

# Consumer Protection Legislation Amendment Bill 2018

## Contents

<b>Part 1 — Preliminary</b>		
1 .	Short title	2
2 .	Commencement	2
<b>Part 2 — <i>Auction Sales Act 1973</i> amended</b>		
3 .	Act amended	3
4 .	Section 28 amended	3
5 .	Section 35 amended	3
6 .	Various provisions amended	3
7 .	Various penalties amended	4
<b>Part 3 — <i>Charitable Collections Act 1946</i> amended</b>		
8 .	Act amended	5
9 .	Section 5 amended	5
10 .	Section 6 amended	5
11 .	Section 8 amended	5
12 .	Section 9 amended	6
13 .	Section 11 amended	6
14 .	Section 12 amended	6
15 .	Section 13 amended	7
16 .	Section 15 amended	7
17 .	Section 18 deleted	9
18 .	Section 19 amended	9
19 .	Section 20A inserted	9
	20A. Powers of investigation	9
20 .	Section 22 inserted	10
	22. Transitional provision for <i>Consumer Protection Legislation Amendment Act 2018</i>	10

<b>Part 4 — Debt Collectors Licensing Act 1964 amended</b>		
21 .	Act amended	11
22 .	Section 14 amended	11
23 .	Section 17 amended	11
24 .	Section 22 deleted	11
25 .	Various provisions amended	11
26 .	Various penalties amended	12
<b>Part 5 — Fair Trading Act 2010 amended</b>		
27 .	Act amended	13
28 .	Section 88E amended	13
29 .	Schedule 2 amended	13
<b>Part 6 — Home Building Contracts Act 1991 amended</b>		
30 .	Act amended	14
31 .	Section 25B amended	14
32 .	Section 25D amended	14
<b>Part 7 — Land Valuers Licensing Act 1978 amended</b>		
33 .	Act amended	17
34 .	Section 20 deleted	17
35 .	Section 22 amended	17
36 .	Section 33A inserted	17
	33A. Offence of giving false or misleading information	17
37 .	Various penalties amended	18
<b>Part 8 — Real Estate and Business Agents Act 1978 amended</b>		
38 .	Act amended	19
39 .	Section 4 amended	19
40 .	Section 26 amended	19
41 .	Section 27 amended	20
42 .	Section 29 amended	20
43 .	Section 30 amended	21

---

44 .	Section 31 amended	21
45 .	Section 32 amended	21
46 .	Section 33 amended	22
47 .	Section 34 replaced	24
	34. Conditions on licences and triennial certificates	24
	34AA. Imposing special conditions on licences or triennial certificates	24
	34AB. Removing special conditions on licences or triennial certificates	25
48 .	Sections 34C and 34D inserted	26
	34C. Licensee may surrender licence and triennial certificate	26
	34D. Firm or body corporate must surrender licence and triennial certificate in certain circumstances	27
49 .	Section 40B inserted	27
	40B. Licensee to comply with prescribed educational requirements	27
50 .	Section 48 amended	28
51 .	Section 50 replaced	28
	50. Conditions on certificates of registration	28
	50AA. Imposing special conditions on certificates of registration	28
	50AB. Removing special conditions on certificates of registration	30
52 .	Section 50C inserted	31
	50C. Sales representative to comply with prescribed educational requirements	31
53 .	Section 84 amended	32
54 .	Section 100A amended	32
55 .	Section 102 amended	32
56 .	Section 103 amended	33
57 .	Section 116 amended	33
58 .	Section 131L amended	34
59 .	Section 134A amended	34
60 .	Section 136A amended	35
61 .	Schedule 1 clause 1 amended	35
62 .	Various penalties amended	36
 <b>Part 9 — Residential Tenancies Act 1987 amended</b>		
63 .	Act amended	37
64 .	Section 3 amended	37

---

**Contents**

---

65 .	Section 22 amended	37
66 .	Section 38 amended	38
67 .	Section 47 amended	38
68 .	Section 49A amended	40
69 .	Section 73 amended	43
70 .	Section 82B amended	43
71 .	Part 8 inserted	44
	<b>Part 8 — Transitional provision relating to the Consumer Protection Legislation Amendment Act 2018</b>	
98.	Application of s. 49A to residential tenancy agreements and utility charges	44
	<b>Part 10 — Settlement Agents Act 1981 amended</b>	
72 .	Act amended	45
73 .	Section 4 amended	45
74 .	Section 26 amended	45
75 .	Section 27 amended	45
76 .	Section 30 amended	46
77 .	Section 31 amended	46
78 .	Section 32 amended	47
79 .	Section 33 amended	48
80 .	Section 34 replaced	49
	34. Conditions on licences and triennial certificates	49
	34AA. Imposing special conditions on licences or triennial certificates	49
	34AB. Removing special conditions on licences or triennial certificates	51
81 .	Sections 34C and 34D inserted	52
	34C. Licensee may surrender licence and triennial certificate	52
	34D. Firm or body corporate must surrender licence and triennial certificate in certain circumstances	52
82 .	Section 41B inserted	53
	41B. Licensee to comply with prescribed educational requirements	53
83 .	Section 65 amended	53
84 .	Section 81A amended	53
85 .	Section 83 amended	54
86 .	Section 93 amended	54

87 .	Section 111A amended	55
88 .	Various penalties amended	56

**Part 11 — *Street Collections*  
(*Regulation*) Act 1940 amended**

89 .	Act amended	57
90 .	Section 2 amended	57
91 .	Section 3 amended	57
92 .	Section 6 amended	58
93 .	Section 7 amended	58
94 .	Section 8 deleted	58



Western Australia

LEGISLATIVE ASSEMBLY

*(As amended during consideration in detail)*

**Consumer Protection Legislation Amendment  
Bill 2018**

**A Bill for**

**An Act to amend —**

- **the *Auction Sales Act 1973*; and**
- **the *Charitable Collections Act 1946*; and**
- **the *Debt Collectors Licensing Act 1964*; and**
- **the *Fair Trading Act 2010*; and**
- **the *Home Building Contracts Act 1991*; and**
- **the *Land Valuers Licensing Act 1978*; and**
- **the *Real Estate and Business Agents Act 1978*; and**
- **the *Residential Tenancies Act 1987*; and**
- **the *Settlement Agents Act 1981*; and**
- **the *Street Collections (Regulation) Act 1940*.**

The Parliament of Western Australia enacts as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

**Part 1 — Preliminary**

**1. Short title**

This is the *Consumer Protection Legislation Amendment Act 2018*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.



1 **Part 2 — Auction Sales Act 1973 amended**

2 **3. Act amended**

3 This Part amends the *Auction Sales Act 1973*.

4 **4. Section 28 amended**

5 (1) At the end of section 28(5) insert:

6

7 Penalty for this subsection: a fine of \$25 000.

8

9 (2) Delete section 28(9).

10 **5. Section 35 amended**

11 Delete section 35(1) and (2).

12 **6. Various provisions amended**

13 At the end of the provisions listed in the Table insert:

14

15 Penalty for this subsection: a fine of \$25 000.

16

17

**Table**

s. 22(3)	s. 23(1)
s. 24(1)	s. 26(1) and (2)
s. 27(1)	s. 29(2)
s. 31(1), (2), (3), (4), (6) and (7)	

**s. 7**

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1 **7. Various penalties amended**

2 Amend the provisions listed in the Table as set out in the Table.

3

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 6(6)	Penalty: \$500.	Penalty for this subsection: a fine of \$50 000.
s. 25(1)	Penalty: \$1 000 or imprisonment for 12 months.	Penalty for this subsection: a fine of \$50 000 or imprisonment for 12 months.
s. 30(2)	Penalty: \$500.	Penalty for this subsection: a fine of \$10 000.
s. 30(5)	Penalty: A fine of not more than \$1 000, or imprisonment for a term of not more than one year, or both such fine and imprisonment.	Penalty for this subsection: a fine of \$50 000 or imprisonment for 12 months, or both.

1        **Part 3 — Charitable Collections Act 1946 amended**

2        **8. Act amended**

3                This Part amends the *Charitable Collections Act 1946*.

4        **9. Section 5 amended**

5                In section 5 insert in alphabetical order:

6

7                                *Commissioner* has the meaning given in the *Fair*  
8                                *Trading Act 2010* section 6.

9

10       **10. Section 6 amended**

11                (1) At the end of section 6(1) insert:

12

13                                Penalty for this subsection: a fine of \$20 000.

14

15                (2) Delete section 6(2).

16       **11. Section 8 amended**

17                In section 8:

18                        (a) delete “Minister” (1<sup>st</sup> occurrence) and insert:

19

20                                Commissioner

21

22                        (b) delete “Minister.” and insert:

23

24                                Commissioner.

25

**s. 12**

---

1 **12. Section 9 amended**

2 (1) In section 9(2) delete “offence and liable to a penalty not  
3 exceeding \$100.” and insert:

4  
5 offence.

6  
7 (2) At the end of section 9(2) insert:

8  
9 Penalty for this subsection: a fine of \$5 000.  
10

11 **13. Section 11 amended**

12 (1) In section 11(1) delete “shall be made to the Minister, who  
13 shall” and insert:

14  
15 must be made to the Commissioner, who must  
16

17 (2) In section 11(2) delete “shall” and insert:

18  
19 must  
20

21 (3) In section 11(3) delete “Minister may, in his” and insert:

22  
23 Commissioner may, in the Commissioner’s  
24

25 **14. Section 12 amended**

26 (1) In section 12(1) delete “Minister” and insert:

27  
28 Commissioner  
29

1 (2) In section 12(2) delete “fixed by the Minister.” and insert:

2

3 imposed by the Commissioner.

4

5 (3) In section 12(3) delete “Minister” and insert:

6

7 Commissioner

8

9 (4) In section 12(4):

10 (a) delete “Minister —” and insert:

11

12 Commissioner —

13

14 (b) in paragraph (b) delete “Minister or a person authorised  
15 by him” and insert:

16

17 Commissioner or a person authorised by the  
18 Commissioner

19

20 **15. Section 13 amended**

21 In section 13(1) delete “Minister,” and insert:

22

23 Commissioner,

24

25 **16. Section 15 amended**

26 (1) Delete section 15(1) to (3) and insert:

27

28 (1) In this section —

29 *collection records* means —

30 (a) accounts setting out the money and goods

**s. 16**

---

- 1 collected or received by the collector for a  
2 charitable purpose; and
- 3 (b) statements setting out the way the money and  
4 goods collected or received by the collector  
5 have been dealt with;
- 6 **collector** means a person, society, body, or association  
7 that collects or receives money or goods for a  
8 charitable purpose.
- 9 (2) A collector must keep collection records and retain  
10 them for 7 years after the end of the financial year to  
11 which they relate.  
12 Penalty for this subsection: a fine of \$5 000.
- 13 (3) The Commissioner may require in writing that a  
14 collector, within a specified time —
- 15 (a) give the Commissioner a copy of, or access to,  
16 the collection records of the collector; or
- 17 (b) have the collection records of the collector  
18 audited by an auditor approved by the  
19 Commissioner and give the Commissioner a  
20 copy of, or access to, the audited collection  
21 records.
- 22 (3A) A collector must comply with a requirement under  
23 subsection (3).  
24 Penalty for this subsection: a fine of \$5 000.
- 25 (3B) Without limiting section 12(2), the Commissioner may  
26 impose conditions relating to giving the Commissioner  
27 collection records.
- 28
- 29 (2) In section 15(4) delete “any such penalty” and insert:  
30  
31 a penalty under subsection (2) or (3A),  
32

1 **17. Section 18 deleted**

2 Delete section 18.

3 **18. Section 19 amended**

4 (1) In section 19(1):

5 (a) delete “shall be instituted” and insert:

6

7 is to be commenced

8

9 (b) delete “Minister.” and insert:

10

11 Commissioner.

12

13 (2) In section 19(2):

14 (a) delete “Minister” (1<sup>st</sup> and 2<sup>nd</sup> occurrence) and insert:

15

16 Commissioner

17

18 (b) delete “Minister,” and insert:

19

20 Commissioner,

21

22 **19. Section 20A inserted**

23 After section 20 insert:

24

25 **20A. Powers of investigation**

26 The *Fair Trading Act 2010* section 61 and Part 6 of  
27 that Act, other than section 88E, apply for the purposes  
28 of this Act.

29

1 **20. Section 22 inserted**

2 After section 21 insert:

3

4 **22. Transitional provision for *Consumer Protection***  
5 ***Legislation Amendment Act 2018***

6 (1) In this section —

7 ***authority*** means the authority referred to in  
8 section 6(1)(g);

9 ***commencement day*** means the day on which the  
10 *Consumer Protection Legislation Amendment Act 2018*  
11 section 11 comes into operation.

12 (2) The Minister's approval of a means of giving an  
13 authority under section 8 of this Act, as in force  
14 immediately before commencement day, is taken, on  
15 and from commencement day, to be a means approved  
16 by the Commissioner under section 8 of this Act.  
17



1     **Part 4 — *Debt Collectors Licensing Act 1964* amended**

2     **21.     Act amended**

3             This Part amends the *Debt Collectors Licensing Act 1964*.

4     **22.     Section 14 amended**

5         (1)   At the end of section 14(1) insert:

6

7                     Penalty for this subsection: a fine of \$20 000.

8

9         (2)   In section 14(2) delete the Penalty and insert:

10

11                     Penalty for this subsection: a fine of \$20 000.

12

13     **23.     Section 17 amended**

14         (1)   At the end of section 17(1) insert:

15

16                     Penalty for this subsection: a fine of \$25 000.

17

18         (2)   Delete section 17(3).

19     **24.     Section 22 deleted**

20             Delete section 22.

21     **25.     Various provisions amended**

22             At the end of the provisions listed in the Table insert:

23

24                     Penalty for this subsection: a fine of \$25 000.

25

**s. 26**

---

1

**Table**

s. 6(2)	s. 16(1)
s. 18(4)	

2

**26. Various penalties amended**

3

Amend the provisions listed in the Table as set out in the Table.

4

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 5(2)	Penalty: For an individual, \$200. For a body corporate, \$400.	Penalty for this subsection: a fine of \$50 000.
s. 15(5)	Penalty: \$200.	Penalty for this subsection: a fine of \$25 000.
s. 26(1)(h)	\$200	\$5 000

1           **Part 5 — *Fair Trading Act 2010* amended**

2   **27. Act amended**

3           This Part amends the *Fair Trading Act 2010*.

4   **28. Section 88E amended**

5           Before section 88E(1) insert:

6

7           (1A) This section does not apply to the extent that the  
8                 purpose of exercising a power under subsection (1) is  
9                 in relation to a regulated activity carried on by a  
10                regulated person under the *Charitable Collections*  
11                Act 1946.

