

Western Australia

Acts Amendment (Fair Trading) Act 2010

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Acts Amendment (Fair Trading) Act 2010

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Western Australia

Acts Amendment (Fair Trading) Act 2010

No. 58 of 2010

An Act to —

- **shift the functions of various regulatory and licensing Boards to the Commissioner under the *Fair Trading Act 2010*; and**
 - **establish certain investigatory and enforcement powers in relation to certain regulated persons; and**
 - **enable the establishment of various consumer advisory committees under the *Fair Trading Act 2010*,**
- and to make amendments to various Acts as a consequence of enacting the *Fair Trading Act 2010* and for related purposes.**

[Assented to 8 December 2010]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Acts Amendment (Fair Trading) Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) Part 8 Division 1 — on the day on which the *Fair Trading Act 2010* section 56 comes into operation, but —
 - (i) if sections 34 and 53 of this Act come into operation on that day, Part 8 Division 1 of this Act does not come into operation; or
 - (ii) if sections 34 and 53 of this Act come into operation after that day, section 36 of this Act does not come into operation;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Fair Trading Act 2010* amended

3. Act amended

This Part amends the *Fair Trading Act 2010*.

4. Section 57A inserted

After section 56 insert:

57A. Licensing and regulatory functions of Commissioner

The Commissioner has the following functions with respect to the licensing, registration and certification schemes provided for in the Acts specified in Schedule 2 —

- (a) to administer the scheme of licensing, registration and certification established under those Acts;
- (b) to conduct and promote education and provide advisory services for persons who are licensed, registered or certificated under those Acts, or involved in the administration of those Acts, and for members of the public on —
 - (i) matters relating to the operation of those Acts;
 - (ii) matters relating to the operations of persons who are licensed, registered or certificated under those Acts;
- (c) to advise the Minister as to the general administration of those Acts;
- (d) to make recommendations and submit proposals to the Minister from time to time with respect to regulations to be made under those Acts;

- (e) to carry out any other functions conferred on the Commissioner under those Acts.

5. Section 62 amended

In section 62(1) in the definition of *consumer affairs authority*:

- (a) after paragraph (a)(i) insert:

- (ia) an advisory committee appointed under Division 3; or

- (b) in paragraph (b)(ii) delete “body or authority referred to in paragraph (a)(ii)” and insert:

- body, an advisory committee or an authority referred to in paragraph (a)(ia) or (a)(ii)

6. Part 5 Division 3 inserted

At the end of Part 5 insert:

Division 3 — Advisory committees

Subdivision 1 — Property Industry Advisory Committee

63A. Property Industry Advisory Committee

A committee called the Property Industry Advisory Committee is established.

63B. Membership

- (1) The Committee consists of —
 - (a) the Commissioner ex officio; and

- (b) 8 other members or such other number of persons as may be prescribed, appointed by the Minister in accordance with the regulations.
- (2) One of the members appointed under subsection (1)(b) is to be appointed as Chairperson.

63C. Functions

The functions of the Committee are to advise the Minister and the Commissioner on —

- (a) the regulation of the real estate, settlement and land valuation industries in Western Australia, including the licensing, regulation and training of persons or businesses who or which undertake the functions of a real estate agent, real estate sales representative, business agent, business sales representative, settlement agent or land valuer; and
- (b) the provision by the Commissioner of education, information and advice to consumers and to the real estate, settlement and land valuation industries in Western Australia; and
- (c) the criteria required for applications under the *Real Estate and Business Agents Act 1978* section 131O; and
- (d) any matter referred to the Committee by the Minister or the Commissioner.

63D. Committee may regulate own procedure

- (1) The Committee may regulate its own procedure.
- (2) Subsection (1) is subject to the regulations.

Subdivision 2 — Motor Vehicle Industry Advisory Committee

63E. Motor Vehicle Industry Advisory Committee

A committee called the Motor Vehicle Industry Advisory Committee is established.

63F. Membership

- (1) The Committee consists of —
 - (a) the Commissioner ex officio; and
 - (b) 8 other members or such other number of persons as may be prescribed, appointed by the Minister in accordance with the regulations.
- (2) One of the members appointed under subsection (1)(b) is to be appointed as Chairperson.

63G. Functions

The functions of the Committee are to advise the Minister and the Commissioner on —

- (a) the regulation of the motor vehicle dealing and repair industry in Western Australia, including the licensing, certification and training of persons or businesses who or which engage in motor vehicle dealing and repair; and
- (b) the provision by the Commissioner of education, information and advice to consumers and to the motor vehicle dealing and repair industry in Western Australia; and
- (c) any matter referred to the Committee by the Minister or the Commissioner.

63H. Committee may regulate own procedure

- (1) The Committee may regulate its own procedure.

- (2) Subsection (1) is subject to the regulations.

Subdivision 3 — Consumer Advisory Committee

63I. Consumer Advisory Committee

A committee called the Consumer Advisory Committee is established.

63J. Membership

- (1) The Committee consists of —
- (a) the Commissioner ex officio; and
 - (b) 8 other members or such other number of persons as may be prescribed, appointed by the Minister in accordance with the regulations.
- (2) One of the members appointed under subsection (1)(b) is to be appointed as Chairperson.

63K. Functions

The functions of the Committee are to advise the Minister and the Commissioner on —

- (a) the activities and policies of the Department as they affect consumers; and
- (b) current and emerging consumer issues; and
- (c) research and education projects relating to consumers; and
- (d) any matter referred to the Committee by the Minister or the Commissioner.

63L. Committee may regulate own procedure

- (1) The Committee may regulate its own procedure.
- (2) Subsection (1) is subject to the regulations.

Subdivision 4 — Regulations prescribing committee procedures, etc.

63M. Regulations

- (1) The regulations may provide for the constitution and operation of the advisory committees established under this Division.
- (2) Without limiting the generality of subsection (1), the regulations may —
 - (a) require that persons appointed as members of a committee —
 - (i) possess particular expertise or qualifications; or
 - (ii) represent particular interest groups, industries or occupations;
 - (b) provide for the number of members, the manner, and terms and conditions of appointment, and the resignation and removal of members of the committees;
 - (c) provide for the appointment of deputies of members;
 - (d) provide for the manner in which members of the committees are to disclose interests;
 - (e) regulate the procedure for meetings of the committees, including the quorum for meetings;
 - (f) provide for the remuneration of members of the committees (other than a member *ex officio*).

7. Section 63 amended

In section 63 in the definition of *authorised person* delete paragraph (c) and insert:

- (c) an investigator, or a police officer assisting in an investigation under section 88D;

8. Part 6 Division 4A inserted

After Part 6 Division 3 insert:

**Division 4A — Specific powers for enforcement of
licensing and regulatory provisions**

88A. Terms used

In this Division —

authorisation means a licence, registration, approval, permit, exemption, certificate or other form of authority;

registration Act means an Act listed in Schedule 2;

regulated activity means an occupation or activity that can be lawfully carried on only under an authorisation granted or obtained under a registration Act;

regulated person means a person who carries on a regulated activity.

88B. Investigation and inquiry by Commissioner for licensing and regulatory purposes

- (1) For the purposes of performing the Commissioner's functions under section 57A, the Commissioner may, of the Commissioner's own motion, make any investigation or inquiry that the Commissioner considers necessary or expedient for any of the following purposes —
 - (a) determining any application or other matter before the Commissioner;

- (b) determining whether or not a regulated person is or has been complying with —
 - (i) the conditions, if any, of their authorisation; or
 - (ii) the requirements of the registration Act under which he or she holds an authorisation; or
 - (iii) a code of conduct applying to the regulated person under a registration Act;
 - (c) determining whether or not any other cause exists that might be considered by the Commissioner to be grounds for disciplinary action against a regulated person under a registration Act;
 - (d) detecting offences against a registration Act.
- (2) An authorised person may make an investigation or inquiry under this section on behalf of the Commissioner.

88C. Authorised persons may exercise investigative powers

Authorised persons may exercise the powers set out in Division 3 for the purposes of the performance of any function under this Division.

88D. Police assistance with investigations and inquiries

- (1) The Commissioner of Police must, at the request of the Commissioner, arrange for one or more police officers —
- (a) to make an investigation or inquiry relating to any matter that is the subject of investigation or inquiry under section 88B; and

- (b) to report on the results of their investigation or inquiry.
- (2) The report must be forwarded to the Commissioner.
- (3) Where a police officer makes an investigation or inquiry or report relating to any matter that is the subject of investigation or inquiry under section 88B —
 - (a) in addition to any power, authority, and immunity of the police officer apart from this Act, the police officer has the same powers, authorities, and immunities as an investigator appointed under this Act has in respect of the same matter; and
 - (b) for the purposes of section 66, it is sufficient if the police officer identifies himself or herself as a police officer to the person, if any, affording entry to the police officer.

88E. Compliance checks at regulated person's business premises

- (1) An authorised person may, for all or any of the purposes listed in subsection (2) —
 - (a) during normal business hours, enter premises where the business of a regulated person is being carried on, without obtaining a warrant under section 74; and
 - (b) exercise the powers in sections 69, 79 and 87 once entry is made.
- (2) The purposes referred to in subsection (1) are as follows —
 - (a) to determine whether or not a regulated person is or has been complying with the conditions, if any, of their authorisation;

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- (b) to determine whether or not a regulated person is or has been complying with the requirements of the registration Act under which he or she holds an authorisation;
 - (c) to determine whether or not a regulated person is or has been complying with a code of conduct applying to the registered person under a registration Act.
- (3) An authorised person may invoke the powers in subsection (1) even though an investigation is not under way in relation to any particular regulated person.

9. Section 88 amended

In section 88(1) after “Division 3” insert:

or 4A

10. Section 89 amended

(1) After section 89(1) insert:

- (2A) A person must not prevent or attempt to prevent an authorised person from entering business premises in the exercise of the authorised person’s powers under section 88E.

Penalty: a fine of \$2 000.

(2) In section 89(2) delete “69.” and insert:

69 or 88E.

(3) After section 89(4) insert:

(5A) A person must comply with a requirement to furnish reasonable access to business premises, or to give other reasonable assistance to an authorised person, when the authorised person is exercising the authorised person's powers under section 88E.

Penalty: a fine of \$2 000.

11. Section 112 amended

In section 112(3):

(a) delete paragraph (c) and insert:

(c) for the purposes of performing a function under or in connection with —

(i) this Act; or

(ii) an Act listed in Schedule 2;

or

(da) for the purposes of giving information to a body established under a written law if —

(i) the information concerns the affairs of a regulated person or former regulated person; and

(ii) the information is given in relation to the performance by that body of a function under or in connection with that written law;

or

(b) in paragraph (e) delete “offence.” and insert:

offence; or

- (c) after paragraph (e) insert:
 - (f) by the Commissioner for the purpose of making the public aware of —
 - (i) investigations or inquiries being conducted into the conduct of a regulated person, former regulated person or purported regulated person, and the results of those inquiries; and
 - (ii) disciplinary action being contemplated or undertaken in relation to a regulated person, former regulated person or purported regulated person, and the outcome of that action.

12. Schedule 2 inserted

After Schedule 1 insert:

Schedule 2 — Registration Acts

[s. 88A]

The following Acts are specified for the purposes of section 88A —

Land Valuers Licensing Act 1978

Motor Vehicle Dealers Act 1973

Motor Vehicle Repairers Act 2003

Real Estate and Business Agents Act 1978

Settlement Agents Act 1981

Part 3 — *Land Valuers Licensing Act 1978* amended

13. Act amended

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

14. Section 4 amended

- (1) In section 4 delete the definitions of:

Chairman

member (each occurrence)

Registrar

the Board

- (2) In section 4 insert in alphabetical order:

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

department means the department of the Public Service principally assisting the Minister in the administration of this Act;

- (3) In section 4 in the definition of ***officer*** paragraph (b) delete “corporation;” and insert:

corporation.

15. Part II heading deleted

Delete the heading to Part II.

16. Part II Division 1 deleted

Delete Part II Division 1.

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17. Part II Division 2 heading deleted

Delete the heading to Part II Division 2.

18. Sections 12 to 14 deleted

Delete sections 12, 13 and 14.

19. Section 15 replaced

Delete section 15 and insert:

15. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

20. Sections 15A to 15C deleted

Delete sections 15A, 15B and 15C.

21. Section 17 amended

Delete section 17(5) and insert:

- (5) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application.

22. Section 18 amended

Delete section 18(4) and insert:

- (4) If the Commissioner is considering making an adverse decision in relation to the objection, the Commissioner

must give the objector the opportunity to give additional information in relation to that objection.

23. Section 19A amended

In section 19A(1) delete “Board, in a meeting at any time and place without notice to the applicant.” and insert:

Commissioner without notice to the applicant.

24. Section 21 amended

In section 21(3) delete “applies,” and insert:

and the *Fair Trading Act 2010* apply,

25. Section 22 amended

In section 22(1) and (2) delete “Board shall” and insert:

Commissioner may

26. Section 31 amended

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

(1) The chief executive officer is to ensure that the matters set out in subsection (1a) are included in the department’s annual report.

- (2) In section 31(1a) delete “The Board’s” and insert:

The department’s

- (3) Delete section 31(2).

27. Section 32 deleted

Delete section 32.

28. Section 33 replaced

Delete section 33 and insert:

33. Confidentiality of information officially obtained

The *Fair Trading Act 2010* section 112 applies to information obtained for the purposes of this Act.

29. Section 36 amended

Delete section 36(2)(a) and (b).

30. Part VI inserted

After Part V insert:

Part VI — Miscellaneous transitional matters

37. Terms used

In this Part —

commencement day means the day on which the *Acts Amendment (Fair Trading) Act 2010* Part 3 comes into operation;

liability means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

right means any right, power, privilege or immunity whether actual, contingent or prospective;

the former Board means the Land Valuers Licensing Board established by section 5 of this Act immediately prior to the commencement day;

the former Registrar means the Registrar of the former Board immediately prior to the commencement day.

38. Former Board abolished

Subject to sections 44 and 45, at the beginning of the commencement day, the former Board is abolished and its members go out of office.

39. References to the former Board

If in a written law or other document or instrument there is a reference to the former Board or the former Registrar, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

40. Immunity continues

Despite the abolition of the former Board, if the former Board had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the Commissioner.

41. Notices of maximum amounts of remuneration

A notice published in the *Gazette* by the Board under section 25 is taken to have been published by the Commissioner.

42. Unfinished proceedings by the former Registrar

Proceedings taken by the former Registrar under section 35 that are not complete at the commencement day are to continue under the direction and control of the Commissioner.

43. Unfinished proceedings by the former Board

- (1) Proceedings before the former Board under Part II Division 2 of the Act as it was prior to the commencement day that are not complete by the commencement day —
 - (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.
- (2) Proceedings before the State Administrative Tribunal or another court commenced by allegation against a licensed valuer brought by the former Board that are not complete by the commencement day —
 - (a) are taken to have been commenced by an allegation by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.

44. Winding-up by the former Board

As soon as reasonably practicable after the commencement day, the Board is to wind-up its affairs and in particular, but without limiting what may be done to wind-up its affairs, the Board is to apply its assets, together with any moneys in hand, in —

- (a) discharging its liabilities; and

- (b) transferring any assets which remain after the discharge of liabilities (*residual assets*) to the State to be administered in the department, or realising residual assets and causing the proceeds, together with any moneys in hand, to be credited to the Consolidated Account.

45. Final report by the former Board

- (1) As soon as reasonably practical after the Board is satisfied that the winding-up of its affairs is concluded, it is to —
 - (a) make and submit to the Minister a report of its proceedings for the period beginning on the day after the commencement day and ending on the day on which the winding-up of its affairs is concluded; and
 - (b) deliver to the chief executive officer all records and information in its possession or under its control.
- (2) The chief executive officer is to include the final report submitted under subsection (1) in the department's annual report for that financial year.

46. Powers in relation to transitional matters

- (1) If there is not sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.
- (2) In subsection (1) —
transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from this Act as enacted immediately before the

commencement day to this Act as amended by the *Acts Amendment (Fair Trading) Act 2010*.

- (3) Regulations made under subsection (1) may provide that specific provisions of a written law —
 - (a) do not apply; or
 - (b) apply with specific modifications,to or in relation to any matter.
- (4) Regulations made under subsection (1) must be made within 12 months after the commencement day.
- (5) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- (6) In subsection (5) —
specified means specified or described in the regulations.
- (7) If regulations contain a provision referred to in subsection (5), the provision does not operate so as —
 - (a) to affect, in a manner prejudicial to any person (other than the State), the right of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

31. Various references to “Commissioner” inserted

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

Table

Provision	Delete	Insert
s. 4 def. of <i>approved</i>	Board	Commissioner
s. 16(1)	Board	Commissioner
s. 17(1) and (4)	Board (each occurrence)	Commissioner
s. 18(2)	Board	Commissioner
s. 19	Board (first occurrence)	Commissioner
s. 19	Board, by such evidence as it	Commissioner, by such evidence as the Commissioner
s. 19(c)	Board	Commissioner
s. 19A(2)	Board	Commissioner
s. 19A(2)	Registrar	Commissioner
s. 20(a)	Board	Commissioner
s. 21(1)	Board	Commissioner
s. 22(1) and (3)	Board (each occurrence)	Commissioner
s. 25(1)	Board	Commissioner

Acts Amendment (Fair Trading) Act 2010**Part 3**

Land Valuers Licensing Act 1978 amended

s. 31

Provision	Delete	Insert
s. 26	Board	Commissioner
s. 27	Board	Commissioner
s. 29(1), (2), (3) and (4)	Registrar	Commissioner
s. 29A(1) and (2)	Registrar	Commissioner
s. 30(1), (2), (3) and (4)	Registrar	Commissioner
s. 31(1a)(a)(i) and (ii) and (d)	Board	Commissioner
s. 31(1a)(e)	Board's	Commissioner's
s. 35(1)	Registrar	Commissioner

Part 4 — *Motor Vehicle Dealers Act 1973* amended

32. Act amended

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

33. Long title amended

In the long title delete “• **to constitute a body with licensing, registration and other functions in respect of persons involved in motor vehicle dealing and motor vehicle repair work;**”.

34. Section 5 amended

- (1) In section 5(1) delete the definitions of:

Chairperson

Commissioner

member

secretary

the Board

- (2) In section 5(1) insert in alphabetical order:

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

35. Section 5B inserted

After section 5A insert:

5B. Person may be taken to be a dealer

- (1) A person who —
- (a) holds himself or herself out as a person carrying on the business of buying or selling vehicles; or

- (b) sells or exchanges 4 or more vehicles in any 12 month period to or with persons who are not dealers,

is taken to be carrying on the business of selling vehicles for the purposes of the definition of *dealer*.

- (2) For the purposes of subsection (1)(a), a person holds himself or herself out as a person carrying on the business of buying or selling vehicles if that person —
 - (a) advertises or notifies or states that the person carries on the business of buying or selling vehicles; or
 - (b) in any way represents that the person is ready to carry on, or is carrying on, the business of buying or selling vehicles.
- (3) Despite subsection (1), a person who sells or exchanges 4 or more vehicles in any 12 month period to or with persons who are not dealers is not taken to be a dealer if the person can prove that —
 - (a) he or she was not carrying on the business of buying or selling vehicles; and
 - (b) the person did not hold himself or herself out as a person carrying on the business of buying or selling vehicles.
- (4) When counting the number of vehicles sold or exchanged for the purposes of this section, a sale or exchange of a type prescribed to be an exempt sale or an exempt exchange for the purposes of this subsection is not to be counted.
- (5) Nothing in subsection (1) prevents a person who sells or exchanges fewer than 4 vehicles in any 12 month period to or with persons who are not dealers from being a dealer carrying on the business of buying or selling vehicles under this Act.

36. Section 5AA deleted

Delete section 5AA.

37. Section 6 replaced

Delete section 6 and insert:

6. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

38. Part II heading amended

In the heading to Part II delete “**Motor Vehicle Industry Board**” and insert:

Licensing, registration, powers and offences

39. Part II Division 1 deleted

Delete Part II Division 1.

40. Section 16 amended

Delete section 16(2).

41. Section 17 amended

Delete section 17(2).

42. Section 18 amended

- (1) Delete section 18(1a) and insert:

(1A) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application.

- (2) Delete section 18(2).

Note: The heading to amended section 18 is to read:

Matters which may be considered in refusing the grant or renewal of an authorisation

43. Section 22 amended

Delete section 22(3).

44. Section 23 amended

- (1) In section 23(3) delete “secretary shall submit those particulars to the Board and the Board” and insert:

Commissioner

- (2) In section 23(5) delete “Board refuses to approve of the changes submitted to it pursuant to subsection (3) the secretary” and insert:

Commissioner refuses to approve of the changes submitted pursuant to subsection (3) the Commissioner

45. Section 24 amended

- (1) In section 24(5) delete “hours of the Board.” and insert:

hours.

- (2) In section 24(6) delete “secretary a certificate under his hand —” and insert:

Commissioner a certificate —

46. Section 32K amended

In section 32K(1) delete “Board, on an application made by it” and insert:

Commissioner, on an application made by the
Commissioner

47. Section 50 replaced

Delete section 50 and insert:

50. Confidentiality of information officially obtained

The *Fair Trading Act 2010* section 112 applies to information obtained for the purposes of this Act.

48. Section 51 amended

(1) Delete section 51(1) and insert:

(1) The chief executive officer is to ensure that the matters set out in subsection (1a) are included in the Department's annual report.

(2) Delete section 51(2).

49. Part V inserted

After section 56 insert:

Part V — Miscellaneous transitional matters

57. Terms used

In this Part —

commencement day means the day on which the *Acts Amendment (Fair Trading) Act 2010* Part 4 comes into operation;

liability means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

right means any right, power, privilege or immunity whether actual, contingent or prospective;

the former Board means the Motor Vehicle Industry Board established by section 7 of this Act immediately prior to the commencement day.

58. Former Board abolished

Subject to sections 63 and 64, at the beginning of the commencement day, the former Board is abolished and its members go out of office.

59. References to the former Board

If in a written law or other document or instrument there is a reference to the former Board, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

60. Immunity continues

Despite the abolition of the former Board, if the former Board had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the Commissioner.

61. Unfinished investigations by the former Board

Investigations being carried out by the former Board under the Act as it was prior to the commencement day that are not complete by the commencement day —

- (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
- (b) are to continue under the direction and control of the Commissioner.

62. Unfinished proceedings by the former Board

- (1) Proceedings before the former Board that are not complete by the commencement day —
 - (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.

- (2) Proceedings before the State Administrative Tribunal or another court commenced by allegation against a licensed motor vehicle dealer or repairer brought by the former Board that are not complete by the commencement day —
 - (a) are taken to have been commenced by an allegation by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.

63. Winding-up by the former Board

As soon as reasonably practicable after the commencement day, the Board is to wind-up its affairs and in particular, but without limiting what may be done to wind-up its affairs, the Board is to apply its assets, together with any money in hand, in —

- (a) discharging its liabilities; and
- (b) transferring any assets which remain after the discharge of liabilities (*residual assets*) to the State to be administered in the department, or realising residual assets and causing the proceeds, together with any moneys in hand, to be credited to the Consolidated Account.

64. Final report by the former Board

- (1) As soon as reasonably practical after the Board is satisfied that the winding-up of its affairs is concluded, it is to —
 - (a) make and submit to the Minister a report of its proceedings for the period beginning on the day after the commencement day and ending on the day on which the winding-up of its affairs is concluded; and

- (b) deliver to the chief executive officer all records and information in its possession or under its control.
- (2) The chief executive officer is to include the final report submitted under subsection (1) in the department's annual report for that financial year.

65. Powers in relation to transitional matters

- (1) If there is not sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.
- (2) In subsection (1) —
transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from this Act as enacted immediately before the commencement day to this Act as amended by the *Acts Amendment (Fair Trading) Act 2010*.
- (3) Regulations made under subsection (1) may provide that specific provisions of a written law —
 - (a) do not apply; or
 - (b) apply with specific modifications,to or in relation to any matter.
- (4) Regulations made under subsection (1) must be made within 12 months after the commencement day.
- (5) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement

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day, the regulations have effect according to their terms.

- (6) In subsection (5) —
specified means specified or described in the regulations.
- (7) If regulations contain a provision referred to in subsection (5), the provision does not operate so as —
 - (a) to affect, in a manner prejudicial to any person (other than the State), the right of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

50. Various references to “Commissioner” inserted

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

Table

Provision	Delete	Insert
s. 5(1) def. of <i>approved</i>	Board	Commissioner
s. 15(1), (2), (2a), (2b), (3), (4), (5) and (6)	Board (each occurrence)	Commissioner
s. 16(1)	Board (each occurrence)	Commissioner
s. 17(1)	Board (each occurrence)	Commissioner

Provision	Delete	Insert
s. 17B(1), (2), (3) and (4)	Board (each occurrence)	Commissioner
s. 17C(1)	Board it	Commissioner the Commissioner
s. 17C(2)	Board it	Commissioner the Commissioner
s. 17C(3)	Board	Commissioner
s. 18(1)	Board (each occurrence)	Commissioner
s. 18(1c)	Board	Commissioner
s. 18A(1), (2), (3), (4) and (5)	Board	Commissioner
s. 19(2), (3) and (3b)	Board (each occurrence)	Commissioner
s. 19A(1) and (2)	Board	Commissioner
s. 20(1), (2) and (3)	Board	Commissioner
s. 20D(2)	Board	Commissioner
s. 20E(1)(b)	Board	Commissioner
s. 20E(3)	Board, if it	Commissioner, if the Commissioner

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Provision	Delete	Insert
s. 20E(4)	Board (each occurrence)	Commissioner
s. 20F(1) and (2)	Board (each occurrence)	Commissioner
s. 20G(1)	Board	Commissioner
s. 20H(2), (3) and (4)	Board (each occurrence)	Commissioner
s. 20H(5)	secretary	Commissioner
s. 21A(1)(b)	Board	Commissioner
s. 21A(3)	Board, if it	Commissioner, if the Commissioner
s. 21A(4)	Board (each occurrence)	Commissioner
s. 21A(4)(b)	it	the Commissioner
s. 21B(1) and (2)	Board (each occurrence)	Commissioner
s. 21C(1)	Board	Commissioner
s. 22(2) def. of <i>reviewable decision</i>	Board	Commissioner
s. 22(2) def. of <i>reviewable decision</i> par. (c)	its	the Commissioner's
s. 22(2) def. of <i>reviewable decision</i> par. (e)	it	the Commissioner

Provision	Delete	Insert
s. 22A(1), (2) and (3)	secretary	Commissioner
s. 23(1) and (2)	secretary	Commissioner
s. 23(3)	it	the Commissioner
s. 24(1), (3) and (4)	secretary	Commissioner
s. 31(1) and (2)	Board (each occurrence)	Commissioner
s. 32E(1)	Board	Commissioner
s. 32J(1)	Board	Commissioner
s. 32J(1)	if it	if the Commissioner
s. 32J(2)	Board (each occurrence)	Commissioner
s. 32L(1), (2) and (3)	Board (each occurrence)	Commissioner
s. 32N(1)	Board	Commissioner
s. 32O(1)	Board, the Board	Commissioner, the Commissioner
s. 32O(2)(b) and (3)(c)	Board	Commissioner
s. 32P(a)(i) and (c)(v)	Board	Commissioner
s. 51(1a)(a) and (d)	Board (each occurrence)	Commissioner

Acts Amendment (Fair Trading) Act 2010

Part 4 Motor Vehicle Dealers Act 1973 amended

s. 50

Provision	Delete	Insert
s. 51(1a)(e)	Board's	Commissioner's

Note: The heading to amended section 20 is to read:

Allegations by Commissioner to State Administrative Tribunal

Part 5 — Motor Vehicle Repairers Act 2003 amended

51. Act amended

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

52. Long title amended

In the long title delete “• **the Motor Vehicle Industry Board to be responsible for such licensing and certification and for the conciliation of certain disputes relating to motor vehicle repair work;**”.

53. Section 3 amended

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

Board

Commissioner

inquiry

secretary

- (2) In section 3(1) insert in alphabetical order:

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

- (3) In the definition of *repairer’s certificate* delete “42;” and insert:

42.

- (4) Delete section 3(4).

54. Section 7 replaced

Delete section 7 and insert:

7. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

55. Section 21 deleted

Delete section 21.

56. Section 32 amended

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

(2) If the Commissioner is considering refusing to renew a business licence under subsection (1), the Commissioner must give the licensee the opportunity to give additional information in relation to that application for renewal.

(2) In section 32(3)(b)(ii) delete “Board to hold an inquiry as required by subsection (2),” and insert:

Commissioner to give proper consideration to that matter,

(3) In section 32(3) delete “Board’s power” and insert:

State Administrative Tribunal’s power

57. Section 35 amended

In section 35(4) delete “Board may refuse to give its approval under subsection (2) only if it” and insert:

Commissioner may refuse to give an approval under subsection (2) only if the Commissioner

58. Section 36 amended

In section 36(4) delete “Board may refuse to give its approval under subsection (2) only if it” and insert:

Commissioner may refuse to give an approval under subsection (2) only if the Commissioner

59. Section 62 amended

Delete section 62(2).

60. Part 6 heading replaced

Delete the heading to Part 6 and insert:

Part 6 — Disciplinary powers

61. Section 65 replaced

Delete section 65 and insert:

65. Application of Part

- (1) This Part applies to a person if that person is —
 - (a) a licensee or one of the licensees; or

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- (b) a person concerned in the management or conduct of a body corporate that is a licensee or one of the licensees; or
 - (c) the holder of a certificate.
- (2) An order cannot be made under this Part in respect of a person unless —
- (a) an inquiry has been conducted; and
 - (b) the person has been given an opportunity to show cause why the order should not be made.

62. Sections 66 and 67 deleted

Delete sections 66 and 67.

63. Section 68 amended

In section 68(1):

- (a) delete “section 66, the Board” and insert:

section 65(2), the State Administrative Tribunal

- (b) delete “Board —” and insert:

State Administrative Tribunal —

- (c) in paragraph (b) delete “Board” and insert:

State Administrative Tribunal

64. Section 70 amended

In section 70 delete “section 66, the Board” and insert:

section 65(2), the State Administrative Tribunal

65. Section 71 amended

In section 71(1) and (2) delete “Board” (first and second occurrence) and insert:

State Administrative Tribunal

66. Section 73 amended

(1) In section 73(2):

(a) in paragraph (c) delete “exercise of —” and insert:

exercise of the Commissioner’s —

(b) delete paragraph (c)(i);

(c) in paragraph (c)(ii) and (iii) delete “its”.

(2) After section 73(2) insert:

(3) This section applies to a decision or order of the State Administrative Tribunal in exercise of its powers under section 68 or 70.

67. Section 74 deleted

Delete section 74.

68. Section 76 deleted

Delete section 76.

69. Section 77 amended

In section 77(2) delete “person, the Board and the Commissioner” and insert:

person and the Commissioner

70. Section 78 amended

(1) In section 78(1)(a) delete “Board; and” and insert:

Commissioner or the State Administrative Tribunal; and

(2) In section 78(2) delete “Board” (each occurrence) and insert:

Commissioner or the State Administrative Tribunal

71. Section 80 amended

(1) In section 80(1):

(a) in paragraph (a) delete “Board;” and insert:

Commissioner or the State Administrative Tribunal; and

(b) in paragraphs (b) and (c) delete “Board” and insert:

Commissioner or the State Administrative Tribunal

(c) after paragraph (b) insert:

and

(2) In section 80(2):

(a) in paragraph (a) delete “Board; or” and insert:

Commissioner or the State Administrative Tribunal; or

(b) in paragraph (b) delete “Board” and insert:

Commissioner or the State Administrative Tribunal

(c) delete “Board.” and insert:

Commissioner or the State Administrative Tribunal.

72. Section 85 amended

In section 85(3):

(a) in paragraph (a) delete “conciliation; and” and insert:

conciliation.

(b) delete paragraph (b).

Note: The heading to amended section 85 is to read:

Conciliation at request of owner

s. 73

73. Section 97 amended

In section 97 in the definition of *authorised officer* delete “section 3(1) except that it does not include the secretary if he or she is an authorised officer;” and insert:

section 3(1);

74. Section 111 replaced

Delete section 111 and insert:

111. Confidentiality of information officially obtained

The *Fair Trading Act 2010* section 112 applies to information obtained for the purposes of this Act.

75. Sections 112 and 113 deleted

Delete sections 112 and 113.

76. Section 116 deleted

Delete section 116.

77. Part 11 replaced

Delete Part 11 and insert:

Part 11 — Transitional provisions

120. Terms used

In this Part —

commencement day means the day on which the *Acts Amendment (Fair Trading) Act 2010* Part 5 comes into operation;

the former Board means the Motor Vehicle Industry Board established by the *Motor Vehicle Dealers Act 1973* section 7 prior to the commencement day.

121. Unfinished proceedings by the former Board

- (1) Proceedings before the former Board that are not complete at the commencement day —
 - (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.

- (2) Proceedings before the State Administrative Tribunal or another court commenced by allegation against a licensed motor vehicle dealer or repairer brought by the former Board that are not complete at the commencement day —
 - (a) are taken to have been commenced by an allegation by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.

122. Powers in relation to transitional matters

- (1) The Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to transitional matters consequential upon the enactment of the *Acts Amendment (Fair Trading) Act 2010* Part 5.

- (2) In subsection (1) —

transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from this Act as enacted immediately before the commencement day to this Act as amended by the *Acts Amendment (Fair Trading) Act 2010*.

- (3) Regulations made under subsection (1) may provide that specific provisions of a written law —
 - (a) do not apply; or
 - (b) apply with specific modifications,to or in relation to any matter.
- (4) Regulations made under subsection (1) must be made within 12 months after the commencement day.
- (5) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- (6) In subsection (5) —
specified means specified or described in the regulations.
- (7) If regulations contain a provision referred to in subsection (5), the provision does not operate so as —
 - (a) to affect, in a manner prejudicial to any person (other than the State), the right of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

78. Schedule 2 amended

- (1) In Schedule 2 clause 1(b) delete “Board.” and insert:

State Administrative Tribunal or a court.

- (2) In Schedule 2 clause 3(1) and (2) delete “Board” (each occurrence) and insert:

State Administrative Tribunal

79. Various references to “Commissioner” inserted

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

Table

Provision	Delete	Insert
s. 3(1) def. of <i>approved</i>	Board	Commissioner
s. 13(4)	Board it	Commissioner the Commissioner
s. 14(2)	Board	Commissioner
s. 15	Board	Commissioner
s. 16(1)	Board	Commissioner
s. 16(2)	Board it	Commissioner the Commissioner
s. 17	Board	Commissioner

Acts Amendment (Fair Trading) Act 2010**Part 5**

Motor Vehicle Repairers Act 2003 amended

s. 79

Provision	Delete	Insert
s. 18(1)	Board	Commissioner
s. 18(2)	Board it	Commissioner the Commissioner
s. 19	Board	Commissioner
s. 20(1)	Board	Commissioner
s. 20(2)	Board it	Commissioner the Commissioner
s. 22	Board	Commissioner
s. 23(1)	Board	Commissioner
s. 23(2)	Board it	Commissioner the Commissioner
s. 24(2) and (3)	Board	Commissioner
s. 25	Board it	Commissioner the Commissioner
s. 27(1), (2), (3), (4), (5) and (6)	Board (each occurrence)	Commissioner
s. 31(1) and (4)	Board	Commissioner

Provision	Delete	Insert
s. 32(1)	Board (each occurrence)	Commissioner
s. 32(3)	Board (each occurrence)	Commissioner
s. 33(2)	Board	Commissioner
s. 34(2)	Board	Commissioner
s. 34(4)	Board it	Commissioner the Commissioner
s. 34(5)	Board	Commissioner
s. 35(2)	Board	Commissioner
s. 36(2)	Board	Commissioner
s. 37(1), (2), (3) and (4)	Board (each occurrence)	Commissioner
s. 41(1)	Board	Commissioner
s. 42(1)	Board it	Commissioner the Commissioner
s. 42(2)(b)	Board	Commissioner
s. 43(1), (2), (3), (4), (5) and (6)	Board (each occurrence)	Commissioner

Acts Amendment (Fair Trading) Act 2010**Part 5****Motor Vehicle Repairers Act 2003 amended****s. 79**

Provision	Delete	Insert
s. 44(1) and (2)	Board (each occurrence)	Commissioner
s. 45(1)	Board	Commissioner
s. 47	Board	Commissioner
s. 48(1) and (2)	secretary	Commissioner
s. 50(1)	secretary	Commissioner
s. 50(3)	Board	Commissioner
s. 51	secretary	Commissioner
s. 52(1)	secretary	Commissioner
s. 53(1)	Board it	Commissioner the Commissioner
s. 53(2)	Board (each occurrence)	Commissioner
s. 54(1) and (3)	secretary	Commissioner
s. 58(1)(b)	Board	Commissioner
s. 59(1)	Board, if it	Commissioner, if the Commissioner
s. 60(3)	Board, if it	Commissioner, if the Commissioner
s. 60(3)(a)	Board	Commissioner

Provision	Delete	Insert
s. 60(3)(b)	Board it	Commissioner the Commissioner
s. 61(1)	Board (each occurrence)	Commissioner
s. 61(3)	Board, if it	Commissioner, if the Commissioner
s. 61(3)(a) and (b)	Board (each occurrence)	Commissioner
s. 62(1)	Board (each occurrence)	Commissioner
s. 62(3)	Board it	Commissioner the Commissioner
s. 63(1)	Board	Commissioner
s. 64(1)	Board (each occurrence)	Commissioner
s. 69(2)	Board (each occurrence)	Commissioner
s. 71(1) and (2)	Board (third occurrence)	Commissioner
s. 72(2)	Board	Commissioner
s. 73(1) and (2)	Board	Commissioner

Acts Amendment (Fair Trading) Act 2010**Part 5**

Motor Vehicle Repairers Act 2003 amended

s. 79

Provision	Delete	Insert
s. 82(1)(a)	Board	Commissioner
s. 85(1)	Board (each occurrence)	Commissioner
s. 85(1)	its	the Commissioner's
s. 85(2), (3) and (4)	Board	Commissioner
s. 86(1)	Board	Commissioner
s. 86(1)(c)	it	the Commissioner
s. 86(2) and (3)	Board	Commissioner
s. 88(1)	Board	Commissioner
s. 90(4)(b) and (5)(b)	Board	Commissioner
s. 92(3)(b) and (4)	Board (each occurrence)	Commissioner
s. 93(2)	Board it may at its	Commissioner the Commissioner may at the Commissioner's
s. 93(3) and (4)	Board (each occurrence)	Commissioner
s. 94(1) and (2)	Board (each occurrence)	Commissioner

Provision	Delete	Insert
s. 102(1)	Board or the secretary	Commissioner
s. 103(1)	Board or the secretary	Commissioner
s. 107(5)	Board	Commissioner

Notes: The heading to amended section 22 is to read:

Business licence not to be granted if applicant or other person disqualified

The heading to amended section 27 is to read:

Conditions may be imposed

The heading to amended section 33 is to read:

Loss of member etc., notice to be given

The heading to amended section 52 is to read:

Certification of matters in the register

The heading to amended section 59 is to read:

Authorisation of premises

The heading to amended section 69 is to read:

Notification of a person's conviction

Part 6 — *Real Estate and Business Agents Act 1978* amended

80. Act amended

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

81. Section 4 amended

- (1) In section 4(1) delete the definitions of:

Advisory Committee

Board

Chairman

inspector

Registrar

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

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

department means the department of the Public Service principally assisting the Minister in the administration of this Act;

- (3) In section 4(1) in the definition of *Account* delete “Board” and insert:

Real Estate and Business Agents’

- (4) In section 4(1) in the definition of *member* delete paragraph (a).

82. Section 5 deleted

Delete section 5.

83. Part II heading replaced

Delete the heading to Part II and insert:

Part II — Advisory Committee and review

84. Part II amended

In Part II delete Divisions 1, 1A and 2.

85. Part II Division 3 heading deleted

Delete the heading to Part II Division 3.

86. Sections 19, 20 and 21 deleted

Delete sections 19, 20 and 21.

87. Section 22 inserted

Before section 23 insert:

22. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

88. Section 23 amended

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

(a) in paragraph (e) delete “Account; or” and insert:

Account;

(b) delete paragraph (f).

s. 89

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

(a) in paragraph (e) delete “117; or” and insert:

117.

(b) delete paragraph (f).

89. Section 23A amended

(1) Delete section 23A(3).

(2) In section 23A(7) delete “Board” and insert:

department

(3) In section 23A(9) delete “committee, other than a member who is also a member of the Board,” and insert:

committee

(4) Delete section 23A(11) and insert:

(11) If a member of a committee —

(a) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or

(b) becomes permanently incapable of performing his or her duties as a member; or

(c) resigns his or her office by signing a written notice of resignation and giving it to the Minister; or

- (d) absents himself or herself, except on leave duly granted by the Minister, from meetings of that committee for a period exceeding 8 weeks; or
- (e) ceases to hold any qualification required for becoming or being a member,

the office of that member becomes vacant.

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

Advisory committees

90. Section 23C amended

- (1) In section 23C(1) delete “An officer of the Board (other than the Registrar, the Deputy Registrar, an Assistant Registrar or an inspector) or a person engaged under section 12AA(b)” and insert:

The Commissioner, or a person nominated by the
Commissioner,

- (2) In section 23C(5)(a) delete “the Board or”.
- (3) In section 23C(6)(b) delete “Board to provide its” and insert:

department to provide

91. Section 24 amended

Delete section 24(5) and insert:

- (5) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity

to give additional information in relation to that application.

92. Section 25 amended

Delete section 25(4) and insert:

- (4) If the Commissioner is considering making an adverse decision in relation to the objection, the Commissioner must give the person making the objection the opportunity to give additional information in relation to that objection.

93. Section 33 amended

Delete section 33(5) and insert:

- (5) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application.

94. Section 34A amended

(1) Delete section 34A(1) and insert:

- (1) Subject to this Part, a licence may be granted and a triennial certificate may be granted or renewed (as long as there is no objection in respect of a licence and special conditions are not imposed or changed), by the Commissioner without notice to the applicant.

(2) Delete section 34A(3).

95. Section 43 amended

Delete section 43(4) and insert:

- (4) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application.

96. Section 49 amended

Delete section 49(7) and insert:

- (7) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application.

97. Section 50A amended

- (1) Delete section 50A(1) and insert:

- (1) Subject to this Part, a certificate of registration may be granted or renewed (as long as special conditions are not imposed or changed) by the Commissioner without notice to the applicant.

- (2) Delete section 50A(3).

98. Section 62 amended

In section 62(4) delete “under this Act”.

99. Section 70 amended

Delete section 70(5) and insert:

- (5) The Commissioner may, in circumstances he or she considers appropriate, extend the time limit for lodging reports.

100. Section 83 amended

In section 83(2) delete “Board under this Part shall be available in the hands of the Board” and insert:

Commissioner under this Part shall be available under the supervision of the Commissioner

101. Section 94 amended

In section 94(2) delete “writing and be signed by the Chairman or by 2 members of the Board.” and insert:

writing.

102. Section 100 replaced

Delete section 100 and insert:

100. Financial institutions to disclose agent’s account on request

Where a person duly authorised under the *Fair Trading Act 2010* Part 6 to make an investigation or inquiry for the purposes of that Act, or this Act, has reasonable cause to believe that an agent has deposited any money

with a bank or other financial institution, whether in an account in the name of the agent or in some other account, he or she may by notice in writing addressed to the manager or other officer for the time being in charge of the bank or other institution concerned and nominating the accounts to be examined, require that those accounts be disclosed to him or her, and the manager or other officer for the time being in charge of the bank or other institution named in the requisition shall without requiring any warrant other than the production of the credentials under the *Fair Trading Act 2010* of that authorised person, whether or not the person in whose name the account is held consents, permit the authorised person to inspect, and make a copy or extract of, the nominated accounts and any book, document or other record that relates to the accounts and is in the possession or control of that bank or other institution.

103. Section 109 amended

In section 109(d):

- (a) delete “Board” and insert:

State

- (b) delete “Act; and” and insert:

Act or the *Fair Trading Act 2010*; and

104. Section 110 amended

In section 110(c) delete “Board” and insert:

chief executive officer on behalf of the State

s. 105

105. Section 112 amended

In section 112 delete “Board.” and insert:

chief executive officer.

106. Section 113 amended

(1) In section 113(1):

(a) delete “Board” (first and second occurrence) and insert:

chief executive officer

(b) delete “Board.” and insert:

chief executive officer.

(2) In section 113(2):

(a) delete “Board” (first and second occurrence) and insert:

chief executive officer

(b) delete “Board.” and insert:

chief executive officer.

(3) In section 113(3) delete “Board” (each occurrence) and insert:

chief executive officer

107. Section 115 amended

- (1) In section 115(1):
 - (a) delete “Board,” and insert:

chief executive officer,
 - (b) delete “Board in” and insert:

chief executive officer in
 - (c) delete “Board may by resolution” and insert:

chief executive officer may
 - (d) delete “it” and insert:

the chief executive officer

- (2) In section 115(3):
 - (a) delete “Board,” and insert:

chief executive officer,
 - (b) delete “Board” and insert:

chief executive officer

s. 108

108. Section 116 amended

In section 116(2):

- (a) delete “Board” (first and second occurrence) and insert:

chief executive officer

- (b) in paragraph (b) delete “Board —” and insert:

chief executive officer —

109. Section 117 amended

- (1) In section 117(1):

- (a) delete “Board” (first and third occurrence) and insert:

chief executive officer

- (b) delete “Board,” and insert:

chief executive officer,

- (2) In section 117(4) delete “Board” (each occurrence) and insert:

chief executive officer

110. Section 118 amended

In section 118:

- (a) delete “Board” and insert:

State

- (b) delete “Board.” and insert:

State.

111. Section 119 amended

In section 119 delete “Board” and insert:

State

112. Section 120 amended

- (1) In section 120(1):

- (a) delete “Board available” and insert:

chief executive officer available

- (b) delete “Board in” and insert:

State in

- (c) delete “Board;” and insert:

chief executive officer;

- (2) In section 120(2) delete “Board” and insert:

chief executive officer

s. 113

- (3) In section 120(3):
 - (a) delete “Board, the Board” and insert:

chief executive officer, the chief executive officer
 - (b) in paragraph (a) delete “it” and insert:

the chief executive officer
 - (c) in paragraph (c) delete “Board,” and insert:

chief executive officer,

113. Section 121 amended

- (1) In section 121(1):
 - (a) delete “Board may” and insert:

chief executive officer may, on behalf of the State,
 - (b) delete “Board will” and insert:

State will
- (2) In section 121(3) delete “Board” and insert:

chief executive officer

114. Section 123 amended

In section 123(1), (2) and (3) delete “Board” (each occurrence) and insert:

chief executive officer

115. Section 124 amended

In section 124:

(a) delete “Board may” and insert:

chief executive officer may

(b) delete “it” and insert:

the chief executive officer

(c) delete “its” and insert:

the State’s

116. Section 124C amended

(1) In section 124C(a) delete “Account;” and insert:

Account; and

(2) Delete section 124C(b) and (c) and insert:

(b) the remuneration and allowances payable to members of advisory committees established under Part II Division 4 of this Act or under the

s. 117

Fair Trading Act 2010 Part 5 Division 2
Subdivision 1; and

- (c) the costs associated with the provision of secretarial, clerical or other administrative support to the advisory committees in the performance of their functions under this Act or under the *Fair Trading Act 2010* Part 5 Division 2 Subdivision 1; and

- (3) In section 124C(e) delete “Board in the performance of its” and insert:

Commissioner in the performance of the Commissioner’s

117. Part IX heading amended

In the heading to Part IX delete “**Board**” and insert:

Real Estate and Business Agents

118. Section 125 amended

- (1) In section 125(1) delete “Board” and insert:

Real Estate and Business Agents

- (2) In section 125(2) delete “Board.” and insert:

chief executive officer.

Note: The heading to amended section 125 is to read:

Real Estate and Business Agents Account established

119. Section 131D amended

In section 131D(c) delete “Board” and insert:

chief executive officer

120. Section 131E amended

In section 131E(a) delete “Board” and insert:

chief executive officer

121. Section 131G amended

In section 131G delete “Board” and insert:

chief executive officer

Note: The heading to amended section 131G is to read:

Administration of Assistance Account

122. Sections 131H, 131I, 131J, 131K and 131KA deleted

Delete sections 131H, 131I, 131J, 131K and 131KA.

123. Section 131L amended

In section 131L(1) and (1a) delete “Registrar” (each occurrence) and insert:

chief executive officer

124. Section 131M amended

(1) In section 131M(1):

s. 124

- (a) delete “Registrar shall,” and insert:

chief executive officer shall,
 - (b) delete “in accordance with guidelines issued by the Advisory Committee,”;
 - (c) delete paragraphs (a) and (b) and insert:
 - (a) considering the application and if, in the opinion of the chief executive officer, the application contains sufficient information to enable the merits of the application to be properly assessed, the chief executive officer may consider the application; or
 - (b) referring the application to an advisory committee established for that purpose under section 23A, or to the Property Industry Advisory Committee, for consideration.
- (2) Delete section 131M(1a).
- (3) Delete section 131M(2) and insert:
- (2) The relevant committee shall consider each application referred to it under subsection (1)(b) and, if in its opinion that application contains information sufficient to enable the chief executive officer properly to assess the merits of that application, return that application to the chief executive officer.

- (4) In section 131M(3) delete “On receiving an application and recommendation forwarded to it under subsection (1) or (2), the Board” and insert:

On considering an application under subsection (1)(a) or receiving an application and recommendation returned under subsection (2), the chief executive officer

Note: The heading to amended section 131M is to read:

Deciding applications for assistance

125. Section 131N amended

- (1) In section 131N(1) delete “Board shall, after it” and insert:

chief executive officer shall, after he or she

- (2) In section 131N(3) and (4) delete “Board” (each occurrence) and insert:

chief executive officer

126. Section 131O amended

- (1) In section 131O(1):
(a) before “Advisory” insert:

Property Industry

- (b) delete “Board,” and insert:

chief executive officer,

s. 127

- (c) delete “Board” and insert:

chief executive officer

- (2) In section 131O(2):

- (a) delete “The Board” and insert:

The chief executive officer

- (b) delete “forwarded to the Board under section 131M(1) or (2)” and insert:

received by the chief executive officer under section 131M

Note: The heading to amended section 131O is to read:

Formulating criteria for granting assistance

127. Section 135 amended

- (1) Delete section 135(1).

- (2) In section 135(2):

- (a) delete “Board’s” and insert:

department’s

- (b) in paragraph (a)(i) delete “Board or the Registrar;” and insert:

Commissioner; and

(c) in paragraph (d) delete “Board” and insert:

Commissioner

(d) in paragraph (e) delete “Board.” and insert:

Commissioner.

(e) after paragraphs (a), (b) and (c) insert:

and

Note: The heading to amended section 135 is to read:

Annual report

128. Section 137 replaced

Delete section 137 and insert:

137. Protection from liability

A person does not incur any liability in tort for anything that the person does, in good faith, in the performance or purported performance of a function under this Act.

129. Section 138 replaced

Delete section 138 and insert:

138. Confidentiality of information officially obtained

The *Fair Trading Act 2010* section 112 applies to information obtained for the purposes of this Act.

130. Section 145 amended

Delete section 145(2)(b).

131. Part XI Division 1 heading inserted

Before section 146 insert:

Division 1 — Savings and transitional (1978)

132. Part XI Division 2 inserted

After section 147 insert:

Division 2 — Savings and transitional (2010)

148. Terms used

In this Division —

commencement day means the day on which Part 6 of the *Acts Amendment (Fair Trading) Act 2010* comes into operation;

former Registrar means a Registrar appointed under section 12 of the Act prior to the commencement day;

liability means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

right means any right, power, privilege or immunity whether actual, contingent or prospective;

the former Board means the Real Estate and Business Agents Supervisory Board established by section 6 of the Act immediately prior to the commencement day.

149. Former Board abolished

Subject to sections 156 and 157, at the beginning of the commencement day, the former Board is abolished and its members go out of office.

150. References to the former Board

If in a written law or other document or instrument there is a reference to the former Board, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

151. Immunity continues

Despite the abolition of the former Board, if the former Board had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the Commissioner.

152. Notices by the former Board

- (1) If the former Board has fixed by notice the maximum amount of remuneration of a licensee under section 61 of the Act immediately prior to commencement day, that notice is to be taken to have been given by the Commissioner and continues in force until amended or revoked by the Commissioner.
- (2) If notice has been given to the former Board under section 116(2) of the Act as it was immediately prior to commencement day, that notice is taken to be given to the Commissioner for the purposes of that subsection.

153. References to a former Registrar

- (1) If in a written law or other document or instrument there is a reference to the former Registrar, that reference may, where the context so requires, be read

as if it had been amended to be a reference to the Commissioner.

- (2) If a certificate has been given by a former Registrar under section 134(3) of the Act as it was immediately prior to commencement day, that certificate is to be treated as if it were given by the Commissioner for the purposes of that subsection.

154. Unfinished investigations by the former Board

Investigations being carried out by the former Board under the Act as it was prior to the commencement day that are not complete by the commencement day —

- (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
- (b) are to continue under the direction and control of the Commissioner.

155. Unfinished proceedings by the former Board

- (1) Proceedings before the former Board that are not complete by the commencement day —
 - (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.
- (2) Proceedings before the State Administrative Tribunal or another court commenced by allegation against a licensed real estate or business agent brought by the former Board that are not complete by the commencement day —
 - (a) are taken to have been commenced by an allegation by the Commissioner for the purposes of the Act; and

- (b) are to continue under the direction and control of the Commissioner.

156. Winding-up the former Board

On and after the commencement day —

- (a) the Commissioner is to take control of all registers, documents, books and other records (however compiled, recorded or stored) relating to the former Board and the exercise of its functions, and of any tape, disk or other device or medium relating to such records; and
- (b) all assets of the former Board are to be transferred to the State to be administered in the department, or the residual assets may be realised and the proceeds, together with any moneys in hand, are to be credited to the Consolidated Account; and
- (c) all rights, liabilities and obligations of the former Board that existed immediately before the commencement day devolve on the Commissioner acting on behalf of, and in the name of, the State; and
- (d) all contracts, agreements and undertakings made by and with the former Board and having effect immediately before the commencement day have effect as contracts, agreements and undertakings made with the Commissioner acting on behalf of, and in the name of, the State and may be enforced by or against the State accordingly; and
- (e) any legal or other proceedings or any remedies that might, but for the operation of the *Acts Amendment (Fair Trading) Act 2010* Part 6, have been commenced or continued by or against or have been available to the former

Board may be commenced or continued by or against or are available to the Commissioner acting on behalf of, and in the name of, the State, as the case requires; and

- (f) any fees, charges or other moneys payable to the Board under this Act and outstanding at the commencement day become payable to the chief executive officer at the time, and in the manner, in which those moneys would have been payable to the former Board under this Act.

157. Final report by the former Board

- (1) The provisions of the *Financial Management Act 2006* Part 5 Division 3 apply to the former Board.
- (2) The chief executive officer is to include the final report submitted under subsection (1) in the department's annual report for that financial year.

158. Board staff

- (1) The officers of the former Board and the former Registrar who held office immediately before the commencement day continue to be employed, under and subject to the *Public Sector Management Act 1994* Part 3, as officers of the department.
- (2) A person mentioned in subsection (1) is to be regarded as having been engaged or employed, as is relevant, by the chief executive officer.
- (3) Except as otherwise agreed by a person mentioned in subsection (1), the remuneration, existing or accrued rights, rights under a superannuation scheme or continuity of service of the person are not affected, prejudiced or interrupted by the operation of subsection (1).

159. Powers in relation to transitional matters

- (1) If there is not sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.
- (2) In subsection (1) —
transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from this Act as enacted immediately before the commencement day to this Act as amended by the *Acts Amendment (Fair Trading) Act 2010*.
- (3) Regulations made under subsection (1) may provide that specific provisions of a written law —
 - (a) do not apply; or
 - (b) apply with specific modifications,to or in relation to any matter.
- (4) Regulations made under subsection (1) must be made within 12 months after the commencement day.
- (5) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- (6) In subsection (5) —
specified means specified or described in the regulations.

s. 133

- (7) If regulations contain a provision referred to in subsection (5), the provision does not operate so as —
- (a) to affect, in a manner prejudicial to any person (other than the State), the right of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

133. Schedule amended

In the Schedule delete clauses 7, 9, 10, 11, 12 and 15.

134. Various references to “Commissioner” inserted

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

Table

Provision	Delete	Insert
s. 4(1) def. of <i>approved</i>	Board	Commissioner
s. 4(1) def. of <i>supervisor</i>	Board	Commissioner
s. 23(1)	Board	Commissioner
s. 23(2) def. of <i>person aggrieved</i> par. (c)	Board’s	Commissioner’s
s. 23(2) def. of <i>person aggrieved</i> par. (d) and (e)	Board	Commissioner
s. 23A(1)	Board (each occurrence)	Commissioner

Provision	Delete	Insert
s. 23A(1)	Board's (each occurrence)	Commissioner's
s. 23B(1)	Board	Commissioner
s. 24(1) and (4)	Board (each occurrence)	Commissioner
s. 25(2)	Board	Commissioner
s. 27(1)	Board (each occurrence)	Commissioner
s. 28	Board (each occurrence)	Commissioner
s. 29	Board (each occurrence)	Commissioner
s. 30(2a)(b)	Board	Commissioner
s. 31(1), (2) and (3)	Board (each occurrence)	Commissioner
s. 32(2)	Board (each occurrence)	Commissioner
s. 33(1), (2) and (4)	Board (each occurrence)	Commissioner
s. 34(2)	Board it	Commissioner the Commissioner

s. 134

Provision	Delete	Insert
s. 34A(2)	Board or Registrar Registrar	Commissioner Commissioner
s. 35	Registrar	Commissioner
s. 36(3)	Registrar (each occurrence)	Commissioner
s. 37(1)	Registrar	Commissioner
s. 40(1)	Board	Commissioner
s. 40(3)	Registrar	Commissioner
s. 43(1) and (3)	Board (each occurrence)	Commissioner
s. 47(1)	Board (each occurrence)	Commissioner
s. 48(3)	Board	Commissioner
s. 48(4)	Board it	Commissioner the Commissioner
s. 48(5)	Board (each occurrence)	Commissioner
s. 49(2), (3), (4) and (6)	Board (each occurrence)	Commissioner

Provision	Delete	Insert
s. 50(2)	Board it	Commissioner the Commissioner
s. 50A(2)	Board or Registrar Registrar	Commissioner Commissioner
s. 51(1)	Registrar Board	Commissioner Commissioner
s. 51(2)	Registrar	Commissioner
s. 56(1) and (2)	Board (each occurrence)	Commissioner
s. 57(1)	Board Registrar	Commissioner Commissioner
s. 58(1) and (2)	Registrar	Commissioner
s. 61(1), (2) and (3a)	Board	Commissioner
s. 68C(1) and (3)	Board	Commissioner
s. 69(5)	Board (each occurrence)	Commissioner

s. 134

Provision	Delete	Insert
s. 70(2), (3), (6), (7) and (8)	Board (each occurrence)	Commissioner
s. 71(1)	Board Board may, in its	Commissioner Commissioner may, in the Commissioner's
s. 71(2), (3) and (5)	Board (each occurrence)	Commissioner
s. 72(2)	Board (each occurrence)	Commissioner
s. 72(3)	Board Board may, if it	Commissioner Commissioner may, if the Commissioner
s. 73(3)	Board	Commissioner
s. 74	Board (each occurrence)	Commissioner
s. 74	it	the Commissioner
s. 75	Board may, if in its it	Commissioner may, if in the Commissioner's the Commissioner

Provision	Delete	Insert
s. 79(e)	Board	Commissioner
s. 81	Board	Commissioner
s. 83(1)	Board (each occurrence)	Commissioner
s. 86	Board	Commissioner
s. 88	Board (each occurrence)	Commissioner
s. 88	it may	the Commissioner may
s. 90(1) and (2)	Board (each occurrence)	Commissioner
s. 92(1)	Board by it	Commissioner by the Commissioner
s. 93(1), (2), (3) and (4)	Board (each occurrence)	Commissioner
s. 94(1)	Board (each occurrence)	Commissioner
s. 98(1)	Board	Commissioner
s. 99(1), (2) and (3)	Board (each occurrence)	Commissioner

s. 134

Provision	Delete	Insert
s. 100A(1) and (8)	Registrar (each occurrence)	Commissioner
s. 101	Board	Commissioner
s. 102(1)	Board	Commissioner
s. 103(5)(b)	Registrar	Commissioner
s. 104	Registrar of the Board	Commissioner
s. 105(1)	Registrar of the Board	Commissioner
s. 106(1) and (2)	Board	Commissioner
s. 124A(2)	Board	Commissioner
s. 124B(c)	Board	Commissioner
s. 133(1), (2), (3) and (4)	Registrar	Commissioner
s. 134(1), (2), (3) and (4)	Registrar	Commissioner
s. 136	Board (each occurrence)	Commissioner
s. 136A	Board (each occurrence)	Commissioner
s. 139(2)	Board	Commissioner
s. 143(1)	Registrar or an inspector	Commissioner

Provision	Delete	Insert
s. 144	Board	Commissioner
s. 145(2)(a)	Board	Commissioner
Sch. cl. 4	Board (each occurrence)	Commissioner
Sch. cl. 5(1)	Registrar	Commissioner
Sch. cl. 5(2)	Registrar (each occurrence) his	Commissioner his or her
Sch. cl. 6(1)	Registrar Board	Commissioner Commissioner
Sch. cl. 8(3)	Board (each occurrence)	Commissioner
Sch. cl. 16(1)	Board	Commissioner

Notes: The heading to amended section 35 is to read:

Notification by licensee when commencing or ceasing business

The heading to amended section 51 is to read:

Notification to be given by registered sales representative

The heading to amended section 68C is to read:

Trust accounts, certain information to be given to Commissioner

The heading to amended section 71 is to read:

Audit date may be varied

The heading to amended section 75 is to read:

Commissioner may vary decisions made under this Part

The heading to amended section 88 is to read:

Audit of trust account may be ordered

The heading to amended section 100A is to read:

Commissioner may obtain information about trust accounts

The heading to amended section 101 is to read:

Codes of conduct

The heading to amended section 112 is to read:

Administration of Fidelity Account

The heading to amended section 119 is to read:

Subrogation of rights

The heading to amended section 121 is to read:

State may insure against claims

The heading to amended section 124 is to read:

Documents etc. may be required to support claims

The heading to amended section 126 is to read:

Account, income

The heading to amended section 127 is to read:

Account, expenditure

The heading to amended section 128 is to read:

Account, investment of

The heading to amended section 133 is to read:

Registers to be kept

The heading to amended section 136 is to read:

Report on effectiveness of Act

The heading to amended section 144 is to read:

Forms

Part 7 — Settlement Agents Act 1981 amended

135. Act amended

This Part amends the *Settlement Agents Act 1981*.

136. Section 3 amended

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

Board

Chairman

inspector

member

Registrar

- (2) In section 3(1) insert in alphabetical order:

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

department means the department of the Public Service principally assisting the Minister in the administration of this Act;

- (3) In section 3(1) in the definition of *Interest Account* delete “Board” and insert:

Settlement Agents

137. Part II amended

- (1) Delete the heading to Part II.
- (2) Delete Part II Divisions 1, 1A and 2.
- (3) Delete the heading to Part II Division 3.

s. 138

138. Sections 19, 20 and 21 deleted

Delete sections 19, 20 and 21.

139. Section 22 inserted

Before section 23 insert:

22. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

140. Section 23 amended

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

(a) in paragraph (c) delete “Account; or” and insert:

Account;

(b) delete paragraph (d).

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

(a) in paragraph (c) delete “95; or” and insert:

95.

(b) delete paragraph (d).

141. Section 24 amended

Delete section 24(5) and insert:

(5) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity

to give additional information in relation to that application.

142. Section 25 amended

Delete section 25(4) and insert:

- (4) If the Commissioner is considering making an adverse decision in relation to the objection, the Commissioner must give the person making the objection the opportunity to give additional information in relation to that objection.

143. Section 33 amended

Delete section 33(5) and insert:

- (5) If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application.

144. Section 34A amended

(1) Delete section 34A(1) and insert:

- (1) Subject to this Part, a licence may be granted and a triennial certificate may be granted or renewed (as long as there is no objection in respect of a licence and special conditions are not imposed or changed) by the Commissioner without notice to the applicant.

(2) Delete section 34A(3).

s. 145

145. Section 43 amended

In section 43(8) in the Penalty delete “Board” and insert:

convicting court or tribunal

146. Section 44 amended

In section 44(10) delete “Board” and insert:

convicting court or tribunal

147. Section 51 amended

Delete section 51(5) and insert:

- (5) The Commissioner may, in circumstances he or she considers appropriate, extend the time limit for lodging reports.

148. Section 64 amended

In section 64(2) delete “Board under this Division shall be available in the hands of the Board” and insert:

Commissioner under this Division shall be available under the supervision of the Commissioner

149. Section 75 amended

In section 75(2) delete “writing and be signed by the Chairman or by 2 members of the Board.” and insert:

writing.

150. Section 81 replaced

Delete section 81 and insert:

81. Duty of managers of financial institutions

Where a person duly authorised under the *Fair Trading Act 2010* to make an investigation or inquiry for the purposes of that Act, or this Act, has reasonable cause to believe that a settlement agent has deposited any money with a bank or other financial institution, whether in an account in the name of the settlement agent or in some other account, he or she may by notice in writing addressed to the manager or other officer for the time being in charge of the bank or other institution concerned and nominating the accounts to be examined, require that those accounts be disclosed to him or her, and the manager or other officer for the time being in charge of the bank or other institution named in the requisition shall without requiring any warrant other than the production of the credentials under the *Fair Trading Act 2010* of that authorised person, whether or not the person in whose name the account is held consents, and notwithstanding any law, or rule of law, or contractual obligation to the contrary, permit the authorised person to inspect, and make and take away with him or her a copy or extract of, the nominated accounts and any book, document, or other

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record that relates to the accounts and is in the possession or control of that bank or other institution.

151. Section 87 amended

In section 87 delete “Board.” and insert:

chief executive officer.

152. Section 88 amended

In section 88(d):

(a) delete “Board.” and insert:

State.

(b) delete “Act;” and insert:

Act or the *Fair Trading Act 2010*;

153. Section 90 amended

In section 90(c) delete “Board” and insert:

chief executive officer, on behalf of the State,

154. Section 92 amended

(1) In section 92(1) delete “Board” (first and second occurrence) and insert:

chief executive officer

- (2) In section 92(1) delete “Board.” and insert:

chief executive officer.

- (3) In section 92(2) and (3) delete “Board” (each occurrence) and insert:

chief executive officer

155. Section 93 amended

In section 93(2):

- (a) delete “Board” (first and second occurrence) and insert:

chief executive officer

- (b) in paragraph (b) delete “Board —” and insert:

chief executive officer —

156. Section 94 amended

- (1) In section 94(1):

- (a) delete “Board” (first and second occurrence) and insert:

chief executive officer

- (b) delete “Board may by resolution,” and insert:

chief executive officer may

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- (2) In section 94(2):
 - (a) delete “Board,” and insert:

chief executive officer,
 - (b) delete “Board” and insert:

chief executive officer

157. Section 95 amended

- (1) In section 95(1):
 - (a) delete “Board” (first and third occurrence) and insert:

chief executive officer
 - (b) delete “Board,” and insert:

chief executive officer,
- (2) In section 95(4):
 - (a) delete “board” and insert:

chief executive officer
 - (b) delete “Board” and insert:

chief executive officer

158. Section 96 amended

In section 96:

- (a) delete “Board” and insert:

State

- (b) delete “Board.” and insert:

State.

159. Section 97 amended

In section 97 delete “Board” and insert:

State

160. Section 98 amended

- (1) In section 98(1):

- (a) delete “Board available” and insert:

chief executive officer available

- (b) delete “Board in” and insert:

State in

- (c) delete “Board,” and insert:

chief executive officer,

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- (2) In section 98(2) delete “Board” and insert:

chief executive officer

- (3) In section 98(3):

- (a) delete “Board, the Board” and insert:

chief executive officer, the chief executive officer

- (b) in paragraph (a) delete “it” and insert:

the chief executive officer

- (c) in paragraph (c) delete “Board,” and insert:

chief executive officer,

161. Section 99 amended

- (1) In section 99(1):

- (a) delete “Board may” and insert:

chief executive officer may, on behalf of the State,

- (b) delete “Board will” and insert:

State will

- (2) In section 99(3) delete “Board” and insert:

chief executive officer

- (3) In section 99(4) delete “Board or against a member or servant of the Board” and insert:

State, the Commissioner, the chief executive officer or
an officer of the department

Note: The heading to amended section 99 is to read:

State may insure against claims

162. Section 101 amended

In section 101(1), (2) and (3) delete “Board” (each occurrence) and insert:

chief executive officer

163. Section 102 amended

In section 102:

- (a) delete “Board may” and insert:

chief executive officer may

- (b) delete “it” and insert:

the chief executive officer

- (c) delete “its” and insert:

the State’s

Note: The heading to amended section 102 is to read:

s. 164

Documents etc. may be required to support claims

164. Section 102A amended

In section 102A(2) delete “Board.” and insert:

chief executive officer.

165. Section 102B amended

In section 102B(c) delete “Board;” and insert:

chief executive officer;

166. Section 102C amended

In section 102C:

- (a) delete paragraph (b);
- (b) in paragraph (c) delete “Board in the performance of its” and insert:

Commissioner in the performance of his or her

- (c) in paragraph (e) delete “Board in the performance of its” and insert:

chief executive officer and the department in
the performance of their

- (d) after paragraphs (a) and (c) insert:

and

167. Part VI heading amended

In the heading to Part VI delete “**Board**” and insert:

Settlement Agents

168. Section 103 amended

- (1) In section 103(1) delete “Board” and insert:

Settlement Agents

- (2) In section 103(2) delete “Board.” and insert:

chief executive officer.

Note: The heading to amended section 103 is to read:

Settlement Agents Interest Account established

169. Section 112 amended

- (1) Delete section 112(1).

- (2) In section 112(2):

- (a) delete “Board’s” and insert:

department’s

- (b) in paragraph (a)(i) delete “Board or the Registrar; and” and insert:

Commissioner; and

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(c) in paragraph (d) delete “Board” and insert:

Commissioner

(d) in paragraph (e) delete “Board.” and insert:

Commissioner.

(e) after paragraphs (a)(ii) and (b) and (c) insert:

and

Note: The heading to amended section 112 is to read:

Annual report

170. Section 114 amended

In section 114 delete “to the Board”.

171. Section 115 replaced

Delete section 115 and insert:

115. Protection from liability

A person does not incur any liability in tort for anything that the person does, in good faith, in the performance or purported performance of a function under this Act.

172. Section 116 replaced

Delete section 116 and insert:

116. Confidentiality of information officially obtained

The *Fair Trading Act 2010* section 112 applies to information obtained for the purposes of this Act.

173. Section 123 amended

Delete section 123(2)(b).

174. Part VIII replaced

Delete Part VIII and insert:

Part VIII — