

# Consumer Protection Legislation Amendment Bill 2013

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Western Australia

LEGISLATIVE COUNCIL

## **Consumer Protection Legislation Amendment Bill 2013**

**A Bill for**

**An Act to amend —**

- **the *Commercial Tenancy (Retail Shops) Agreements Act 1985*; and**
- **the *Employment Agents Act 1976*; and**
- **the *Fair Trading Act 2010*; and**
- **the *Land Valuers Licensing Act 1978*; and**
- **the *Limited Partnerships Act 1909*; and**
- **the *Motor Vehicle Dealers Act 1973*; and**
- **the *Motor Vehicle Repairers Act 2003*; and**
- **the *Petroleum Products Pricing Act 1983*; and**
- **the *Real Estate and Business Agents Act 1978*; and**
- **the *Residential Parks (Long-stay Tenants) Act 2006*; and**
- **the *Residential Tenancies Act 1987*; and**
- **the *Retail Trading Hours Act 1987*; and**
- **the *Settlement Agents Act 1981*; and**
- **the *Travel Agents Act 1985*.**

The Parliament of Western Australia enacts as follows:

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**Part 1 — Preliminary**

**1. Short title**

This is the *Consumer Protection Legislation Amendment Act 2013*.

**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 — Commercial Tenancy (Retail Shops)**  
2                                   **Agreements Act 1985 amended**

3   **3. Act amended**

4                   This Part amends the *Commercial Tenancy (Retail Shops)*  
5                   *Agreements Act 1985*.

6   **4. Section 9 amended**

7                   In section 9(2)(c) delete “drawing up of or the obtaining of  
8                   necessary consents to the lease,” and insert:

9  
10                   negotiation, preparation or execution of, or obtaining the  
11                   necessary consents to,  
12

1 **Part 3 — *Employment Agents Act 1976* amended**

2 **5. Act amended**

3 This Part amends the *Employment Agents Act 1976*.

4 **6. Section 18 amended**

5 Delete section 18(4), (5) and (7).

6 **7. Section 20 amended**

7 (1) In section 20(1) delete “him, or any other person,” and insert:

8

9 the Commissioner of Police,

10

11 (2) Delete section 20(2).

12 **8. Section 22 amended**

13 (1) Delete section 22(3) and insert:

14

15 (3) The Commissioner must give notice in writing of the  
16 Commissioner’s decision —

17 (a) to the applicant; and

18 (b) if the Commissioner of Police lodged an  
19 objection with the Commissioner, to the  
20 Commissioner of Police.

21 (4A) If notice is given under subsection (3) to a person who  
22 might be aggrieved by the decision, the Commissioner  
23 must in the notice —

24 (a) set out the reasons for the decision; and

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(b) inform the person of the right to apply to the State Administrative Tribunal for a review of the decision.

(2) In section 22(4) delete “or a person who lodged an objection with the Commissioner” and insert:

or, if the Commissioner of Police lodged an objection with the Commissioner, the Commissioner of Police

1 **Part 4 — *Fair Trading Act 2010* amended**

2 **9. Act amended**

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

4 **10. Part 6 Division 1 heading replaced**

5 Delete the heading to Part 6 Division 1 and insert:

6

7 **Division 1 — Preliminary**

8

9 **11. Section 64A inserted**

10 At the end of Part 6 Division 1 insert:

11

12 **64A. Authorised persons cannot be public officers under**  
13 ***Criminal Investigation Act 2006***

14 The office held by an authorised person cannot be  
15 prescribed by an Act or regulations under the *Criminal*  
16 *Investigation Act 2006* section 9(1)(a).

17

18 **12. Section 83 amended**

19 After section 83(3) insert:

20

21 (4) If an application under subsection (1) consists of or  
22 includes a claim that legal professional privilege  
23 applies to the thing seized, the State Administrative  
24 Tribunal hearing the application is to be constituted  
25 by —

26 (a) a judicial member; and

27 (b) such other members, if any, as the President  
28 considers appropriate.

- 1 (5) In subsection (4), each of these terms has the meaning  
2 given in the *State Administrative Tribunal Act 2004*  
3 section 3(1) —  
4 *judicial member*  
5 *President*  
6

7 **13. Section 112 amended**

- 8 (1) In section 112(1) insert in alphabetical order:  
9

10 *regulated person* has the meaning given in  
11 section 88A.  
12

- 13 (2) In section 112(1) in the definition of *personal information*  
14 delete “person.” and insert:  
15

16 person;  
17

1 **Part 5 — *Land Valuers Licensing Act 1978* amended**

2 **14. Act amended**

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

4 **15. Section 16 amended**

5 (1) In section 16(2) in the definition of *person aggrieved* delete “or  
6 objects to”.

7 (2) In section 16(2) in the definition of *reviewable decision* delete  
8 “or objection”.

9 **16. Section 17 amended**

10 Delete section 17(2).

11 **17. Section 18 deleted**

12 Delete section 18.

13 **18. Section 19A amended**

14 In section 19A(1) delete “(as long as there is no objection)”.

15 Note: The heading to amended section 19A is to read:

16 **Commissioner may grant licence without notice to applicant**

17 **19. Section 22 amended**

18 After section 22(3) insert:  
19

20 (4) Section 19 applies to an application under this section  
21 as if it were an application for a licence under  
22 section 17.  
23

1   **20.     Section 23A inserted**

2           At the end of Part III insert:

3

4           **23A.     Duplicate licence**

5                   If a licence has been lost or destroyed, the  
6                   Commissioner may issue a duplicate licence on  
7                   payment by the holder of the prescribed fee.

8

9   **21.     Section 23 amended**

10           In section 23(2) delete “an officer of the firm or corporation”  
11           and insert:

12

13           a person

14

15   **22.     Section 30 amended**

16           Delete section 30(1) and (2).

17           Note: The heading to amended section 30 is to read:

18                   **Commissioner’s certificate**

1 **Part 6 — *Limited Partnerships Act 1909* amended**

2 **23. Act amended**

3 This Part amends the *Limited Partnerships Act 1909*.

4 **24. Section 15 amended**

5 In section 15(3):

6 (a) delete “section 61” and insert:

7

8 sections 60 and 61

9

10 (b) in paragraph (a) delete “that section and” and insert:

11

12 those sections and that

13



1       **Part 7 — Motor Vehicle Dealers Act 1973 amended**

2       **25. Act amended**

3               This Part amends the *Motor Vehicle Dealers Act 1973*.

4       **26. Section 5 amended**

5               In section 5(1) delete the definition of *authorised officer* and  
6               insert:

7

8                               *authorised officer* means an authorised person as  
9                               defined in the *Fair Trading Act 2010* section 63;

10

11       **27. Section 20 amended**

12               In section 20(3) delete “no longer” and insert:

13

14               do not

15

16       **28. Section 20E amended**

17               (1) Delete section 20E(1) and (2) and insert:

18

19                       (1) An application for a dealer’s licence must specify each  
20                       of the premises at which the applicant proposes to carry  
21                       on business under the authority of the licence.

22

23               (2) Delete section 20E(4).

**s. 29**

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1 **29. Section 20FA inserted**

2 After section 20E insert:

3

4 **20FA. Authorisation of premises does not affect planning**  
5 **laws**

6 An authorisation given by the Commissioner under  
7 section 20E in respect of any premises does not affect  
8 any relevant requirements of written laws relating to  
9 planning that apply to those premises.

10

11 **30. Section 20F replaced**

12 Delete section 20F and insert:

13

14 **20F. Changes in authorised premises**

15 The Commissioner may at any time approve an  
16 alteration or addition to the particulars referred to in  
17 section 20E(5) on —

- 18 (a) the application of the holder of a licence; and  
19 (b) payment of the prescribed fee.

20

21 **31. Section 21A amended**

22 (1) Delete section 21A(1) and (2) and insert:

23

24 (1) An application for registration under section 17B as a  
25 car market operator must specify each of the premises  
26 the applicant proposes to provide for a car market  
27 under the authority of the registration.

28

29 (2) Delete section 21A(4).

1 **32. Section 21BA inserted**

2 After section 21A insert:

3

4 **21BA. Authorisation of premises does not affect planning**  
5 **laws**

6 An authorisation given by the Commissioner under  
7 section 21A in respect of any premises does not affect  
8 any relevant requirements of written laws relating to  
9 planning that apply to those premises.  
10

11 **33. Section 21B replaced**

12 Delete section 21B and insert:

13

14 **21B. Changes in authorised premises**

15 The Commissioner may at any time approve an  
16 alteration or addition to the particulars referred to in  
17 section 21A(5) on —

- 18 (a) the application of the registered person; and  
19 (b) payment of the prescribed fee.  
20

1 **Part 8 — *Motor Vehicle Repairers Act 2003* amended**

2 **34. Act amended**

3 This Part amends the *Motor Vehicle Repairers Act 2003*.

4 **35. Section 5 amended**

5 Delete section 5(3) and (5).

6 **36. Section 9 amended**

7 In section 9(1):

8 (a) delete “of a class prescribed by the regulations”;

9 (b) delete “licence for that class of repair work.” and insert:

10

11 licence.

