their behalf and whether or not they were members of that group during the whole or any part of the relevant period) in the course of tobacco vending machine operations during the relevant period (other than tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence).
- 20
- 25 (e) Section 12 (1A)–(1C)—  
Omit the subsections, insert instead:—
- (1A) Where an applicant for a licence (other than a group licence) was, at any time during the relevant period for the licence, a member of a group—
- 30 (a) in the case of an applicant for a wholesale tobacco merchant's licence—the tobacco sold by the applicant in the course of tobacco wholesaling during that relevant period shall, for the purposes of subsection (1) (a), be deemed to have included any tobacco sold by the other member or, if more than one, all of the other members of the group in the course of tobacco wholesaling during
- 35 that relevant period;

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

5 (b) in the case of an applicant for a retail tobacconist's  
licence—the tobacco sold by the applicant in the course  
of tobacco retailing during that relevant period shall,  
for the purposes of subsection (1) (b), be deemed to  
have included any tobacco sold by the other member or,  
if more than one, all of the other members of the group  
10 in the course of tobacco retailing during that relevant  
period; or

(c) in the case of an applicant for a tobacco vending mach-  
ine operator's licence—the tobacco sold by the applicant  
in the course of tobacco vending machine operations  
during that relevant period shall, for the purposes of  
15 subsection (1) (d), be deemed to have included any  
tobacco sold by the other member or, if more than one,  
all of the other members of the group in the course of  
tobacco vending machine operations during that  
relevant period,

20 unless the applicant satisfies the Chief Commissioner that a fee  
for a licence has been paid to the Chief Commissioner after  
having been assessed in respect of the sale of that tobacco  
during that relevant period.

(1B) Where an application is made on behalf of the mem-  
25 bers of a group of any class for a group licence and any member  
of the group was, at any time during the relevant period for the  
licence, a member of another group of that class (any one or  
more of the members of which is not a member of the first-  
mentioned group)—

30 (a) in the case of an application for a group wholesale  
tobacco merchant's licence—the tobacco sold by mem-  
bers of the firstmentioned group in the course of tobacco  
wholesaling during that relevant period shall, for the  
purposes of subsection (1) (a1), be deemed to have  
35 included any tobacco sold by any of the members of the  
other group in the course of tobacco wholesaling during  
that relevant period;



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- 5 (b) in the case of an application for a group retail tobacconist's licence—the tobacco sold by members of the first-mentioned group in the course of tobacco retailing during that relevant period shall, for the purposes of subsection (1) (c), be deemed to have included any tobacco sold by any of the members of the other group in the course of tobacco retailing during that relevant period; or
- 10
- 15 (c) in the case of an application for a group tobacco vending machine operator's licence—the tobacco sold by members of the firstmentioned group in the course of tobacco vending machine operations during that relevant period shall, for the purposes of subsection (1) (e), be deemed to have included any tobacco sold by any of the members of the other group in the course of tobacco vending machine operations during that relevant period,
- 20 unless the applicant satisfies the Chief Commissioner that a fee for a licence has been paid to the Chief Commissioner after having been assessed in respect of the sale of that tobacco during that relevant period.
- 25 (1c) For the purposes of this section, tobacco shall not be treated as having been sold in the course of tobacco wholesaling by reason only of its having been sold to the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence.
- 30 (f) Section 12 (6)—  
After "licence" where firstly occurring, insert "or a group retail tobacconist's licence".



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (g) Section 12 (6A)—

After section 12 (6), insert:—

5           (6A) Notwithstanding any other provision of this section,  
where a tobacco vending machine operator's licence or a group  
tobacco vending machine operator's licence is to be in force  
for a period of 5 months or less, the amount of the fee that,  
10           but for this subsection, would be payable shall be reduced,  
where the licence is to be in force for a period of—

(a) 5 months or less but more than 4 months—by one-sixth;

(b) 4 months or less but more than 3 months—by two-sixths;

15           (c) 3 months or less but more than 2 months—by three-sixths;

(d) 2 months or less but more than 1 month—by four-sixths; or

(e) 1 month or less—by five-sixths.

## (h) Section 12 (8)—

20           Omit the subsection, insert instead:—

25           (8) In subsections (2) and (3), “applicant”, in relation to  
a licence, includes any person whose tobacco sales during the  
relevant period for the licence would be required to be taken  
into account by reason of subsection (1) (a1), (1) (c),  
(1) (e), (1A) or (1B) for the purpose of determining the fee  
for the licence if the fee was not required to be assessed under  
either subsection (2) or (3).



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (7) (a) Section 13 (1), (2)—

Omit the subsections, insert instead:—

- 5 (1) In this section, “prescribed date” means—
- (a) in relation to a retail tobacconist’s licence or a group  
retail tobacconist’s licence—28th September, 28th  
October, 28th November, 28th December, 28th January,  
28th February, 28th March, 28th April, 28th May, 28th  
10 June or 28th July; or
- (b) in relation to a tobacco vending machine operator’s  
licence or a group tobacco vending machine operator’s  
licence—
- 15 (i) where the licence, if in force for the whole of its  
term, would expire on 27th August—28th  
September, 28th October, 28th November, 28th  
December or 28th January; or
- (ii) where the licence, if in force for the whole of its  
term, would expire on 27th February—28th  
20 March, 28th April, 28th May, 28th June or  
28th July.

- 25 (2) An applicant for a retail tobacconist’s licence, a group  
retail tobacconist’s licence, a tobacco vending machine operator’s  
licence or a group tobacco vending machine operator’s  
licence, being a licence which is to be in force for more than 1  
month, may, in the application, if the licence fee payable in  
respect of the licence is in excess of \$120, elect to pay the licence  
fee by instalments in accordance with this section.

## (b) Section 13 (3)—

- 30 After “licence” where firstly occurring, insert “or a group retail  
tobacconist’s licence”.



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

(c) Section 13 (3) (a)—

Omit “or renewal” wherever occurring.

5 (d) Section 13 (3A)—

After section 13 (3), insert:—

(3A) Where a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence—

- 10 (a) is to be in force for a period of more than 5 months—  
the licence fee may be paid by 6 equal instalments, the  
first instalment being due and payable before the grant  
of the licence and each of the remaining 5 instalments  
being due and payable respectively on the following 5  
15 prescribed dates (commencing with 28th September in  
the case of a licence referred to in subsection (1) (b)  
(i) or with 28th March in the case of a licence referred  
to in subsection (1) (b) (ii)) next following the date of  
issue of the licence;
- 20 (b) is to be in force for a period of more than 4 months but  
not more than 5 months—the licence fee may be paid  
by 5 equal instalments, the first instalment being due  
and payable before the grant of the licence and each of  
the remaining 4 instalments being due and payable  
25 respectively on the following 4 prescribed dates (com-  
mencing with 28th October in the case of a licence  
referred to in subsection (1) (b) (i) or with 28th April  
in the case of a licence referred to in subsection (1) (b)  
(ii)) next following the date of issue of the licence;
- 30 (c) is to be in force for a period of more than 3 months but  
not more than 4 months—the licence fee may be paid  
by 4 equal instalments, the first instalment being due  
and payable before the grant of the licence and each of  
the remaining 3 instalments being due and payable



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- 5 respectively on the following 3 prescribed dates (commencing with 28th November in the case of a licence referred to in subsection (1) (b) (i) or with 28th May in the case of a licence referred to in subsection (1) (b) (ii)) next following the date of issue of the licence;
- 10 (d) is to be in force for a period of more than 2 months but not more than 3 months—the licence fee may be paid by 3 equal instalments, the first instalment being due and payable before the grant of the licence and each of the remaining 2 instalments being due and payable respectively on the following 2 prescribed dates (commencing with 28th December in the case of a licence referred to in subsection (1) (b) (i) or with 28th June in the case of a licence referred to in subsection (1) (b) (ii)) next following the date of issue of the licence; or
- 15
- 20 (e) is to be in force for a period of more than 1 month but not more than 2 months—the licence fee may be paid by 2 equal instalments, the first instalment being due and payable before the grant of the licence and the remaining instalment being due and payable on 28th January in the case of a licence referred to in subsection (1) (b) (i) or 28th July in the case of a licence referred to in subsection (1) (b) (ii) next following the date of issue of the licence.
- 25

(e) Section 13 (4), (5)—

After “(3)” wherever occurring, insert “or (3A)”.

30 (f) Section 13 (5), (6)—

Omit “retail tobacconist’s” wherever occurring.

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (8) (a) Section 14 (2), (3)—

Omit the subsections, insert instead:—

5 (2) Where on a reassessment of a fee under subsection (1) the fee is reduced, the amount overpaid shall, subject to subsection (4), be refunded by the Chief Commissioner.

## (b) Section 14 (4)—

10 Omit “subsection (3)” where firstly and thirdly occurring, insert instead “subsection (2)”.

## (c) Section 14 (4)—

Omit “subsection (3) (a) or (b)”, insert instead “subsection (2)”.

## (d) Section 14 (5), (6), (6A) —

15 Omit the subsections, insert instead:—

(5) Where on a reassessment of a fee under subsection (1) the fee is increased, the additional amount payable by virtue of the reassessment shall, subject to subsection (7), be due and payable (whether or not the licence has ceased to be in force)—

20 (a) within 14 days after notice of the reassessment is served on the person who is or was the holder of the licence (other than a group licence) or on any one or more of the persons who are or were the holders of the group licence, as the case may be; and

25 (b) by the person or, where the notice is served on more than one person, by each of the persons on whom the notice is served.

## (e) Section 14 (7), (8)—

Omit the subsections, insert instead:—

30 (7) A person by whom any additional amount is payable under subsection (5) may, within 14 days after the service on the person of notice of the reassessment by virtue of which the



*Business Franchise Licences (Tobacco) Amendment.*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

5 additional amount became payable, apply to the Chief Commissioner for approval to pay the amount by instalments, and if the Chief Commissioner approves of the amount being so paid, it shall be due and payable by the person by such instalments payable at such times as are specified in the instrument of the Chief Commissioner's approval.

(f) Section 14 (9)—

10 Omit "(6), (6A)", insert instead "(5)".

(9) Section 16—

Omit the section, insert instead:—

**Duration of licences.**

15 16. (1) A retail tobacconist's licence or a group retail tobacconist's licence shall be in force on and from the day specified in the licence as the day from which the licence commences until, unless it sooner ceases to have effect, 27th August next following that day.

20 (2) A tobacco vending machine operator's licence or a group tobacco vending machine operator's licence shall be in force on and from the day specified in the licence as the day from which the licence commences until, unless it sooner ceases to have effect, 27th August or 27th February next following that day, whichever first occurs.

25 (3) A wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence shall be in force on and from the day specified in the licence as the day from which the licence commences until, unless it sooner ceases to have effect—

(a) in the case of a licence that was first in force on a day of a month occurring before the 28th day of the month—the 27th day of the month in which it was first in force; and

30 (b) in any other case—the 27th day of the next succeeding month after the month during which it was first in force.

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- (10) (a) Section 17 (1)—  
Omit “retail tobacconist’s”.
- 5 (b) Section 17 (2) (a)—  
Omit “it is a retail tobacconist’s licence and the applicant for the licence or renewal of the licence”, insert instead “the applicant for the licence”.
- (11) Section 19 (1)—  
10 Omit “the licence for which that person applied was a retail tobacconist’s licence and he”, insert instead “that person”.
- (12) Section 20—  
Omit the section.
- (13) (a) Section 21 (1)—  
15 Omit “retail tobacconist’s”.
- (b) Section 21 (1)—  
Omit “or renewal”.
- (c) Section 21 (8) (b)—  
Omit the paragraph, insert instead:—  
20 (b) if, in the application for a licence in respect of which the objection or appeal was instituted, the applicant made an election under section 13, any instalment payable by virtue of that election has not become due and payable, each of the remaining instalments payable in respect of the licence shall be reduced by an amount that bears to the difference between the fee as originally assessed and the fee as determined on the objection or  
25 appeal the same proportion as one bears to the number of those remaining instalments.
- (d) Section 21 (9)—  
30 After “13 (3)”, insert “or (3A)”.
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*Business Franchise Licences (Tobacco) Amendment.*

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## SCHEDULE 3.

(Sec. 5.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 3D (4)—  
5 Omit “Companies Act, 1961”, insert instead “Companies (New South Wales) Code”.
- (2) Section 7 (2)—  
After “distribution,” wherever occurring, insert “transportation,”.
- (3) Sections 7 (2) (a), 8 (1)—  
10 After “distributing,” wherever occurring, insert “transporting,”.
- (4) Section 17 (3), (4)—  
After section 17 (2), insert:—  
  
(3) Where the Chief Commissioner is satisfied that the holder of  
15 a licence has contravened any provision of this Act or the regulations  
and that in all the circumstances of the case the licence should not  
continue in force, the Chief Commissioner may, by notice in writing  
to the holder of the licence, direct that the licence shall, on the date  
specified in the notice, cease to be in force.  
  
(4) A direction under subsection (3) has effect according to its  
20 tenor.
- (5) Section 21 (7A)—  
After section 21 (7), insert:—  
  
(7A) It is the responsibility of the person making an objection  
25 or appeal under this section to establish the grounds on which it is  
made.

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 3—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) (a) Section 23 (1A)—

After section 23 (1), insert:—

5 (1A) A holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence—

(a) shall issue, or cause to be issued, an invoice for and in relation to any sale of tobacco by the holder for the purpose of resale;

10 (b) shall number, or cause to be numbered, each such invoice consecutively in order of issue; and

(c) shall make, or cause to be made, a copy of each such invoice and shall preserve it for a period of 5 years after it was made.

15 Penalty: \$1,000.

(b) Section 23 (2)—

After "documents", insert "or any copies of invoices".

(7) Section 23A (1)—

20 After "tobacco" where thirdly occurring, insert "for the purpose of resale".

(8) (a) Section 28A (8A)—

After section 28A (8), insert:—

25 (8A) It is the responsibility of the person making an objection or appeal under this section to establish the grounds on which it is made.



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*Business Franchise Licences (Tobacco) Amendment.*

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

## (b) Section 28A (12), (13)—

After section 28A (11), insert:—

5 (12) The provisions of section 14 apply to and in respect of an amount assessed under this section in the same way as they apply to and in respect of a licence fee assessed under section 12.

10 (13) A person on whom notice of reassessment has been served under section 14 (as applied by subsection (12)) may, within 14 days after service of the notice, object to and appeal against the reassessment as if the reassessment were an assessment to or against which an objection or appeal may be made under the foregoing provisions of this section, and  
15 those provisions apply accordingly.

## (9) Section 30 (3)—

Omit “section 362 of the Companies Act, 1961”, insert instead “sections 528, 529 and 530 of the Companies (New South Wales) Code”.

## 20 (10) Section 31—

Omit the section, insert instead:—

**Regulations.**

25 31. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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*Business Franchise Licences (Tobacco) Amendment.*

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

(2) Without limiting the generality of subsection (1), the Governor may make regulations for or with respect to—

- 5 (a) requiring persons, or persons belonging to classes of persons, specified in the regulations to make returns in such form and manner and containing such information as is indicated by the regulations relating to—
- 10 (i) sales, purchases or stocks of, or dealings with, tobacco; and
- (ii) the situation, and operation, of vending machines, and to furnish the returns to the Chief Commissioner within such time as may be so specified; and
- 15 (b) the exemption, absolutely or to a specified extent, and whether or not subject to conditions, of persons from the operation of all or any specified provisions of this Act.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 20 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

25 (4) The regulations may impose a penalty not exceeding \$500 for an offence against the regulations.

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*Business Franchise Licences (Tobacco) Amendment.*

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## SCHEDULE 4.

(Sec. 6.)

## SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

**Date of effect of increase in fees.**

5 1. (1) The amendment made by Schedule 1 applies to the fees to be paid for licences granted or renewed with effect on or after 28th November, 1983.

(2) An assessment made under section 12 of the Principal Act at any time before the date of assent to this Act of the fee to be paid for a licence referred to in subclause (1), being an assessment made as if the amendments made by Schedule 1  
10 had been in force at that time, shall be deemed to have been a correct assessment of that fee.

**Transitional provisions for issue of licences.**

2. (1) Notwithstanding section 2 (2), where a person would be required to hold a licence under the Principal Act, as amended by this Act, in order to carry on any  
15 particular business on or after 28th August, 1984, section 5, in its application to Schedule 2, and Schedule 2 shall, for the purpose only of doing anything, or requiring anything to be done, for the purpose of granting the licence before that date, be deemed to have commenced on the date of assent to this Act.

(2) Subclause (1) has no operation in relation to the granting of a licence  
20 authorising the holder of the licence to carry on any particular business before 28th August, 1984.

**Objections and appeals.**

3. Nothing in Schedule 3 (5) or (8) (a) applies to an objection or appeal made before the date of assent to this Act.

**25 Reassessments.**

4. The provisions of section 28A (12) and (13) of the Principal Act, as amended by this Act, apply to an assessment made under section 28A of the Principal Act before the date of assent to this Act as well as to such an assessment made after that date.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

The first part of the report deals with the general situation of the country and the progress of the work during the year. It is followed by a detailed account of the various expeditions and the results obtained. The report concludes with a summary of the work done and the prospects for the future.

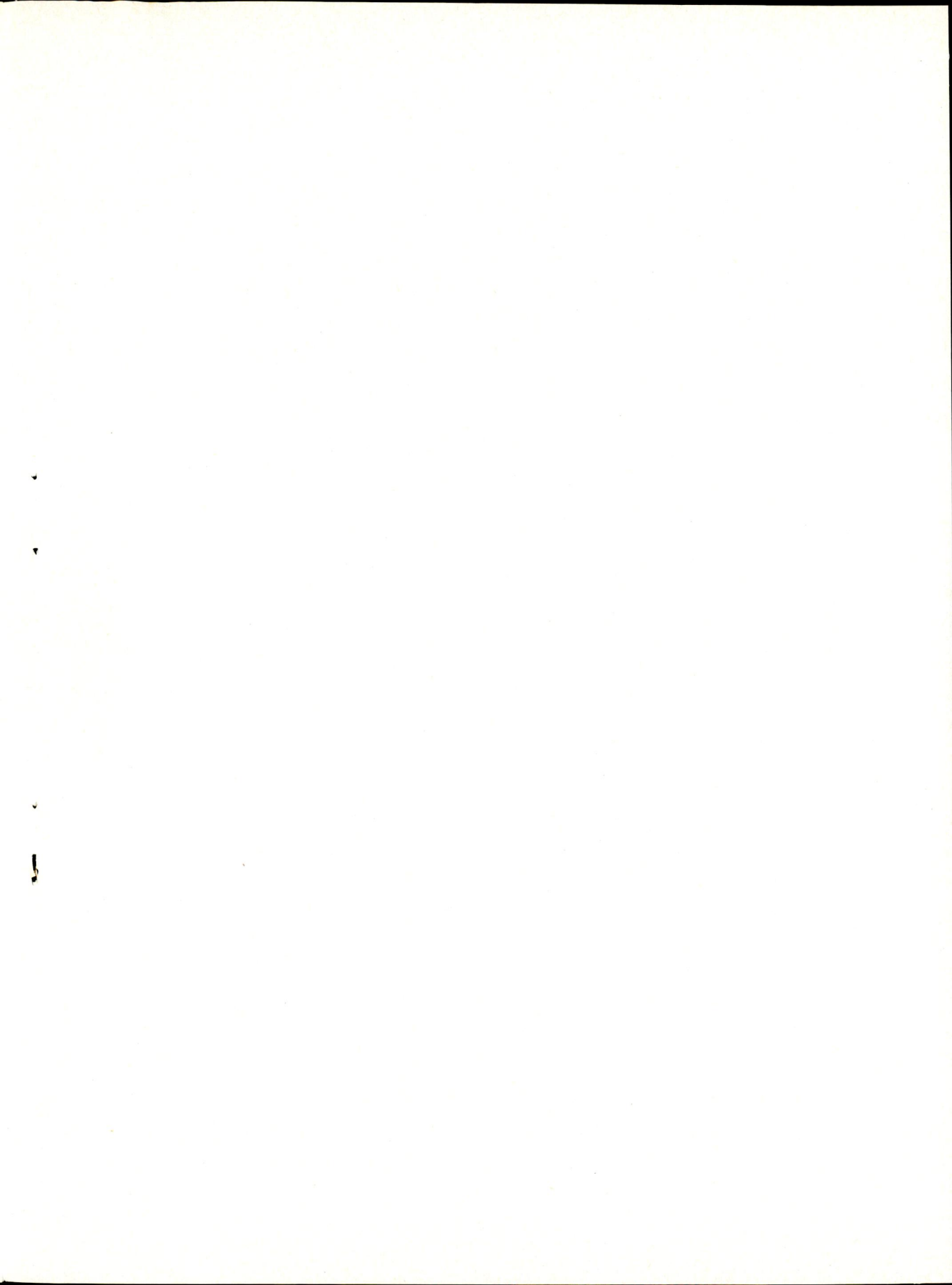
The first expedition was led by Mr. A. B. C. and was directed towards the north-west. It was successful in obtaining a large amount of material, including many new species. The second expedition, led by Mr. D. E. F., was directed towards the south-east and was also successful in obtaining a large amount of material.

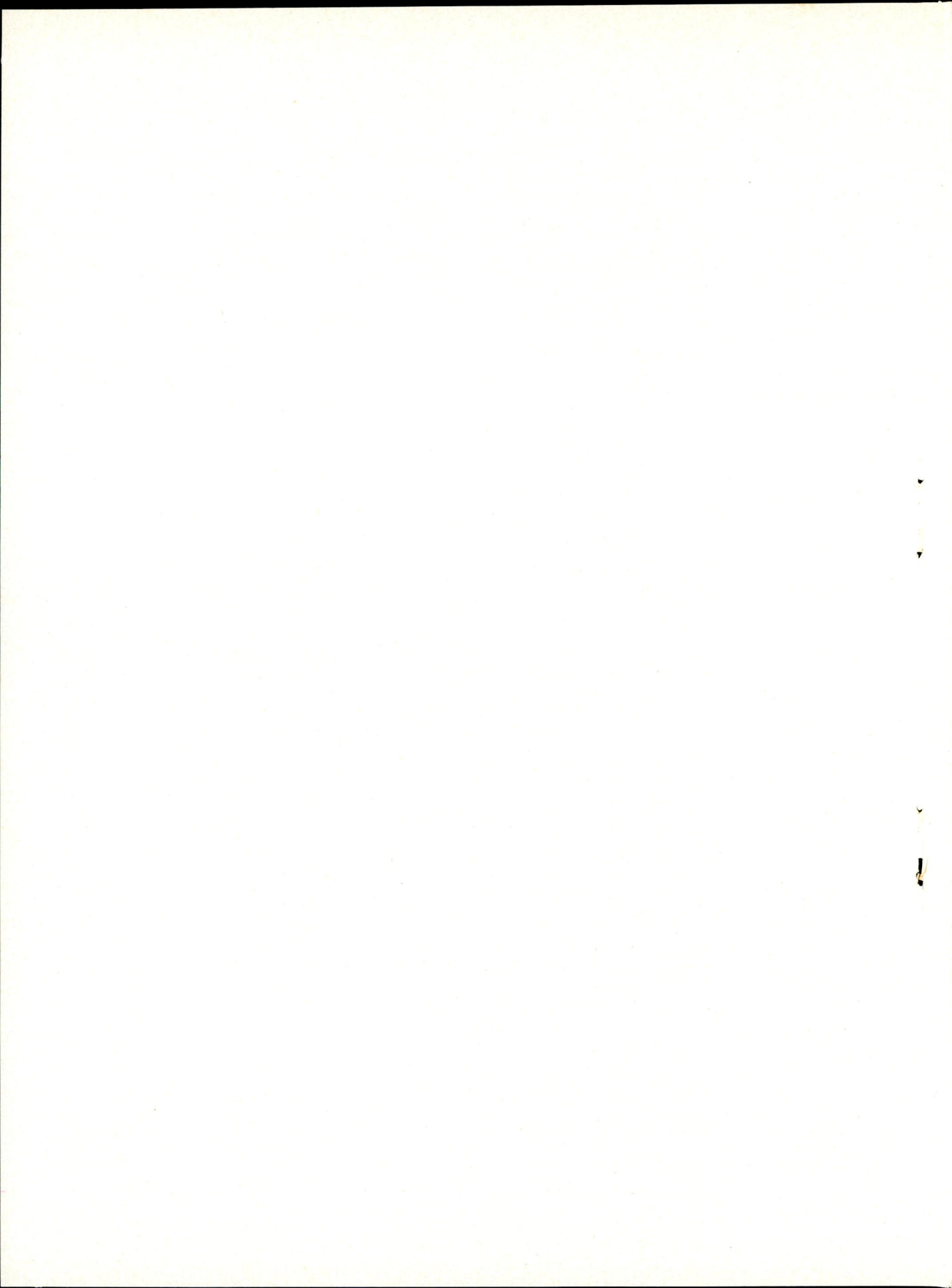
The third expedition, led by Mr. G. H. I., was directed towards the west and was successful in obtaining a large amount of material. The fourth expedition, led by Mr. J. K. L., was directed towards the east and was also successful in obtaining a large amount of material.

The fifth expedition, led by Mr. M. N. O., was directed towards the north and was successful in obtaining a large amount of material. The sixth expedition, led by Mr. P. Q. R., was directed towards the south and was also successful in obtaining a large amount of material.

The seventh expedition, led by Mr. S. T. U., was directed towards the west and was successful in obtaining a large amount of material. The eighth expedition, led by Mr. V. W. X., was directed towards the east and was also successful in obtaining a large amount of material.









**BUSINESS FRANCHISE LICENCES (TOBACCO)  
AMENDMENT ACT, 1983, No. 133**

**New South Wales**



ANNO TRICESIMO SECUNDO

**ELIZABETHÆ II REGINÆ**

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**Act No. 133, 1983.**

An Act to amend the Business Franchise Licences (Tobacco) Act, 1975, to increase the fees payable for licences under that Act, to make further provision with respect to licences and for other purposes. [Assented to, 21st December, 1983.]

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*Business Franchise Licences (Tobacco) Amendment.*

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

**Short title.**

1. This Act may be cited as the "Business Franchise Licences (Tobacco) Amendment Act, 1983".

**Commencement.**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 2, and Schedule 2 shall commence on 28th August, 1984.

**Principal Act.**

3. The Business Franchise Licences (Tobacco) Act, 1975, is referred to in this Act as the Principal Act.

**Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO FEES.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES.

SCHEDULE 3.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.



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*Business Franchise Licences (Tobacco) Amendment.*

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**Amendment of Act No. 63, 1975.**

5. The Principal Act is amended in the manner set forth in Schedules 1-3.

**Savings, transitional and other provisions.**

6. Schedule 4 has effect.

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**SCHEDULE 1.**

(Sec. 5.)

**AMENDMENT TO THE PRINCIPAL ACT RELATING TO FEES.**

Section 12 (1)—

Omit "10 per centum" wherever occurring, insert instead "15 per cent".

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**SCHEDULE 2.**

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES.**

(1) (a) Section 3 (1), definitions of "group licence", "group retail tobacconist's licence", "group tobacco vending machine operator's licence"—

After the definition of "Commissioner", insert:—

"group licence" means a group retail tobacconist's licence, a group tobacco vending machine operator's licence or a group wholesale tobacco merchant's licence;

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

“group retail tobacconist’s licence” means a group retail tobacconist’s licence referred to in section 11 (2) (b) and in force under this Act;

“group tobacco vending machine operator’s licence” means a group tobacco vending machine operator’s licence referred to in section 11 (2) (c) and in force under this Act;

(b) Section 3 (1), definition of “relevant period”—

Omit the definition, insert instead:—

“relevant period” means—

- (a) in relation to a retail tobacconist’s licence or a group retail tobacconist’s licence—the period of 1 year that ended on 30th June that last preceded 27th August that last preceded the day on and from which the licence, if granted, would be in force;
- (b) in relation to a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence—the period of 6 months that ended—
  - (i) where the licence, if granted, would be in force on and from a day after 27th February in any year and before the next succeeding 28th August—on 31st December in the previous year; or
  - (ii) where the licence, if granted, would be in force on and from a day after 27th August in any year and before the next succeeding 28th February—on 30th June in that year; or
- (c) in relation to a wholesale tobacco merchant’s licence or a group wholesale tobacco merchant’s licence—the month specified in column 2 of Schedule 1 that last preceded the month—
  - (i) specified in column 1 of Schedule 1 opposite the firstmentioned month; and



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- (ii) on the 27th day of which the licence, if granted and in force for the whole of its term, would expire;
- (c) Section 3 (1), definitions of “tobacco retailing”, “tobacco vending machine operations”, “tobacco vending machine operator’s licence”, “tobacco wholesaling”—

Omit the definitions of “tobacco retailing” and “tobacco wholesaling”, insert instead:—

“tobacco retailing” means the business of selling tobacco by retail in the course of intrastate trade either alone or in conjunction with any other merchandise, and includes any such business carried on as part of or in conjunction with any other business, but does not include—

- (a) the business of tobacco vending machine operations; or
- (b) any business referred to in section 3G;

“tobacco vending machine operations” means the business of selling tobacco by means of vending machines in the course of intrastate trade either alone or in conjunction with any other merchandise, and includes any such business carried on as part of or in conjunction with any other business, but does not include any business referred to in section 3G;

“tobacco vending machine operator’s licence” means a tobacco vending machine operator’s licence referred to in section 11 (2) (c) and in force under this Act;

“tobacco wholesaling” means the business of selling tobacco in the course of intrastate trade either alone or in conjunction with any other merchandise, and includes any such business carried on as part of or in conjunction

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

with any other business, but does not include the business of tobacco retailing or the business of tobacco vending machine operations;

## (d) Section 3 (2)—

Omit the subsection, insert instead:—

(2) The presence on any premises of a vending machine from which tobacco may be obtained shall be deemed to constitute the carrying on of tobacco vending machine operations by the occupier of the premises, unless a licensee is carrying on those operations by means of that machine in accordance with the licence.

## (e) Section 3 (6A)—

Omit the subsection, insert instead:—

(6A) A reference in this Act to a holder of a group licence of any class includes a reference to each person whose name is, under section 11 (3A), specified in a group licence of that class that is in force under this Act.

## (2) (a) Section 3A (1), (2)—

Omit “of wholesale tobacco merchants” wherever occurring.

## (b) Section 3A (2), (3), (5), (8)—

Omit “tobacco wholesaling” wherever occurring, insert instead “the business of selling tobacco”.



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (3) Section 3G—

After section 3F, insert:—

**Retail or vending machine sales by tobacco wholesaler.**

3G. (1) For the purposes of this Act, a person who carries on tobacco wholesaling and who also carries on the business of selling tobacco by retail in the course of intrastate trade—

- (a) shall be deemed not to be carrying on tobacco retailing; and
- (b) shall be deemed to have sold in the course of tobacco wholesaling any tobacco so sold by retail.

(2) For the purposes of this Act, a person who carries on tobacco wholesaling and who also carries on the business of selling tobacco by means of vending machines in the course of intrastate trade—

- (a) shall be deemed not to be carrying on tobacco vending machine operations; and
- (b) shall be deemed to have sold in the course of tobacco wholesaling any tobacco so sold by means of vending machines.

(3) For the purposes of this Act, a person—

- (a) who carries on the business of selling tobacco by retail, or by means of vending machines, in the course of intrastate trade; and
- (b) who is a member of a group, being a group which includes a person who carries on tobacco wholesaling,

shall be deemed to be carrying on tobacco wholesaling and to have sold in the course of tobacco wholesaling any tobacco so sold by retail or by means of vending machines, as the case may be.

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (4) (a) Section 10 (2)—

After “licence”, insert “or a group retail tobacconist’s licence”.

## (b) Section 10 (2A)—

After section 10 (2), insert:—

(2A) On or after 28th August, 1984, a person shall not carry on tobacco vending machine operations unless the person is the holder of a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence.

Penalty: \$250 for every day on which the person carries on the business.

## (c) Section 10 (4)—

After “licensee”, insert “(other than the holder of a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence)”.

## (5) (a) Section 11 (1) (c) (ii)—

Omit “is an applicant for a retail tobacconist’s licence and”.

## (b) Section 11 (1A) (b)—

Omit “and”.

## (c) Section 11 (1A) (c)–(f)—

Omit section 11 (1A) (c), insert instead:—

(c) for a retail tobacconist’s licence—may be made by any person other than a person who is a member of a group of retail tobacconists;

(d) for a group retail tobacconist’s licence—may be made on behalf of all or any of the members of a group of retail tobacconists by any member of the group;



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- (e) for a tobacco vending machine operator's licence—may be made by any person other than a person who is a member of a group of tobacco vending machine operators; and
  - (f) for a group tobacco vending machine operator's licence—may be made on behalf of all or any of the members of a group of tobacco vending machine operators by any member of the group.
- (d) Section 11 (2)—
- Omit the subsection, insert instead:—
- (2) A licence shall be any one of the following:—
    - (a) a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence, which authorises the licensee to carry on tobacco wholesaling at the premises specified in the licence;
    - (b) a retail tobacconist's licence or a group retail tobacconist's licence, which authorises the licensee to carry on tobacco retailing at the premises specified in the licence;
    - (c) a tobacco vending machine operator's licence or a group tobacco vending machine operator's licence, which authorises the licensee to carry on tobacco vending machine operations.
- (e) Section 11 (3)—
- After "licence" where firstly occurring, insert "(other than a tobacco vending machine operator's licence or a group tobacco vending machine operator's licence)".

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (f) Section 11 (3A), (4)—

Omit the subsections, insert instead:—

(3A) The Chief Commissioner shall, on the grant of a group licence, cause the name of each person on whose behalf the application for the licence was made to be specified in the licence.

## (6) (a) Section 12 (1) (a1)—

Omit “or a renewal thereof”.

## (b) Section 12 (1) (b)—

Omit “equal to”, insert instead “of”.

## (c) Section 12 (1) (b)—

Omit “licence).”, insert instead “licence or a group wholesale tobacco merchant’s licence);”;

## (d) Section 12 (1) (c)–(e)—

After section 12 (1) (b), insert:—

(c) for a group retail tobacconist’s licence—a fee of \$10 together with an amount of 15 per cent of the value of tobacco sold by all persons who are members of the group of retail tobacconists of which the applicant for the licence is a member (whether or not the application was made by them or on their behalf and whether or not they were members of that group during the whole or any part of the relevant period) in the course of tobacco retailing during the relevant period (other than tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant’s licence or a group wholesale tobacco merchant’s licence);



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- (d) for a tobacco vending machine operator's licence—a fee of \$5 together with an amount of 15 per cent of the value of tobacco sold by the applicant in the course of tobacco vending machine operations during the relevant period (other than tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence);
  - (e) for a group tobacco vending machine operator's licence—a fee of \$5 together with an amount of 15 per cent of the value of tobacco sold by all persons who are members of the group of tobacco vending machine operators of which the applicant for the licence is a member (whether or not the application was made by them or on their behalf and whether or not they were members of that group during the whole or any part of the relevant period) in the course of tobacco vending machine operations during the relevant period (other than tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence).
- (e) Section 12 (1A)–(1C)—
- Omit the subsections, insert instead:—
- (1A) Where an applicant for a licence (other than a group licence) was, at any time during the relevant period for the licence, a member of a group—
- (a) in the case of an applicant for a wholesale tobacco merchant's licence—the tobacco sold by the applicant in the course of tobacco wholesaling during that relevant period shall, for the purposes of subsection (1) (a), be deemed to have included any tobacco sold by the other member or, if more than one, all of the other members of the group in the course of tobacco wholesaling during that relevant period;

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- (b) in the case of an applicant for a retail tobacconist's licence—the tobacco sold by the applicant in the course of tobacco retailing during that relevant period shall, for the purposes of subsection (1) (b), be deemed to have included any tobacco sold by the other member or, if more than one, all of the other members of the group in the course of tobacco retailing during that relevant period; or
- (c) in the case of an applicant for a tobacco vending machine operator's licence—the tobacco sold by the applicant in the course of tobacco vending machine operations during that relevant period shall, for the purposes of subsection (1) (d), be deemed to have included any tobacco sold by the other member or, if more than one, all of the other members of the group in the course of tobacco vending machine operations during that relevant period,

unless the applicant satisfies the Chief Commissioner that a fee for a licence has been paid to the Chief Commissioner after having been assessed in respect of the sale of that tobacco during that relevant period.

(1B) Where an application is made on behalf of the members of a group of any class for a group licence and any member of the group was, at any time during the relevant period for the licence, a member of another group of that class (any one or more of the members of which is not a member of the first-mentioned group)—

- (a) in the case of an application for a group wholesale tobacco merchant's licence—the tobacco sold by members of the firstmentioned group in the course of tobacco wholesaling during that relevant period shall, for the purposes of subsection (1) (a1), be deemed to have included any tobacco sold by any of the members of the other group in the course of tobacco wholesaling during that relevant period;



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- (b) in the case of an application for a group retail tobacconist's licence—the tobacco sold by members of the first-mentioned group in the course of tobacco retailing during that relevant period shall, for the purposes of subsection (1) (c), be deemed to have included any tobacco sold by any of the members of the other group in the course of tobacco retailing during that relevant period; or
- (c) in the case of an application for a group tobacco vending machine operator's licence—the tobacco sold by members of the firstmentioned group in the course of tobacco vending machine operations during that relevant period shall, for the purposes of subsection (1) (e), be deemed to have included any tobacco sold by any of the members of the other group in the course of tobacco vending machine operations during that relevant period,

unless the applicant satisfies the Chief Commissioner that a fee for a licence has been paid to the Chief Commissioner after having been assessed in respect of the sale of that tobacco during that relevant period.

(1c) For the purposes of this section, tobacco shall not be treated as having been sold in the course of tobacco wholesaling by reason only of its having been sold to the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence.

- (f) Section 12 (6)—

After "licence" where firstly occurring, insert "or a group retail tobacconist's licence".

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (g) Section 12 (6A)—

After section 12 (6), insert:—

(6A) Notwithstanding any other provision of this section, where a tobacco vending machine operator's licence or a group tobacco vending machine operator's licence is to be in force for a period of 5 months or less, the amount of the fee that, but for this subsection, would be payable shall be reduced, where the licence is to be in force for a period of—

- (a) 5 months or less but more than 4 months—by one-sixth;
- (b) 4 months or less but more than 3 months—by two-sixths;
- (c) 3 months or less but more than 2 months—by three-sixths;
- (d) 2 months or less but more than 1 month—by four-sixths; or
- (e) 1 month or less—by five-sixths.

## (h) Section 12 (8)—

Omit the subsection, insert instead:—

(8) In subsections (2) and (3), "applicant", in relation to a licence, includes any person whose tobacco sales during the relevant period for the licence would be required to be taken into account by reason of subsection (1) (a1), (1) (c), (1) (e), (1A) or (1B) for the purpose of determining the fee for the licence if the fee was not required to be assessed under either subsection (2) or (3).



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (7) (a) Section 13 (1), (2)—

Omit the subsections, insert instead:—

(1) In this section, “prescribed date” means—

(a) in relation to a retail tobacconist’s licence or a group retail tobacconist’s licence—28th September, 28th October, 28th November, 28th December, 28th January, 28th February, 28th March, 28th April, 28th May, 28th June or 28th July; or

(b) in relation to a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence—

(i) where the licence, if in force for the whole of its term, would expire on 27th August—28th September, 28th October, 28th November, 28th December or 28th January; or

(ii) where the licence, if in force for the whole of its term, would expire on 27th February—28th March, 28th April, 28th May, 28th June or 28th July.

(2) An applicant for a retail tobacconist’s licence, a group retail tobacconist’s licence, a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence, being a licence which is to be in force for more than 1 month, may, in the application, if the licence fee payable in respect of the licence is in excess of \$120, elect to pay the licence fee by instalments in accordance with this section.

## (b) Section 13 (3)—

After “licence” where firstly occurring, insert “or a group retail tobacconist’s licence”.

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (c) Section 13 (3) (a)—

Omit “or renewal” wherever occurring.

## (d) Section 13 (3A)—

After section 13 (3), insert:—

(3A) Where a tobacco vending machine operator’s licence or a group tobacco vending machine operator’s licence—

- (a) is to be in force for a period of more than 5 months—the licence fee may be paid by 6 equal instalments, the first instalment being due and payable before the grant of the licence and each of the remaining 5 instalments being due and payable respectively on the following 5 prescribed dates (commencing with 28th September in the case of a licence referred to in subsection (1) (b) (i) or with 28th March in the case of a licence referred to in subsection (1) (b) (ii)) next following the date of issue of the licence;
- (b) is to be in force for a period of more than 4 months but not more than 5 months—the licence fee may be paid by 5 equal instalments, the first instalment being due and payable before the grant of the licence and each of the remaining 4 instalments being due and payable respectively on the following 4 prescribed dates (commencing with 28th October in the case of a licence referred to in subsection (1) (b) (i) or with 28th April in the case of a licence referred to in subsection (1) (b) (ii)) next following the date of issue of the licence;
- (c) is to be in force for a period of more than 3 months but not more than 4 months—the licence fee may be paid by 4 equal instalments, the first instalment being due and payable before the grant of the licence and each of the remaining 3 instalments being due and payable



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

respectively on the following 3 prescribed dates (commencing with 28th November in the case of a licence referred to in subsection (1) (b) (i) or with 28th May in the case of a licence referred to in subsection (1) (b) (ii)) next following the date of issue of the licence;

(d) is to be in force for a period of more than 2 months but not more than 3 months—the licence fee may be paid by 3 equal instalments, the first instalment being due and payable before the grant of the licence and each of the remaining 2 instalments being due and payable respectively on the following 2 prescribed dates (commencing with 28th December in the case of a licence referred to in subsection (1) (b) (i) or with 28th June in the case of a licence referred to in subsection (1) (b) (ii)) next following the date of issue of the licence; or

(e) is to be in force for a period of more than 1 month but not more than 2 months—the licence fee may be paid by 2 equal instalments, the first instalment being due and payable before the grant of the licence and the remaining instalment being due and payable on 28th January in the case of a licence referred to in subsection (1) (b) (i) or 28th July in the case of a licence referred to in subsection (1) (b) (ii) next following the date of issue of the licence.

(e) Section 13 (4), (5)—

After “(3)” wherever occurring, insert “or (3A)”.

(f) Section 13 (5), (6)—

Omit “retail tobacconist’s” wherever occurring.

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

## (8) (a) Section 14 (2), (3)—

Omit the subsections, insert instead:—

(2) Where on a reassessment of a fee under subsection (1) the fee is reduced, the amount overpaid shall, subject to subsection (4), be refunded by the Chief Commissioner.

## (b) Section 14 (4)—

Omit “subsection (3)” where firstly and thirdly occurring, insert instead “subsection (2)”.

## (c) Section 14 (4)—

Omit “subsection (3) (a) or (b)”, insert instead “subsection (2)”.

## (d) Section 14 (5), (6), (6A) —

Omit the subsections, insert instead:—

(5) Where on a reassessment of a fee under subsection (1) the fee is increased, the additional amount payable by virtue of the reassessment shall, subject to subsection (7), be due and payable (whether or not the licence has ceased to be in force)—

- (a) within 14 days after notice of the reassessment is served on the person who is or was the holder of the licence (other than a group licence) or on any one or more of the persons who are or were the holders of the group licence, as the case may be; and
- (b) by the person or, where the notice is served on more than one person, by each of the persons on whom the notice is served.

## (e) Section 14 (7), (8)—

Omit the subsections, insert instead:—

(7) A person by whom any additional amount is payable under subsection (5) may, within 14 days after the service on the person of notice of the reassessment by virtue of which the



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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

additional amount became payable, apply to the Chief Commissioner for approval to pay the amount by instalments, and if the Chief Commissioner approves of the amount being so paid, it shall be due and payable by the person by such instalments payable at such times as are specified in the instrument of the Chief Commissioner's approval.

(f) Section 14 (9)—

Omit "(6), (6A)", insert instead "(5)".

(9) Section 16—

Omit the section, insert instead:—

**Duration of licences.**

16. (1) A retail tobacconist's licence or a group retail tobacconist's licence shall be in force on and from the day specified in the licence as the day from which the licence commences until, unless it sooner ceases to have effect, 27th August next following that day.

(2) A tobacco vending machine operator's licence or a group tobacco vending machine operator's licence shall be in force on and from the day specified in the licence as the day from which the licence commences until, unless it sooner ceases to have effect, 27th August or 27th February next following that day, whichever first occurs.

(3) A wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence shall be in force on and from the day specified in the licence as the day from which the licence commences until, unless it sooner ceases to have effect—

- (a) in the case of a licence that was first in force on a day of a month occurring before the 28th day of the month—the 27th day of the month in which it was first in force; and
- (b) in any other case—the 27th day of the next succeeding month after the month during which it was first in force.

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*Business Franchise Licences (Tobacco) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES—*continued.*

- (10) (a) Section 17 (1)—  
Omit “retail tobacconist’s”.
- (b) Section 17 (2) (a)—  
Omit “it is a retail tobacconist’s licence and the applicant for the licence or renewal of the licence”, insert instead “the applicant for the licence”.
- (11) Section 19 (1)—  
Omit “the licence for which that person applied was a retail tobacconist’s licence and he”, insert instead “that person”.
- (12) Section 20—  
Omit the section.
- (13) (a) Section 21 (1)—  
Omit “retail tobacconist’s”.
- (b) Section 21 (1)—  
Omit “or renewal”.
- (c) Section 21 (8) (b)—  
Omit the paragraph, insert instead:—  
(b) if, in the application for a licence in respect of which the objection or appeal was instituted, the applicant made an election under section 13, any instalment payable by virtue of that election has not become due and payable, each of the remaining instalments payable in respect of the licence shall be reduced by an amount that bears to the difference between the fee as originally assessed and the fee as determined on the objection or appeal the same proportion as one bears to the number of those remaining instalments.
- (d) Section 21 (9)—  
After “13 (3)”, insert “or (3A)”.
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*Business Franchise Licences (Tobacco) Amendment.*

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## SCHEDULE 3.

(Sec. 5.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 3D (4)—

Omit "Companies Act, 1961", insert instead "Companies (New South Wales) Code".

## (2) Section 7 (2)—

After "distribution," wherever occurring, insert "transportation,".

## (3) Sections 7 (2) (a), 8 (1)—

After "distributing," wherever occurring, insert "transporting,".

## (4) Section 17 (3), (4)—

After section 17 (2), insert:—

(3) Where the Chief Commissioner is satisfied that the holder of a licence has contravened any provision of this Act or the regulations and that in all the circumstances of the case the licence should not continue in force, the Chief Commissioner may, by notice in writing to the holder of the licence, direct that the licence shall, on the date specified in the notice, cease to be in force.

(4) A direction under subsection (3) has effect according to its tenor.

## (5) Section 21 (7A)—

After section 21 (7), insert:—

(7A) It is the responsibility of the person making an objection or appeal under this section to establish the grounds on which it is made.

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*Business Franchise Licences (Tobacco) Amendment.*

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

## (6) (a) Section 23 (1A)—

After section 23 (1), insert:—

(1A) A holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence—

- (a) shall issue, or cause to be issued, an invoice for and in relation to any sale of tobacco by the holder for the purpose of resale;
- (b) shall number, or cause to be numbered, each such invoice consecutively in order of issue; and
- (c) shall make, or cause to be made, a copy of each such invoice and shall preserve it for a period of 5 years after it was made.

Penalty: \$1,000.

## (b) Section 23 (2)—

After "documents", insert "or any copies of invoices".

## (7) Section 23A (1)—

After "tobacco" where thirdly occurring, insert "for the purpose of resale".

## (8) (a) Section 28A (8A)—

After section 28A (8), insert:—

(8A) It is the responsibility of the person making an objection or appeal under this section to establish the grounds on which it is made.



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*Business Franchise Licences (Tobacco) Amendment.*

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

## (b) Section 28A (12), (13)—

After section 28A (11), insert:—

(12) The provisions of section 14 apply to and in respect of an amount assessed under this section in the same way as they apply to and in respect of a licence fee assessed under section 12.

(13) A person on whom notice of reassessment has been served under section 14 (as applied by subsection (12)) may, within 14 days after service of the notice, object to and appeal against the reassessment as if the reassessment were an assessment to or against which an objection or appeal may be made under the foregoing provisions of this section, and those provisions apply accordingly.

## (9) Section 30 (3)—

Omit “section 362 of the Companies Act, 1961”, insert instead “sections 528, 529 and 530 of the Companies (New South Wales) Code”.

## (10) Section 31—

Omit the section, insert instead:—

**Regulations.**

31. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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*Business Franchise Licences (Tobacco) Amendment.*

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

(2) Without limiting the generality of subsection (1), the Governor may make regulations for or with respect to—

(a) requiring persons, or persons belonging to classes of persons, specified in the regulations to make returns in such form and manner and containing such information as is indicated by the regulations relating to—

(i) sales, purchases or stocks of, or dealings with, tobacco; and

(ii) the situation, and operation, of vending machines, and to furnish the returns to the Chief Commissioner within such time as may be so specified; and

(b) the exemption, absolutely or to a specified extent, and whether or not subject to conditions, of persons from the operation of all or any specified provisions of this Act.

(3) A provision of a regulation may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

(b) apply differently according to different factors of a specified kind; or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(4) The regulations may impose a penalty not exceeding \$500 for an offence against the regulations.

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*Business Franchise Licences (Tobacco) Amendment.*

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## SCHEDULE 4.

(Sec. 6.)

## SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

**Date of effect of increase in fees.**

1. (1) The amendment made by Schedule 1 applies to the fees to be paid for licences granted or renewed with effect on or after 28th November, 1983.

(2) An assessment made under section 12 of the Principal Act at any time before the date of assent to this Act of the fee to be paid for a licence referred to in subclause (1), being an assessment made as if the amendments made by Schedule 1 had been in force at that time, shall be deemed to have been a correct assessment of that fee.

**Transitional provisions for issue of licences.**

2. (1) Notwithstanding section 2 (2), where a person would be required to hold a licence under the Principal Act, as amended by this Act, in order to carry on any particular business on or after 28th August, 1984, section 5, in its application to Schedule 2, and Schedule 2 shall, for the purpose only of doing anything, or requiring anything to be done, for the purpose of granting the licence before that date, be deemed to have commenced on the date of assent to this Act.

(2) Subclause (1) has no operation in relation to the granting of a licence authorising the holder of the licence to carry on any particular business before 28th August, 1984.

**Objections and appeals.**

3. Nothing in Schedule 3 (5) or (8) (a) applies to an objection or appeal made before the date of assent to this Act.

**Reassessments.**

4. The provisions of section 28A (12) and (13) of the Principal Act, as amended by this Act, apply to an assessment made under section 28A of the Principal Act before the date of assent to this Act as well as to such an assessment made after that date.

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
Governor.

Government House,  
Sydney, 21st December, 1983.