12

13   **29. Schedule 2 amended**

14           In Schedule 2 insert in alphabetical order:

15

16           *Charitable Collections Act 1946*

17

1 **Part 6 — *Home Building Contracts Act 1991* amended**

2 **30. Act amended**

3 This Part amends the *Home Building Contracts Act 1991*.

4 **31. Section 25B amended**

5 After section 25B(4) insert:

6

7 (4A) This Division does not apply to residential building  
8 work if —

- 9 (a) a building permit under the *Building Act 2011*  
10 is not required for the work; or  
11 (b) if a building permit is required for the work —  
12 the work is not, or is not part of, a prescribed  
13 building service under the *Building Services*  
14 (*Registration*) *Act 2011* section 3.  
15

16 **32. Section 25D amended**

17 (1) Before section 25D(1) insert:

18

19 (1A) In this section —

20 ***relevant circumstance***, in relation to a builder,  
21 means —

- 22 (a) if the builder is an individual — the builder —  
23 (i) has died; or  
24 (ii) after due search and enquiry, cannot be  
25 found in Australia;

26 or

27 (b) if the builder is not an individual — the builder  
28 ceased to exist; or

29 (c) the builder is insolvent; or

1 (d) if the builder is a building service contractor  
2 under the *Building Services (Registration)*  
3 *Act 2011* — the builder’s registration as a  
4 building service contractor was cancelled or not  
5 renewed because the builder did not satisfy the  
6 financial requirements (if any) prescribed by  
7 the regulations under section 18(1)(b) of that  
8 Act.  
9

10 (2) In section 25D(1):

11 (a) delete paragraph (a) and insert:

12  
13 (a) in the case of residential building work to be  
14 performed by a builder on behalf of another  
15 person, other than a developer, under a  
16 residential building work contract, it insures  
17 that person and that person’s successors in title  
18 against the following losses occurring because  
19 a relevant circumstance exists in relation to the  
20 builder —

21 (i) loss of an amount paid by way of  
22 deposit under the residential building  
23 work contract, up to a limit of \$20 000  
24 or another prescribed limit;

25 (ii) loss, other than indirect, incidental or  
26 consequential loss, resulting from  
27 non-completion of the residential  
28 building work;

29 and  
30

**s. 32**

---

- 1 (b) in paragraph (b) delete “by reason of the insolvency or  
2 death of the builder or by reason of the fact that, after  
3 due search and enquiry, the builder cannot be found;  
4 and” and insert:  
5  
6 because a relevant circumstance exists in relation to the  
7 builder; and  
8

1       **Part 7 — *Land Valuers Licensing Act 1978* amended**

2       **33. Act amended**

3               This Part amends the *Land Valuers Licensing Act 1978*.

4       **34. Section 20 deleted**

5               Delete section 20.

6       **35. Section 22 amended**

7               Delete section 22(2)(a) and insert:

8

- 9                       (a) an application is made during the period that  
10                       begins on the day on which the licence expired  
11                       and ends on the day that is 28 days after the day  
12                       on which the licence expired; and

13

14       **36. Section 33A inserted**

15               After section 33 insert:

16

17       **33A. Offence of giving false or misleading information**

- 18               (1) A person who gives false or misleading information to  
19               the Commissioner when required to give information to  
20               the Commissioner under this Act commits an offence.

21               Penalty for this subsection: a fine of \$20 000.

- 22               (2) For the purposes of subsection (1), a person gives false  
23               or misleading information if the person does 1 or more  
24               of the following —

- 25                       (a) states anything that the person knows is false or  
26                       misleading in a material particular;

**s. 37**

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- 1 (b) omits anything from a statement without which  
2 the statement is, to the person's knowledge,  
3 misleading in a material particular;
- 4 (c) gives or produces any information that —
- 5 (i) the person knows is false or misleading  
6 in a material particular; or
- 7 (ii) omits anything without which the  
8 information is, to the person's  
9 knowledge, misleading in a material  
10 particular.  
11

12 **37. Various penalties amended**

13 Amend the provisions listed in the Table as set out in the Table.

14 **Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 23(1)	Penalty: \$50 000.	Penalty for this subsection: a fine of \$100 000.
s. 24(1)	Penalty: \$50 000.	Penalty for this subsection: a fine of \$100 000.
s. 25(3)	Penalty: \$5 000.	Penalty for this subsection: a fine of \$5 000.
s. 29A(1)	Penalty: \$2 000.	Penalty for this subsection: a fine of \$2 000.



1                   **Part 8 — *Real Estate and Business Agents***  
2   ***Act 1978 amended***

3   **38.     Act amended**

4                   This Part amends the *Real Estate and Business Agents Act 1978*.

5   **39.     Section 4 amended**

6       (1)   In section 4(1) delete the definition of *agents code of conduct*.

7       (2)   In section 4(1) insert in alphabetical order:

8

9                                   *code of conduct for agents* means the code of conduct  
10                                   for agents prescribed and published under  
11                                   section 101(a);

12

13       (3)   In section 4(1) in the definition of *code of conduct for sales*  
14                   *representatives* delete “101;” and insert:

15

16                   101(b);

17

18   **40.     Section 26 amended**

19       (1)   In section 26 delete “On” and insert:

20

21                   (1)   On

22

**s. 41**

---

1 (2) At the end of section 26 insert:

2

3 (2) For subsection (1), a person is taken not to be licensed  
4 or holding a current triennial certificate in respect of  
5 the licence if the person is required to surrender a  
6 licence and triennial certificate under section 34D(2)  
7 or (3).  
8

9 **41. Section 27 amended**

10 In section 27(1):

11 (a) delete “a person, not being a body corporate,” and  
12 insert:

13

14 an individual

15

16 (b) delete “that — ” and insert:

17

18 that the individual —

19

20 (c) in paragraphs (a) to (c) delete “he”.

21 (d) in paragraph (c) delete “to him to enable him” and  
22 insert:

23

24 to enable them

25

26 (e) in paragraph (d) delete “he”.

27 Note: The heading to amended section 27 is to read:

28

**Licensing of individuals**

29 **42. Section 29 amended**

30 In section 29(b) delete “that”.

1   **43.   Section 30 amended**

2           Delete section 30(3) and (4).

3   **44.   Section 31 amended**

4       (1) In section 31(2)(a) delete “a person other than a body corporate;  
5       or” and insert:

6

7           an individual; or

8

9       (2) Delete section 31(3) and insert:

10

11       (3) The Commissioner must not renew a licensee’s  
12       triennial certificate unless the Commissioner is  
13       satisfied of the matters in —

14           (a) for an individual — section 27(1)(b), (c) and  
15           (d); or

16           (b) for a firm — section 28(a), (b), (c) and (d); or

17           (c) for a body corporate — section 29(a), (b), (c)  
18           and (d).

19       Note: The heading to amended section 31 is to read:

20           **Licensee’s triennial certificate: grant and renewal**

21   **45.   Section 32 amended**

22       (1) In section 32(1):

23           (a) delete “Where a” and insert:

24

25           If a licensee’s

26

**s. 46**

---

- 1 (b) delete “expired, the renewal shall be deemed to take  
2 effect for the period of 3 years” and insert:  
3  
4 expired or was surrendered, the renewal takes effect  
5  
6 (c) delete “expired.” and insert:  
7  
8 expired or was surrendered.  
9  
10 (2) Delete section 32(2) and insert:  
11  
12 (2) If a licensee’s triennial certificate is renewed more than  
13 1 month but not more than 12 months after the day on  
14 which the triennial certificate expired or was  
15 surrendered, the renewal takes effect —  
16 (a) if the Commissioner is satisfied that there is  
17 reasonable cause for the renewal to take effect  
18 on and from the day after the day on which the  
19 triennial certificate expired or was  
20 surrendered — on that day; or  
21 (b) otherwise — on the day the renewal is granted.  
22

23 Note: The heading to amended section 32 is to read:

24 **Licensee’s triennial certificate: late renewal**

25 **46. Section 33 amended**

- 26 (1) Delete section 33(1) and insert:  
27  
28 (1) This section applies if —  
29 (a) a licensee’s triennial certificate expires or was  
30 surrendered; and

- 1                   (b) the licensee applies to renew the certificate  
2                   more than 12 months after the day on which the  
3                   triennial certificate expired or was surrendered.  
4
- 5           (2) In section 33(2) delete “The application shall” and insert:  
6
- 7                   The application for renewal must  
8
- 9           (3) In section 33(4) delete “applicant shall” and insert:  
10
- 11                   licensee must  
12
- 13           (4) In section 33(5) delete “applicant” and insert:  
14
- 15                   licensee  
16
- 17           (5) After section 33(5) insert:  
18
- 19           (6) If the triennial certificate is renewed, the renewal takes  
20                   effect on the day the renewal is granted.  
21

22           Note: The heading to amended section 33 is to read:  
23                   **Licensee’s triennial certificate: late renewal after 12 months**

**s. 47**

---

1   **47.     Section 34 replaced**

2           Delete section 34 and insert:

3

4           **34.     Conditions on licences and triennial certificates**

5           (1) It is a condition of every licence that the licensee must  
6           comply with the provisions of this Act and the code of  
7           conduct for agents.

8           (2) It is a condition of every licence that the licensee must  
9           comply with any special condition to which the  
10          licensee's licence or triennial certificate is subject  
11          under section 34AA.

12          **34AA. Imposing special conditions on licences or triennial**  
13          **certificates**

14          (1) In this section —

15                 *licensee* includes an applicant for a licence.

16          (2) The Commissioner may, at any time, impose a special  
17          condition on a licence or triennial certificate.

18          (3) Before imposing a special condition on a licence or  
19          triennial certificate, the Commissioner must —

20                 (a) give a licensee notice in writing setting out —

21                         (i) that the Commissioner proposes to  
22                         impose the special condition; and

23                         (ii) the reasons for the proposed decision;  
24                         and

25                         (iii) that the licensee may make submissions  
26                         to the Commissioner in relation to the  
27                         proposed decision within the time  
28                         specified in the notice;

29                         and

- 1 (b) consider any submissions received under  
2 paragraph (a)(iii).
- 3 (4) After making a decision under subsection (2), the  
4 Commissioner must —
- 5 (a) notify the licensee of the Commissioner's  
6 decision; and
- 7 (b) if the decision is to impose a special condition  
8 on the licence or triennial certificate, give the  
9 licensee notice in writing setting out —
- 10 (i) the reasons for the decision; and  
11 (ii) that a person aggrieved by the  
12 Commissioner's decision may apply to  
13 the State Administrative Tribunal for a  
14 review of the decision under section 23.

15 **34AB. Removing special conditions on licences or triennial**  
16 **certificates**

- 17 (1) The Commissioner may remove a special condition  
18 imposed on a licensee's licence or triennial  
19 certificate —
- 20 (a) at any time; or  
21 (b) on application by the licensee.
- 22 (2) If a licensee makes an application under  
23 subsection (1)(b), the Commissioner must, before  
24 deciding not to remove the special condition on the  
25 licensee's licence or triennial certificate —
- 26 (a) give the licensee notice in writing setting out —
- 27 (i) that the Commissioner proposes to  
28 make a decision not to remove the  
29 special condition; and  
30 (ii) the reasons for the proposed decision;  
31 and

**s. 48**

---

- 1 (iii) that the licensee may make submissions  
2 to the Commissioner in relation to the  
3 proposed decision within the time  
4 specified in the notice;
- 5 and
- 6 (b) consider any submissions received under  
7 paragraph (a)(iii).
- 8 (3) After making a decision on an application by a  
9 licensee, the Commissioner must —
- 10 (a) notify the licensee of the Commissioner’s  
11 decision; and
- 12 (b) if the decision is to not remove the special  
13 condition, give the licensee notice in writing  
14 setting out —
- 15 (i) the reasons for the decision; and
- 16 (ii) that a person aggrieved by the  
17 Commissioner’s decision may apply to  
18 the State Administrative Tribunal for a  
19 review of the decision under section 23.  
20

21 **48. Sections 34C and 34D inserted**

22 After section 34B insert:  
23

24 **34C. Licensee may surrender licence and triennial**  
25 **certificate**

26 A licensee may surrender the licensee’s triennial  
27 certificate, or licence and triennial certificate held in  
28 respect of the licence, at any time.



- 1           **34D. Firm or body corporate must surrender licence and**  
2           **triennial certificate in certain circumstances**
- 3           (1) This section applies to a licensee that is a firm or body  
4           corporate if paragraph (c) or (d) of section 28 or 29 (as  
5           is relevant) ceases to apply in relation to the licensee.
- 6           (2) The licensee must, within 5 days after the day on which  
7           the paragraph ceased to apply to the licensee, surrender  
8           the licensee's licence and triennial certificate held in  
9           respect of the licence, unless the licensee is carrying on  
10          business under Schedule 1 clause 6.
- 11          (3) If a licensee carries on business under Schedule 1  
12          clause 6 then, at the end of the period referred to in that  
13          clause, the licensee must immediately surrender the  
14          licensee's licence and triennial certificate unless the  
15          licensee satisfies section 28(c) and (d) or section 29(c)  
16          and (d) (as is relevant).  
17

18   **49. Section 40B inserted**

19           After section 40A insert:  
20

21   **40B. Licensee to comply with prescribed educational**  
22   **requirements**

23           A licensee must comply with the educational  
24           requirements prescribed by the regulations.

25           Penalty: a fine of \$5 000.  
26

**s. 50**

---

1   **50.     Section 48 amended**

2           Delete section 48(4) and (5) and insert:

3

- 4           (4)   The Commissioner must not renew a sales  
5               representative's certificate of registration unless the  
6               Commissioner is satisfied —
- 7               (a)   of the matters in section 47(1)(b) and (c); and  
8               (b)   that the sales representative was employed by a  
9               licensee at the time of making the application  
10              or will be employed by a licensee upon the  
11              renewal of the certificate.

12

13   **51.     Section 50 replaced**

14           Delete section 50 and insert:

15

16   **50.     Conditions on certificates of registration**

- 17           (1)   It is a condition of every certificate of registration that  
18               the registered sales representative must comply with  
19               the provisions of this Act and the code of conduct for  
20               sales representatives.
- 21           (2)   It is a condition of every certificate of registration that  
22               the registered sales representative must comply with  
23               any special condition to which the sales  
24               representative's certificate of registration is subject  
25               under section 50AA.

26   **50AA.  Imposing special conditions on certificates of**  
27           **registration**

- 28           (1)   In this section —  
29               *registered sales representative* includes an applicant  
30               for a certificate of registration.

- 1           (2) The Commissioner may, at any time, impose a special  
2           condition on a certificate of registration.
- 3           (3) Before imposing a special condition on a certificate of  
4           registration, the Commissioner must —
- 5               (a) give a registered sales representative notice in  
6               writing setting out —
- 7                     (i) that the Commissioner proposes to  
8                     impose the special condition; and
- 9                     (ii) the reasons for the proposed decision;  
10                    and
- 11                    (iii) that the registered sales representative  
12                    may make submissions to the  
13                    Commissioner in relation to the  
14                    proposed decision within the time  
15                    specified in the notice;
- 16               and
- 17               (b) consider any submissions received under  
18               paragraph (a)(iii).
- 19           (4) Subsection (3) does not apply if the special condition to  
20           be imposed on the certificate of registration restricts  
21           the type of work that may be performed under the  
22           certificate because the sales representative does not  
23           have a particular qualification that the sales  
24           representative is required to have under section 47(2)  
25           to perform the work.
- 26           (5) After making a decision under subsection (2), the  
27           Commissioner must —
- 28               (a) notify the registered sales representative of the  
29               Commissioner’s decision; and

**s. 51**

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- 1 (b) if the decision is to impose a special condition  
2 on the certificate of registration, give the  
3 registered sales representative notice in writing  
4 setting out —  
5 (i) the reasons for the decision; and  
6 (ii) that a person aggrieved by the  
7 Commissioner’s decision may apply to  
8 the State Administrative Tribunal for a  
9 review of the decision under section 23.

10 **50AB. Removing special conditions on certificates of**  
11 **registration**

- 12 (1) The Commissioner may remove a special condition  
13 imposed on a registered sales representative’s  
14 certificate of registration —  
15 (a) at any time; or  
16 (b) on application by the registered sales  
17 representative.  
18 (2) If a registered sales representative makes an application  
19 under subsection (1)(b), the Commissioner must,  
20 before deciding not to remove the special condition on  
21 the registered sales representative’s certificate of  
22 registration —  
23 (a) give the registered sales representative notice in  
24 writing setting out —  
25 (i) that the Commissioner proposes to  
26 make a decision not to remove the  
27 special condition; and  
28 (ii) the reasons for the proposed decision;  
29 and  
30 (iii) that the registered sales representative  
31 may make submissions to the  
32 Commissioner in relation to the

- 1 proposed decision within the time  
2 specified in the notice;
- 3 and
- 4 (b) consider any submissions received under  
5 paragraph (a)(iii).
- 6 (3) After making a decision on an application by a  
7 registered sales representative, the Commissioner  
8 must —
- 9 (a) notify the registered sales representative of the  
10 Commissioner's decision; and
- 11 (b) if the decision is to not remove the special  
12 condition, give the registered sales  
13 representative notice in writing setting out —
- 14 (i) the reasons for the decision; and  
15 (ii) that a person aggrieved by the  
16 Commissioner's decision may apply to  
17 the State Administrative Tribunal for a  
18 review of the decision under section 23.  
19

20 **52. Section 50C inserted**

21 After section 50B insert:  
22

23 **50C. Sales representative to comply with prescribed**  
24 **educational requirements**

25 A sales representative must comply with the  
26 educational requirements prescribed by the regulations.

27 Penalty: a fine of \$5 000.  
28

**s. 53**

---

1 **53. Section 84 amended**

2 In section 84(1) delete the Penalty and insert:

3

4 Penalty for this subsection:

- 5 (a) in the case of an offence against  
6 section 68(4) or (5), a fine of \$25 000, or  
7 2 years' imprisonment;
- 8 (b) in the case of an offence against  
9 section 68B(1), a fine of \$50 000;
- 10 (c) in any other case, a fine of \$25 000.
- 11

12 **54. Section 100A amended**

13 (1) Delete section 100A(4).

14 (2) In section 100A(7) delete “subsection (4).” and insert:

15

16 section 134A.

17

18 **55. Section 102 amended**

19 After section 102(6) insert:

20

21 (7) Despite the surrender by a person of a licence or  
22 triennial certificate or a licensee ceasing to be licensed  
23 or to hold a triennial certificate —

- 24 (a) an allegation under subsection (1)(a) in respect  
25 of an agent may be made to the State  
26 Administrative Tribunal not later than  
27 12 months after the day on which the licence or  
28 certificate was surrendered or the licensee  
29 ceased to be licensed or ceased holding the  
30 certificate; and

- 1 (b) the State Administrative Tribunal may exercise  
2 the powers conferred by section 103, other than  
3 the power to suspend or cancel the agent's  
4 licence or certificate.  
5

6 **56. Section 103 amended**

7 Delete section 103(2)(c)(iii) and insert:

- 8  
9 (iii) the code of conduct for agents;  
10

11 **57. Section 116 amended**

12 Delete section 116(1) and (2A) and insert:

- 13  
14 (1) The Fidelity Account is to be held and applied to  
15 reimburse a person for the person's pecuniary or  
16 property loss to the extent of the defalcation of —  
17 (a) a licensee during any period when the licensee  
18 was the holder of a current triennial certificate;  
19 or  
20 (b) a person who ceased to be licensed or to hold a  
21 triennial certificate, if —  
22 (i) the defalcation occurred during the  
23 period of 6 months immediately  
24 following the day on which the person  
25 ceased to be licensed or the holder of  
26 the triennial certificate; and  
27 (ii) the chief executive officer considers that  
28 it is just and reasonable in the  
29 circumstances of the claim.  
30

**s. 58**

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1 **58. Section 131L amended**

2 (1) Before section 131L(1) insert:

3

4 (1AA) In this section —

5 *settlement* has the meaning given in the *Settlement*  
6 *Agents Act 1981* section 3(1).

7

8 (2) In section 131L(1):

9 (a) after “date of” insert:

10

11 settlement of

12

13 (b) delete “prescribed form” and insert:

14

15 approved form

16

17 **59. Section 134A amended**

18 (1) In section 134A(1) delete “in relation to an application under  
19 section 24, 33, 43, 48 or 49” and insert:

20

21 to the Commissioner or the chief executive officer under this  
22 Act

23

24 (2) In section 134A(2):

25 (a) delete “in relation to an application referred to in  
26 subsection (1)” and insert:

27

28 to the Commissioner or the chief executive officer

29

30 (b) in paragraph (a) delete “in relation to an application”;



- 1           (c) in paragraph (b) delete “made in relation to an  
2           application”;  
3           (d) in paragraph (c) delete “in relation to an application”.  
4

5   **60. Section 136A amended**

6           In section 136A delete “licence or triennial certificate” and  
7           insert:

8

9           licence, triennial certificate or certificate of registration  
10

11   **61. Schedule 1 clause 1 amended**

12       (1) In Schedule 1 delete clause 1(b) and insert:

13

- 14                   (b) who has, within the period of 5 years immediately  
15                   preceding the application —  
16                   (i) held a licence, other than a licence held  
17                   because the person was qualified only under  
18                   paragraph (c) or (d), under this Act for at  
19                   least 2 years; and  
20                   (ii) acted in the State as, and carried out the  
21                   functions of, an agent for a period of at least  
22                   2 years, whether on the person’s own behalf  
23                   or on behalf of a firm or body corporate;

24                   or

- 25                   (ba) who has, within the period of 5 years immediately  
26                   preceding the application —  
27                   (i) held for a period of at least 2 years a licence  
28                   or similar authority under an approved  
29                   corresponding enactment of a State or  
30                   Territory to act as an agent or the approved  
31                   equivalent, other than under a licence or  
32                   authority held under that enactment only  
33                   because the person was qualified under an

**s. 62**

---

1 equivalent provision in the enactment to  
2 paragraph (c) or (d); and  
3 (ii) acted as, and carried out the functions of, an  
4 agent or the approved equivalent for a  
5 period of at least 2 years in the State or  
6 Territory in which the licence or authority  
7 was held, whether on the person's own  
8 behalf or on behalf of a firm or body  
9 corporate;  
10 or  
11

12 **62. Various penalties amended**

13 Amend the provisions listed in the Table as set out in the Table.

14 **Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 26(1)	Penalty: \$20 000.	Penalty for this subsection: a fine of \$100 000.
s. 39(3)	Penalty: \$20 000.	Penalty for this subsection: a fine of \$100 000.
s. 44(1), (2) and (3)	Penalty: \$3 000.	Penalty for this subsection: a fine of \$25 000.
s. 45(1), (2) and (3)	Penalty: \$3 000.	Penalty for this subsection: a fine of \$25 000.
s. 46	\$2 000.	a fine of \$20 000.

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**Part 9 — Residential Tenancies Act 1987 amended**

**63. Act amended**

This Part amends the *Residential Tenancies Act 1987*.

**64. Section 3 amended**

In section 3 insert in alphabetical order:

*common area* —

(a) means an area accessible to, or provided for the common use of, tenants; and

(b) includes common property (as defined in the *Strata Titles Act 1985* section 3) of a strata scheme or survey strata scheme;

**65. Section 22 amended**

(1) Delete section 22(2) and insert:

(2) A party to any proceedings may be represented or assisted by an agent in the presentation of the party's case if —

(a) the agent is authorised by the party to do so and is —

(i) the property manager of the premises the subject of the proceedings; or

(ii) employed or engaged by a non-profit association or similar body to act as an advocate for tenants or lessors in proceedings;

or

(b) the court makes an order under subsection (3C).

**s. 66**

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- 1 (2) In section 22(3A) after “authorisation” insert:  
2  
3 mentioned in subsection (2)(a)  
4
- 5 (3) After section 22(3A) insert:  
6
- 7 (3B) Without limiting how an agent representing or assisting  
8 a party under subsection (2)(a) may represent or assist  
9 the party, the agent may initiate proceedings on behalf  
10 of the party.
- 11 (3C) The court may order that a party to proceedings may be  
12 represented or assisted by an agent in the presentation  
13 of the party’s case if the court hearing the proceeding is  
14 satisfied that —
- 15 (a) the party is unable to appear personally or  
16 conduct the proceedings on the party’s own  
17 behalf; and
- 18 (b) another party to the proceedings will not be  
19 disadvantaged by the party being represented  
20 by, or assisted by, the agent.  
21

22 **66. Section 38 amended**

- 23 In section 38(1)(c) delete “premises.” and insert:  
24  
25 premises or, where relevant, a common area or chattels in the  
26 common area.  
27

28 **67. Section 47 amended**

- 29 (1) In section 47(1) delete “subsection (4),” and insert:  
30  
31 subsections (2A) and (4),  
32

- 1 (2) After section 47(2) insert:  
2
- 3 (2A) It is a term of every residential tenancy agreement  
4 that —
- 5 (a) a tenant may affix either or both of the  
6 following items to a wall of premises the  
7 subject of the agreement for the purpose of  
8 ensuring the safety of a child, but only with the  
9 lessor's consent —
- 10 (i) furniture;  
11 (ii) a thing to affix the furniture to the wall;  
12 and
- 13 (b) the lessor may only refuse consent —
- 14 (i) if affixing the item to the wall would  
15 disturb material containing asbestos; or  
16 (ii) if the premises are entered in the  
17 Register of Heritage Places compiled  
18 under the *Heritage of Western Australia*  
19 *Act 1990* section 46; or  
20 (iii) if the premises is a lot in a scheme  
21 under the *Strata Titles Act 1985*, the  
22 by-laws for the scheme prohibit affixing  
23 the item to the wall of the premises; or  
24 (iv) for a prescribed reason;  
25 and
- 26 (c) the tenant must remove the item from the wall  
27 when the tenant vacates the premises; and
- 28 (d) the cost of affixing the item to the wall, and  
29 removing it from the wall, must be borne by the  
30 tenant; and

**s. 68**

---

- 1 (e) if the tenant causes damage to the premises by  
2 affixing or removing the item —
- 3 (i) the tenant must notify the lessor that  
4 damage has been caused to the  
5 premises; and
- 6 (ii) the lessor may require the tenant to  
7 repair the damage or compensate the  
8 lessor for any reasonable expenses  
9 incurred by the lessor in repairing the  
10 damage.
- 11 (2B) The lessor is taken to have consented to affixing the  
12 furniture or thing to the wall of the premises under  
13 subsection (2A)(a) if —
- 14 (a) the tenant has sought the lessor’s consent to  
15 affix the item to the wall; and
- 16 (b) the lessor has not refused consent under  
17 subsection (2A)(b) within 7 days after the day  
18 the tenant sought the lessor’s consent.  
19

20 **68. Section 49A amended**

- 21 (1) In section 49A(1) insert in alphabetical order:  
22
- 23 *consumption*, in relation to a public utility service,  
24 means consumption of the utility that is calculated by  
25 metered unit;
- 26 *strata company* has the meaning given in the *Strata*  
27 *Titles Act 1985* section 3(1).  
28

- 1 (2) In section 49A(1) in the definition of *public utility services*  
2 delete “3(1).” and insert:  
3
- 4 3(1);  
5
- 6 (3) Delete section 49A(2) and insert:  
7
- 8 (2) It is a term of every residential tenancy agreement that  
9 subsections (3) to (5) are terms of the agreement if —  
10 (a) a public utility service is provided in relation to  
11 the premises the subject of the agreement; and  
12 (b) the public utility service is provided under a  
13 contract between the provider of the public  
14 utility service and the lessor or a strata  
15 company.
- 16 (3) The tenant must pay a charge for the provision of the  
17 service only if —  
18 (a) the charge is for the tenant’s consumption of  
19 the utility at the premises; and  
20 (b) either —  
21 (i) the tenant’s consumption of the utility is  
22 separately metered; or  
23 (ii) although consumption at the premises is  
24 not separately metered, the charge is  
25 calculated in accordance with a method  
26 previously agreed to in writing by the  
27 lessor and the tenant;  
28 and  
29 (c) the lessor gives the tenant a written notice  
30 under subsection (4) within 30 days after the  
31 lessor receives an invoice for the public utility  
32 service.

**s. 69**

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- 1 (4) The notice must be in writing and set out the full  
2 details of the account for the charge, including —  
3 (a) the total charge for the tenant’s consumption of  
4 the utility; and  
5 (b) if consumption at the premises is metered —  
6 (i) the meter readings; and  
7 (ii) the charge per metered unit;  
8 and  
9 (c) if consumption at the premises is not  
10 metered — the charge calculated by the method  
11 agreed to under subsection (3)(b)(ii); and  
12 (d) the amount of GST payable in respect of the  
13 provision of the service to the premises.
- 14 (5) However, despite subsection (3)(c), if the tenancy ends  
15 within 30 days after the lessor receives an invoice for  
16 the public utility service, or the lessor receives the  
17 invoice after the tenancy has ended, the lessor —  
18 (a) is not required to give the written notice under  
19 subsection (4) within 30 days after the lessor  
20 receives the invoice; and  
21 (b) may give the notice to the tenant (or former  
22 tenant) as soon as practicable after the lessor  
23 receives the notice and locates the tenant.  
24



1 **69. Section 73 amended**

2 In section 73(1) delete “permit, serious damage to the premises  
3 or injury to the lessor or the property manager of the premises  
4 or any person in occupation of or permitted on adjacent  
5 premises.” and insert:

6  
7 permit —

- 8 (a) serious damage to the premises or, where  
9 relevant, a common area or chattels in the  
10 common area; or  
11 (b) injury to —  
12 (i) the lessor; or  
13 (ii) the property manager of the premises; or  
14 (iii) any person in occupation of or permitted  
15 on adjacent premises.  
16

17 **70. Section 82B amended**

18 (1) In section 82B delete “This” and insert:

19  
20 (1) This  
21

22 (2) After section 82B(1) insert:

- 23  
24 (2) This Part applies to a database operator, regardless of  
25 whether the database operator is inside or outside of the  
26 State, if the database operator operates a residential  
27 tenancy database containing personal information —  
28 (a) about a person who resides in the State; or  
29 (b) relating to, or arising from, the occupation of  
30 residential premises under a residential tenancy  
31 agreement within the State.  
32

**s. 71**

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1 **71. Part 8 inserted**

2 After section 97 insert:

3

4 **Part 8 — Transitional provision relating to the**  
5 ***Consumer Protection Legislation Amendment***  
6 ***Act 2018***

7 **98. Application of s. 49A to residential tenancy**  
8 **agreements and utility charges**

9 (1) In this section —

10 ***commencement day*** means the day on which the  
11 ***Consumer Protection Legislation Amendment Act 2018***  
12 section 68 comes into operation;

13 ***public utility services*** has the meaning given in the  
14 ***Land Administration Act 1997*** section 3(1).

15 (2) Subject to subsections (3) and (4), section 49A, as in  
16 force on and after commencement day, applies to a  
17 residential tenancy agreement (to the extent relevant)  
18 even though it was entered into before commencement  
19 day.

20 (3) If a tenant is provided with full details of an account  
21 for a charge for a public utility service and the charge  
22 was not paid in full before commencement day,  
23 section 49A, as in force immediately before  
24 commencement day continues to apply to the payment  
25 of the charge.

26 (4) If, before commencement day, a lessor or strata  
27 company received a notice of account in relation to a  
28 public utility service and the lessor or strata company  
29 has not given the tenant full details of the account for  
30 the charge, the 30 day requirement in section 49A(3)(c)  
31 does not apply.  
32

---

**Part 10 — Settlement Agents Act 1981 amended**

**72. Act amended**

This Part amends the *Settlement Agents Act 1981*.

**73. Section 4 amended**

In section 4(2) delete “section 34(2)(a) and (b),” and insert:

section 34AA(3),

**74. Section 26 amended**

After section 26(2) insert:

- (3) For subsection (1), a person is taken not to be licensed or holding a current triennial certificate in respect of the licence if the person is required to surrender a licence and triennial certificate under section 34D(2) and (3).

**75. Section 27 amended**

In section 27(1):

- (a) delete “a person, not being a body corporate,” and insert:

an individual

- (b) delete “that — ” and insert:

that the individual —

- (c) in paragraphs (a) to (c) delete “he”.

**s. 76**

---

1 (d) in paragraph (c) delete “to him to enable him” and  
2 insert:

3

4 to enable them

5

6 (e) in paragraphs (d) and (e) delete “he”.

7

8 Note: The heading to amended section 27 is to read:

9

**Licensing of individuals**

10 **76. Section 30 amended**

11 Delete section 30(4) and (5).

12 **77. Section 31 amended**

13 (1) In section 31(2)(a) delete “a person other than a body corporate;  
14 or” and insert:

15

16 an individual; or

17

18 (2) Delete section 31(2A) and insert:

19

20 (2A) The Commissioner must not renew a licensee’s  
21 triennial certificate unless the Commissioner is  
22 satisfied of the matters in —

23 (a) for an individual — section 27(1)(b), (c), (d)  
24 and (e); or

25 (b) for a firm — section 28(1)(a), (b), (c) and (d);  
26 or

27 (c) for a body corporate — section 29(1)(a), (b),  
28 (c) and (d).  
29

1 (3) Delete section 31(3)(a) and insert:

2

3 (a) if the licensee is an individual, the individual;  
4 or

5

6 Note: The heading to amended section 31 is to read:

7

**Licensee's triennial certificate: grant and renewal**

8 **78. Section 32 amended**

9 (1) In section 32(1):

10 (a) delete "Where a" and insert:

11

12 If a licensee's

13

14 (b) delete "expired, the renewal shall be deemed to take  
15 effect for the period of 3 years" and insert:

16

17 expired or was surrendered, the renewal takes effect

18

19 (c) delete "expired." and insert:

20

21 expired or was surrendered.

22

23 (2) Delete section 32(2) and insert:

24

25 (2) If a licensee's triennial certificate is renewed more than  
26 1 month but not more than 12 months after the day on  
27 which the triennial certificate expired or was  
28 surrendered, the renewal takes effect —

29 (a) if the Commissioner is satisfied that there is  
30 reasonable cause for the renewal to take effect  
31 on and from the day after the day on which the

**s. 79**

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- 1 triennial certificate expired or was  
2 surrendered — on that day; or  
3 (b) otherwise — on the day the renewal is granted.  
4

5 Note: The heading to amended section 32 is to read:  
6 **Licensee’s triennial certificate: late renewal**

7 **79. Section 33 amended**

8 (1) Delete section 33(1) and insert:

9

10 (1) This section applies if —

- 11 (a) a licensee’s triennial certificate expires or was  
12 surrendered; and  
13 (b) the licensee applies to renew the certificate  
14 more than 12 months after the day on which the  
15 triennial certificate expired or was surrendered.  
16

17 (2) In section 33(2) delete “The application shall” and insert:

18

19 The application for renewal must  
20

21 (3) In section 33(4) delete “applicant shall” and insert:

22

23 licensee must  
24

25 (4) In section 33(5) delete “applicant” and insert:

26

27 licensee  
28

1       (5) After section 33(5) insert:  
2

3               (6) If the triennial certificate is renewed, the renewal takes  
4 effect on the day the renewal is granted.  
5

6               Note: The heading to amended section 33 is to read:

7                       **Licensee’s triennial certificate: late renewal after 12 months**

8       **80. Section 34 replaced**

9               Delete section 34 and insert:  
10

11       **34. Conditions on licences and triennial certificates**

12               (1) It is a condition of every licence that the licensee must  
13 comply with the provisions of this Act and the  
14 settlement agents’ code of conduct.

15               (2) It is a condition of every licence that the licensee must  
16 comply with any special condition to which the  
17 licensee’s licence or triennial certificate is subject  
18 under section 34AA.

19       **34AA. Imposing special conditions on licences or triennial**  
20 **certificates**

21               (1) In this section —

22                       *licensee* includes an applicant for a licence.

23               (2) The Commissioner may, at any time, impose a special  
24 condition on a licence or triennial certificate.

25               (3) Without limiting subsection (2), the Commissioner  
26 may impose a condition that relates to —

27                       (a) the holding of a policy of indemnity insurance  
28 or fidelity insurance in a specified amount; or

**s. 80**

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- 1 (b) the payment of fees under this Act or to  
2 contributions to the Account and may vary such  
3 prescribed fees or contributions.
- 4 (4) Before imposing a special condition on a licence or  
5 triennial certificate, the Commissioner must —
- 6 (a) give a licensee notice in writing setting out —
- 7 (i) that the Commissioner proposes to  
8 impose the special condition; and
- 9 (ii) the reasons for the proposed decision;  
10 and
- 11 (iii) that the licensee may make submissions  
12 to the Commissioner in relation to the  
13 proposed decision within the time  
14 specified in the notice;
- 15 and
- 16 (b) consider any submissions received under  
17 paragraph (a)(iii).
- 18 (5) After making a decision under subsection (2), the  
19 Commissioner must —
- 20 (a) notify the licensee of the Commissioner's  
21 decision; and
- 22 (b) if the decision is to impose the special  
23 condition, give the licensee notice in writing  
24 setting out —
- 25 (i) the reasons for the decision; and
- 26 (ii) that a person aggrieved by the  
27 Commissioner's decision may apply to  
28 the State Administrative Tribunal for a  
29 review of the decision under section 23.



1           **34AB. Removing special conditions on licences or triennial**  
2           **certificates**

- 3           (1) The Commissioner may remove a special condition  
4           imposed on a licensee's licence or triennial  
5           certificate —  
6               (a) at any time; or  
7               (b) on application by the licensee.
- 8           (2) If the licensee applies under subsection (1)(b), the  
9           Commissioner must, before deciding not to remove the  
10          special condition on the licensee's licence or triennial  
11          certificate —  
12          (a) give the licensee notice in writing setting out —  
13               (i) that the Commissioner proposes to  
14               make a decision not to remove the  
15               special condition; and  
16               (ii) the reasons for the proposed decision;  
17               and  
18               (iii) that the licensee may make submissions  
19               to the Commissioner in relation to the  
20               proposed decision within the time  
21               specified in the notice;  
22          and  
23          (b) consider any submissions received under  
24          paragraph (a)(iii).
- 25          (3) After making a decision on an application by a  
26          licensee, the Commissioner must —  
27               (a) notify the licensee of the Commissioner's  
28               decision; and  
29               (b) if the decision is to not remove the special  
30               condition, give the licensee notice in writing  
31               setting out —  
32               (i) the reasons for the decision; and

**s. 81**

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- 1 (ii) that a person aggrieved by the  
2 Commissioner's decision may apply to  
3 the State Administrative Tribunal for a  
4 review of the decision under section 23.  
5

6 **81. Sections 34C and 34D inserted**

7 After section 34B insert:  
8

9 **34C. Licensee may surrender licence and triennial**  
10 **certificate**

11 A licensee may surrender the licensee's triennial  
12 certificate, or licence and triennial certificate held in  
13 respect of the licence, at any time.

14 **34D. Firm or body corporate must surrender licence and**  
15 **triennial certificate in certain circumstances**

- 16 (1) This section applies to a licensee that is a firm or body  
17 corporate if paragraph (c) or (d) of section 28(1) or  
18 29(1) (as is relevant) ceases to apply in relation to the  
19 licensee.
- 20 (2) The licensee must, within 5 days after the day on which  
21 the paragraph ceased to apply to the licensee, surrender  
22 the licensee's licence and triennial certificate held in  
23 respect of the licence, unless the licensee is carrying on  
24 business under Schedule 1 clause 10.
- 25 (3) If a licensee carries on business under Schedule 1  
26 clause 10 then, at the end of the period referred to in  
27 that clause, the licensee must immediately surrender  
28 the licensee's licence and triennial certificate unless the  
29 licensee satisfies section 28(1)(c) and (d) or  
30 section 29(1)(c) and (d) (as is relevant).  
31

1 **82. Section 41B inserted**

2 After section 41A insert:

3

4 **41B. Licensee to comply with prescribed educational**  
5 **requirements**

6 A licensee must comply with the educational  
7 requirements prescribed by the regulations.

8 Penalty: a fine of \$5 000.

9

10 **83. Section 65 amended**

11 In section 65(1) delete the Penalty and insert:

12

13 Penalty for this subsection:

14 (a) in the case of an offence against  
15 section 49(4) or (5), a fine of \$25 000, or  
16 2 years' imprisonment;

17 (b) in the case of an offence against  
18 section 49B(1), a fine of \$50 000;

19 (c) in any other case, a fine of \$25 000.

20

21 **84. Section 81A amended**

22 (1) Delete section 81A(4).

23 (2) In section 81A(7) delete "subsection (4)." and insert:

24

25 section 111A.

26

**s. 85**

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1 **85. Section 83 amended**

2 (1) In section 83 delete “The” and insert:

3

4 (1) The

5

6 (2) At the end of section 83 insert:

7

8 (2) Despite the surrender by a person of a licence or  
9 triennial certificate or a licensee ceasing to be licensed  
10 or to hold a triennial certificate —

11 (a) an allegation under subsection (1) in respect of  
12 a person may be made to the State  
13 Administrative Tribunal not later than  
14 12 months after the day on which the licence or  
15 certificate was surrendered or the licensee  
16 ceased to be licensed or ceased holding the  
17 certificate; and

18 (b) the State Administrative Tribunal may exercise  
19 the powers conferred by section 84, other than  
20 the power to suspend or cancel the person’s  
21 licence or certificate.  
22

23 **86. Section 93 amended**

24 Delete section 93(1) and (2A) and insert:

25

26 (1) The Account is to be held and applied to reimburse a  
27 person for the person’s pecuniary or property loss to  
28 the extent of the defalcation of —

29 (a) a licensee during any period when the licensee  
30 was the holder of a current triennial certificate;  
31 or

- 1 (b) a person who ceased to be the holder of a  
2 licence or triennial certificate, if —  
3 (i) the defalcation occurred during the  
4 period of 6 months immediately  
5 following the day on which the person  
6 ceased to be licensed or the holder of  
7 the triennial certificate; and  
8 (ii) the chief executive officer considers that  
9 it is just and reasonable in the  
10 circumstances of the claim.  
11

12 **87. Section 111A amended**

- 13 (1) In section 111A(1) delete “in relation to an application under  
14 section 24, 26A, 26B, 31 or 33” and insert:

15  
16 to the Commissioner or the chief executive officer under this  
17 Act  
18

- 19 (2) In section 111A(2):

- 20 (a) delete “in relation to an application referred to in  
21 subsection (1)” and insert:

22  
23 to the Commissioner or the chief executive officer  
24

- 25 (b) in paragraph (a) delete “in relation to an application”;

- 26 (c) in paragraph (b) delete “made in relation to an  
27 application”;

- 28 (d) in paragraph (c) delete “in relation to an application”.

**s. 88**

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1 **88. Various penalties amended**

2 Amend the provisions listed in the Table as set out in the Table.

3 **Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 26(1)	Penalty: \$20 000.	Penalty for this subsection: a fine of \$100 000.
s. 40(3)	Penalty: \$20 000.	Penalty for this subsection: a fine of \$100 000.

**Part 11 — *Street Collections (Regulation) Act 1940*  
amended**

**89. Act amended**

This Part amends the *Street Collections (Regulation) Act 1940*.

**90. Section 2 amended**

(1) In section 2 delete the definition of *Metropolitan area*.

(2) In section 2 insert in alphabetical order:

*metropolitan region* has the meaning given by the  
*Planning and Development Act 2005* section 4(1);

(3) In section 2 in the definition of *Collection* delete  
“contributions.” and insert:

contributions;

**91. Section 3 amended**

(1) In section 3(1) delete “area” and insert:

region

(2) At the end of section 3(1) insert:

Penalty for this subsection: a fine of \$5 000.

Note: The heading to amended section 3 is to read:

**No collection in metropolitan region except by permission of  
Minister**

**s. 92**

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1 **92. Section 6 amended**

2 At the end of section 6 insert:

3

4 Penalty: a fine of \$5 000.

5

6 **93. Section 7 amended**

7 In section 7(2) delete “\$40” and insert:

8

9 a fine of \$2 000

10

11 **94. Section 8 deleted**

12 Delete section 8.

13

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