12

13 **37. Section 10 amended**

14 Delete section 10(2).

15 **38. Section 11 amended**

16 In section 11:

17 (a) delete “any class of”;

18 (b) delete “licence for that class of repair work.” and insert:

19

20 licence.

21

1 **39. Section 12 replaced**

2 Delete section 12 and insert:

3

4 **12. Term used: sufficient resources**

5 In this Division —

6 *sufficient resources* means sufficient material,  
7 manpower and financial resources to carry on business  
8 doing repair work.

9

10 **40. Section 13 amended**

11 Delete section 13(2) and (3) and insert:

12

13 (2) An application —

14 (a) must be —

15 (i) made in the form approved; and

16 (ii) accompanied by the fee prescribed;

17 and

18 (b) must comply with section 58.

19

20 **41. Section 24 amended**

21 Delete section 24(1) and (2) and insert:

22

23 (1) A business licence is to be in the form determined by  
24 the Commissioner.

25

**s. 42**

---

1 **42. Section 28 replaced**

2 Delete section 28 and insert:  
3

4 **28. Regulations may prescribe conditions and**  
5 **restrictions**

6 The regulations may prescribe conditions and  
7 restrictions that are to be taken to be attached to all  
8 business licences, unless otherwise specified in the  
9 licence.  
10

11 **43. Section 35 amended**

12 In section 35(4)(a) delete “in respect of the class of repair work  
13 concerned”.

14 **44. Section 36 amended**

15 In section 36(4)(a) delete “in respect of the class of repair work  
16 concerned”.

17 **45. Section 39 amended**

18 Delete section 39(1)(b) and insert:  
19

20 (b) a person or firm that carries out repair work for  
21 the purposes of the *Motor Vehicle Dealers*  
22 *Act 1973* section 34, but not otherwise.  
23

24 **46. Section 52 amended**

25 In section 52(1)(a)(ii) delete “business licence or”.

1   **47.     Section 58 replaced**

2           Delete section 58 and insert:

3

4   **58.     Business licence applications to specify premises**

5           An application for a business licence must specify each  
6           of the premises at or from which the applicant proposes  
7           to carry on business under the authority of the licence.

8

9   **48.     Section 59 amended**

10          In section 59(1) delete the passage that begins with “If,” and  
11          ends with “section 60,” and insert:

12

13          If, in relation to any premises, an application complies with  
14          section 58,

15

16   **49.     Sections 60 to 62 replaced**

17          Delete sections 60, 61 and 62 and insert:

18

19   **60.     Authorisation of premises does not affect planning**  
20           **laws**

21           An authorisation given by the Commissioner under  
22           section 59 in respect of any premises does not affect  
23           any relevant requirements of written laws relating to  
24           planning that apply to those premises.

25   **61.     Changes in authorised premises**

26           The Commissioner may at any time approve an  
27           alteration or addition to the particulars referred to in  
28           section 59(2) on —

- 29           (a) the application of the licensee; and  
30           (b) payment of the prescribed fee.

- 1           **62.       Revocation of authorisation of premises**
- 2           (1) The Commissioner may make an order revoking an
- 3           authorisation in respect of any premises under
- 4           section 59, other than an authorisation in respect of
- 5           mobile premises.
- 6           (2) The Commissioner may make an order under
- 7           subsection (1) only if —
- 8               (a) the authority responsible for planning matters
- 9               in the district in which the premises are situated
- 10              has given the Commissioner written notice that
- 11              the premises do not comply with specified
- 12              requirements of written laws relating to
- 13              planning that apply to those premises; and
- 14              (b) the Commissioner has given the licensee an
- 15              opportunity to show cause why the order should
- 16              not be made.
- 17           (3) In subsection (2)(a) —
- 18               *specified* means specified in the notice referred to in
- 19              that provision.
- 20
- 21       **50.       Section 64 amended**
- 22           In section 64(2) delete “under section 81,” and insert:
- 23
- 24           made by the State Administrative Tribunal on a review under
- 25           section 75,
- 26



1 **51. Section 66 inserted**

2 After section 65 insert:

3

4 **66. Commissioner may make allegations to SAT**  
5 **regarding disciplinary orders**

6 The Commissioner may allege to the State  
7 Administrative Tribunal that there is proper cause for  
8 the Tribunal to make under section 68(1) one or more  
9 of the orders set out in Schedule 1 in respect of a  
10 person to whom this Part applies.  
11

12 **52. Section 68 amended**

13 (1) In section 68(1) after “section 65(2),” insert:

14

15 in a proceeding commenced by an allegation under section 66

16

17 (2) After section 68(1)(a) insert:

18

19 or

20

21 **53. Section 70 amended**

22 Delete section 70(a) and insert:

23

24 (a) does not have sufficient resources, within the  
25 meaning in section 12; or  
26

**s. 54**

---

1 **54. Section 71 amended**

2 In section 71(3) delete “under section 81,” and insert:

3

4 made by the court on an appeal under the *State Administrative*  
5 *Tribunal Act 2004* Part 5,

6

7 **55. Part 7 heading replaced**

8 Delete the heading to Part 7 and insert:

9

10 **Part 7 — Reviews**

11

12 **56. Section 73 amended**

13 (1) Delete section 73(1)(c).

14 (2) In section 73(1) after each of paragraphs (a) and (b) insert:

15

16 or

17

18 (3) Delete section 73(3).

19 **57. Section 75 replaced**

20 Delete section 75 and insert:

21

22 **75. Reviews by State Administrative Tribunal of**  
23 **Commissioner’s decisions and orders**

24 The affected person under section 73(1) may apply to  
25 the State Administrative Tribunal for a review of a  
26 decision or order to which section 73 applies.

- 1           **76. Transitional**
- 2           (1) In this section —
- 3                 *former provisions* means this Act as in force
- 4                 immediately before the commencement of the
- 5                 *Consumer Protection Legislation Amendment Act 2013*
- 6                 section 57;
- 7                 *section 75* means section 75 of the former provisions.
- 8           (2) The former provisions continue to have effect for the
- 9                 purposes of an appeal under section 75 that was
- 10                 commenced, but not completed, before the
- 11                 commencement of the *Consumer Protection*
- 12                 *Legislation Amendment Act 2013* section 57.
- 13
- 14       **58. Sections 77 to 82 deleted**
- 15           Delete sections 77, 78, 79, 80, 81 and 82.
- 16       **59. Section 109 amended**
- 17       (1) Delete section 109(1) and insert:
- 18
- 19           (1) In this section —
- 20                 *unlicensed repairer* means a person or firm that is
- 21                 required to hold, but does not hold, a business licence.
- 22
- 23       (2) In section 109(2) delete “any class of” (each occurrence).
- 24       (3) In section 109(3)(c) delete “any class of”.
- 25       **60. Section 115 deleted**
- 26           Delete section 115.

**s. 61**

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1 **61. Schedule 1 amended**

2 In Schedule 1 clause 1(b) delete “business licence or”.

3 **62. Schedule 3 deleted**

4 Delete Schedule 3.

1                                   **Part 9 — Petroleum Products Pricing**  
2                                   **Act 1983 amended**

3   **63. Act amended**

4                   This Part amends the *Petroleum Products Pricing Act 1983*.

5   **64. Section 22A amended**

6       (1) In section 22A(1) delete the definition of *displayed price*.

7       (2) In section 22A(1) insert in alphabetical order:

8  
9                                   *relevant price*, for a kind of motor fuel, means the  
10                                   price for that kind of motor fuel that would apply if a  
11                                   supplier of the motor fuel from a declared terminal  
12                                   were to make a wholesale sale of the motor fuel to a  
13                                   reseller who —

14                                   (a) was not the subject of any agreement or  
15                                   arrangement affecting price; and

16                                   (b) took delivery of the motor fuel at the terminal  
17                                   from which it was supplied;  
18

19   **65. Section 22B replaced**

20                   Delete section 22B and insert:  
21

22                   **22B. Commissioner to be notified of proposed price**  
23                   **changes**

24                   Whenever the relevant price for a kind of motor fuel  
25                   supplied from a declared terminal is proposed to be  
26                   changed, the supplier of the motor fuel is required to  
27                   notify the Commissioner of the proposed price  
28                   change —

29                                   (a) before the proposed price change has effect;  
30                                   and

**s. 66**

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1 (b) in accordance with the provisions of any  
2 regulations that apply to that notification.

3 Penalty: a fine of \$20 000.  
4

5 **66. Sections 22C and 22D deleted**

6 Delete sections 22C and 22D.

7 **67. Section 22E amended**

8 In section 22E(1)(c), (2)(a) and (c) and (4) delete “displayed”  
9 (each occurrence) and insert:

10

11 relevant  
12

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**Part 10 — *Real Estate and Business Agents Act 1978* amended**

**68. Act amended**

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

**69. Section 23 amended**

- (1) In section 23(1) delete “of the Commissioner”.
- (2) In section 23(2) in the definition of *person aggrieved*:
  - (a) in paragraph (a) delete “or objects to”;
  - (b) in paragraph (e) delete “Commissioner” and insert:  
  
chief executive officer
- (3) In section 23(2) in the definition of *reviewable decision*:
  - (a) in paragraph (a) after “decision” insert:  
  
of the Commissioner
  - (b) in paragraph (a) delete “or objection”;
  - (c) in paragraphs (b) to (d) after “decision” insert:  
  
of the Commissioner
  - (d) in paragraph (e) after “decision” insert:  
  
of the chief executive officer

**s. 70**

---

- 1 (4) After section 23(2) insert:  
2
- 3 (3) If a decision under section 116 or 117 has not been  
4 made before the commencement of the *Consumer*  
5 *Protection Legislation Amendment Act 2013* section 69  
6 in respect of a claim made before 1 July 2011, the  
7 decision —
- 8 (a) may be made on or after that commencement  
9 by the Commissioner; and
- 10 (b) is taken to be a reviewable decision for the  
11 purposes of this section.
- 12 (4) A decision under section 116 or 117 made by the chief  
13 executive officer before the commencement of the  
14 *Consumer Protection Legislation Amendment Act 2013*  
15 section 69 is taken to be a reviewable decision made  
16 immediately after that commencement for the purposes  
17 of this section.
- 18 (5) The amendments made to this section by the *Consumer*  
19 *Protection Legislation Amendment Act 2013* section 69  
20 do not affect the review of a reviewable decision by the  
21 State Administrative Tribunal that began, but was not  
22 completed, before the commencement of that section.  
23
- 24 **70. Section 24 amended**
- 25 Delete section 24(2).
- 26 **71. Section 25 deleted**
- 27 Delete section 25.



1 **72. Section 27 amended**

2 In section 27(2):

3 (a) delete “the Schedule” and insert:

4

5 Schedule 1

6

7 (b) delete “therein and elsewhere”.

8 **73. Section 34A amended**

9 In section 34A(1) delete “there is no objection in respect of a  
10 licence and”.

11 Note: The heading to amended section 34A is to read:

12 **Commissioner may grant licence or triennial certificate without**  
13 **notice to applicant**

14 **74. Section 40A inserted**

15 After section 39 insert:

16

17 **40A. Duplicate licence, certificate of registration or**  
18 **triennial certificate**

19 If a licence, certificate of registration or triennial  
20 certificate has been lost or destroyed, the  
21 Commissioner may issue a duplicate licence, duplicate  
22 certificate of registration or duplicate triennial  
23 certificate on payment by the holder of the prescribed  
24 fee.

25

26 **75. Section 91 amended**

27 In section 91 delete “Board” and insert:

28

29 Commissioner

30

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---

1 **76. Section 116 amended**

2 After section 116(1) insert:

3

- 4 (2A) For the purposes of a claim against the Fidelity  
5 Account, the reference in subsection (1) to any period  
6 when the licensee was the holder of a current triennial  
7 certificate includes a period when the licensee was not  
8 the holder of a current triennial certificate if the chief  
9 executive officer considers that it is just and reasonable  
10 in the circumstances of the claim.

11

12 **77. Section 124AA inserted**

13 At the end of Part VIII insert:

14

15 **124AA. Commissioner may investigate claims against**  
16 **Fidelity Account**

- 17 (1) Without limiting section 22, the Commissioner may, at  
18 and in accordance with the request of the chief  
19 executive officer, make an investigation or inquiry  
20 under the *Fair Trading Act 2010* Part 6 in relation to a  
21 claim against the Fidelity Account.
- 22 (2) For the purposes of the investigation or inquiry, the  
23 administration of the Fidelity Account is taken to be a  
24 function of the Commissioner.
- 25 (3) The Commissioner must, as soon as practicable after  
26 completing the investigation or inquiry, prepare a  
27 report on the findings of the investigation or inquiry  
28 and give it to the chief executive officer.

29

1   **78.     Section 124A amended**

2           In section 124A(2) delete “Commissioner.” and insert:

3

4           chief executive officer.

5

6   **79.     Section 124C amended**

7           In section 124C(e) delete “Act.” and insert:

8

9           Act or the Commissioner’s functions under the *Fair Trading*  
10          *Act 2010* section 57A that are performed for the purposes of this  
11          Act.

12

13   **80.     Section 134 amended**

14          Delete section 134(1) and (2).

15          Note: The heading to amended section 134 is to read:

16                  **Commissioner’s certificate**

17   **81.     Part XI Division 1 deleted**

18          Delete Part XI Division 1.

19   **82.     Part XI Division 2 heading deleted**

20          Delete the heading to Part XI Division 2.

**s. 83**

---

1 **83. Schedule amended**

- 2 (1) Delete the heading to the Schedule and the reference after it and  
3 insert:  
4

5 **Schedule 1 — Qualifications for grant of licence**  
6 **and related matters**

7 [s. 27]  
8

- 9 (2) Delete the heading to the Schedule Division 1.
- 10 (3) In the Schedule clause 3 delete “Such a licence” and insert:  
11  
12 A licence granted to a person who is qualified under clause 1(c)  
13
- 14 (4) In the Schedule clause 4 delete “Such a licence” and insert:  
15  
16 A licence applied for by a person who is qualified under clause 1(d)  
17
- 18 (5) Delete the Schedule Division 2.

1           **Part 11 — Residential Parks (Long-stay Tenants)**  
2   **Act 2006 amended**

3   **84. Act amended**

4           This Part amends the *Residential Parks (Long-stay Tenants)*  
5           *Act 2006*.

6   **85. Glossary amended**

7           In the Glossary clause 1 delete the definition of ***bond***  
8           ***administrator*** and insert:

9  
10   ***bond administrator*** means the chief executive officer of the  
11   Department in his or her capacity as bond administrator  
12   under the *Residential Tenancies Act 1987*;

13

1        **Part 12 — Residential Tenancies Act 1987 amended**

2        **86. Act amended**

3                This Part amends the *Residential Tenancies Act 1987*.

4        **87. Section 3 amended**

5                In section 3 delete the definition of *bond administrator* and  
6                insert:

7

8                                *bond administrator* means the chief executive officer  
9                                of the Department;

10

11        **88. Section 31B replaced**

12                Delete section 31B and insert:

13

14        **31B. Increase in rent after renegotiating lease**

15                (1) Subsection (2) has effect if —

16                                (a) a residential tenancy agreement creates a  
17                                tenancy for a fixed term (the *former*  
18                                *agreement*); and

19                                (b) the parties enter into a new residential tenancy  
20                                agreement in relation to the same premises (the  
21                                *new agreement*) that is to commence  
22                                immediately after the end of the term of the  
23                                former agreement, whether under the terms of  
24                                the agreement or under section 76C.

25                (2) The tenant cannot be required under the new agreement  
26                to pay an amount of rent, in respect of the first 30 days  
27                of the new agreement, that is more than the amount that  
28                would have been payable under the former agreement  
29                if the former agreement had continued to have effect  
30                during that period.

31

1 **89. Section 31 amended**

2 In section 31(1) delete “section 30,” and insert:

3

4 section 30 or 31A,

5

1 **Part 13 — *Retail Trading Hours Act 1987* amended**

2 **Division 1 — *Retail Trading Hours Act 1987* amended**

3 **90. Act amended**

4 This Division amends the *Retail Trading Hours Act 1987*.

5 **91. Section 3 amended**

6 In section 3(1) delete the definitions of:

7 ***Committee***

8 ***member***

9 **92. Section 10 amended**

10 (1) In section 10(3)(bc) delete “18 persons” and insert:

11

12 25 persons

13

14 (2) In section 10(3a):

15 (a) in paragraph (a)(ii) delete “3 retail shops” and insert:

16

17 4 retail shops

18

19 (b) in paragraph (b)(iii) and (iv) delete “2 or more” and  
20 insert:

21

22 3 or more

23

24 **93. Sections 17 to 21 deleted**

25 Delete sections 17, 18, 19, 20 and 21.



1 **94. Section 38 amended**

2 In section 38 delete “person, officer of the Department, or to the  
3 Committee or a sub-committee or any member of the  
4 Committee or any sub-committee” and insert:

5

6 person or officer of the Department

7

8 **Division 2 — Consequential amendment to *Constitution Acts***  
9 ***Amendment Act 1899***

10 **95. Act amended**

11 This Division amends the *Constitution Acts Amendment*  
12 *Act 1899*.

13 **96. Schedule V amended**

14 In Schedule V Part 3 delete the item relating to the Retail Shops  
15 Advisory Committee.

1 **Part 14 — *Settlement Agents Act 1981* amended**

2 **97. Act amended**

3 This Part amends the *Settlement Agents Act 1981*.

4 **98. Section 23 amended**

5 (1) In section 23(1) delete “of the Commissioner”.

6 (2) In section 23(2) in the definition of *person aggrieved*:

7 (a) in paragraph (a) delete “or objects to”;

8 (b) in paragraph (c) delete “Commissioner” and insert:

9

10 chief executive officer

11

12 (3) In section 23(2) in the definition of *reviewable decision*:

13 (a) in paragraph (a) after “decision” (1<sup>st</sup> occurrence) insert:

14

15 of the Commissioner

16

17 (b) in paragraph (a)(ii) delete “or objection”;

18 (c) in paragraph (b) after “decision” insert:

19

20 of the Commissioner

21

22 (d) in paragraph (c) after “decision” insert:

23

24 of the chief executive officer

25

26 (4) After section 23(2) insert:

27

28 (3) If a decision under section 93 or 95 has not been made  
29 before the commencement of the *Consumer Protection*

- 1                    *Legislation Amendment Act 2013* section 98 in respect  
2 of a claim made before 1 July 2011, the decision —
- 3                    (a) may be made on or after that commencement  
4 by the Commissioner; and
- 5                    (b) is taken to be a reviewable decision for the  
6 purposes of this section.
- 7                    (4) A decision under section 93 or 95 made by the chief  
8 executive officer before the commencement of the  
9 *Consumer Protection Legislation Amendment Act 2013*  
10 section 98 is taken to be a reviewable decision made  
11 immediately after that commencement for the purposes  
12 of this section.
- 13                    (5) The amendments made to this section by the *Consumer*  
14 *Protection Legislation Amendment Act 2013* section 98  
15 do not affect the review of a reviewable decision by the  
16 State Administrative Tribunal that began, but was not  
17 completed, before the commencement of that section.

18

19 **99. Section 24 amended**

20 Delete section 24(2).

21 **100. Section 25 deleted**

22 Delete section 25.

23 **101. Section 31 amended**

24 Delete section 31(2a) and insert:

- 25
- 26                    (2A) The Commissioner may refuse to renew a licensee's  
27 triennial certificate if —
- 28                    (a) the Commissioner is satisfied that  
29 section 27(1)(b), (c), (d) or (e), 28(1)(a), (b), (c)  
30 or (d) or 29(1)(a), (b), (c) or (d), as is relevant

**s. 102**

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- 1 to the licensee, does not apply, or no longer  
2 applies, in relation to the licensee; or  
3 (b) the licensee has not met prescribed educational  
4 requirements.  
5

6 **102. Section 34A amended**

7 In section 34A(1) delete “there is no objection in respect of a  
8 licence and”.

9 Note: The heading to amended section 34A is to read:

10 **Commissioner may grant licence or triennial certificate without**  
11 **notice to applicant**

12 **103. Section 36 amended**

13 In section 36(2):

14 (a) after paragraph (a) insert:

15

16 (ba) where the licensee is a firm, of any change in  
17 the persons by whom or by which it is  
18 constituted;

19

20 (b) in paragraph (b) before “the licensee” insert:

21

22 where  
23

24 **104. Section 41A inserted**

25 After section 40 insert:

26

27 **41A. Duplicate licence or triennial certificate**

28 If a licence or triennial certificate has been lost or  
29 destroyed, the Commissioner may issue a duplicate

1 licence or duplicate triennial certificate on payment by  
2 the holder of the prescribed fee.  
3

4 **105. Section 93 amended**

5 After section 93(1) insert:  
6

7 (2A) For the purposes of a claim against the Account, the  
8 reference in subsection (1) to any period when the  
9 licensee was the holder of a current triennial certificate  
10 includes a period when the licensee was not the holder  
11 of a current triennial certificate if the chief executive  
12 officer considers that it is just and reasonable in the  
13 circumstances of the claim.  
14

15 **106. Section 102AA inserted**

16 At the end of Part V insert:  
17

18 **102AA. Commissioner may investigate claims against**  
19 **Fidelity Account**

20 (1) Without limiting section 22, the Commissioner may, at  
21 and in accordance with the request of the chief  
22 executive officer, make an investigation or inquiry  
23 under the *Fair Trading Act 2010* Part 6 in relation to a  
24 claim against the Fidelity Account.

25 (2) For the purposes of the investigation or inquiry, the  
26 administration of the Fidelity Account is taken to be a  
27 function of the Commissioner.

28 (3) The Commissioner must, as soon as practicable after  
29 completing the investigation or inquiry, prepare a  
30 report on the findings of the investigation or inquiry  
31 and give it to the chief executive officer.  
32

**s. 107**

---

1 **107. Section 102C amended**

2 Delete section 102C(e) and insert:

3

- 4 (e) all other expenditure lawfully incurred by the  
5 Commissioner in the performance of the  
6 Commissioner's functions under this Act or the  
7 Commissioner's functions under the *Fair*  
8 *Trading Act 2010* section 57A that are  
9 performed for the purposes of this Act.

10

11 **108. Section 111 amended**

12 Delete section 111(1) and (2).

13 Note: The heading to amended section 111 is to read:

14 **Commissioner's certificate**

1           **Part 15 — *Travel Agents Act 1985* amended**

2   **109.    Act amended**

3           This Part amends the *Travel Agents Act 1985*.

4   **110.    Section 3 amended**

5           In section 3(1) insert in alphabetical order:

6

7                         *former Crimes Act provision* means the deleted  
8                         section 50DA or 50DB of the *Crimes Act 1914*  
9                         (Commonwealth);

10

11   **111.    Section 10 amended**

12         (1) Delete section 10(1).

13         (2) In section 10(2) delete “The” and insert:

14

15                         When an application has been made in accordance with  
16                         section 9, the

17

18   **112.    Section 11 deleted**

19           Delete section 11.

20   **113.    Section 12 amended**

21         (1) Delete section 12(1) and insert:

22

23                         (1) Unless subsection (2) or (4) requires it to be refused,  
24                         the Commissioner is to grant an application as soon as  
25                         practicable.

26

**s. 113**

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- 1 (2) Delete section 12(2)(ba) and insert:  
2
- 3 (ba) the individual has been found guilty of an  
4 offence under *The Criminal Code* section 187,  
5 the *Criminal Code Act 1995* (Commonwealth)  
6 section 272.18, 272.19 or 272.20 or a former  
7 Crimes Act provision; or  
8
- 9 (3) In section 12(4)(i) delete “section 187 of *The Criminal Code* or  
10 section 50DA or 50DB of the *Crimes Act 1914* of the  
11 Commonwealth.” and insert:  
12
- 13 *The Criminal Code* section 187, the *Criminal Code Act 1995*  
14 (Commonwealth) section 272.18, 272.19 or 272.20 or a former  
15 Crimes Act provision.  
16
- 17 (4) Delete section 12(5)(b) and insert:  
18
- 19 (b) has afforded the applicant an opportunity to  
20 make submissions and adduce evidence.  
21
- 22 (5) In section 12(6) delete “and each objector (if any) to the  
23 granting of the application”.
- 24 (6) Delete section 12(7)(a) and insert:  
25  
26
- 27 (a) the Commissioner is forthwith, by notice in  
28 writing, to inform the applicant of the granting  
29 of the application and the right to apply to the  
30 State Administrative Tribunal for a review of  
31 any condition imposed; and  
32



1 (7) In section 12 after each of subsections (2)(a) to (f) and (4)(a)  
2 to (g) insert:

3

4 or

5

6 **114. Section 21 amended**

7 (1) After section 21(4)(c) insert:

8

9 (da) a licensee has been found guilty of an offence  
10 under *The Criminal Code* section 187, the  
11 *Criminal Code Act 1995* (Commonwealth)  
12 section 272.18, 272.19 or 272.20 or a former  
13 Crimes Act provision; or

14

15 (2) Delete section 21(4a).

16 (3) In section 21(4) after each of paragraphs (a), (b), (c), (d), (e), (f)  
17 and (g) insert:

18

19 or

20

21 **115. Section 22 amended**

22 (1) In section 22(1) delete “If” and insert:

23

24 Subject to subsection (1a), if

25

26 (2) In section 22(1a) delete the passage that begins with “If” and  
27 ends with “it —” and insert:

28

29 If the State Administrative Tribunal, on dealing with an  
30 allegation under section 21(5) in respect of a belief described in

**s. 116**

---

1            section 21(4)(da), is satisfied that the licensee has been found  
2            guilty of an offence under *The Criminal Code* section 187, the  
3            *Criminal Code Act 1995* (Commonwealth) section 272.18,  
4            272.19 or 272.20 or a former Crimes Act provision, the  
5            Tribunal —  
6

7    **116.    Section 23 amended**

8            In section 23(2) in the definition of *person aggrieved* delete  
9            paragraph (a) and insert:

11                    (a)    a person upon whose application a reviewable  
12                    decision is made; or  
13

14    **117.    Section 30 amended**

15            (1)    Delete section 30(1)(da) and insert:

17                    (da)    has been found guilty of an offence under  
18                    *The Criminal Code* section 187, the *Criminal*  
19                    *Code Act 1995* (Commonwealth)  
20                    section 272.18, 272.19 or 272.20 or a former  
21                    Crimes Act provision; or  
22

23            (2)    In section 30(1) after each of paragraphs (a), (b), (c) and (d)  
24            insert:

26                    or  
27

28

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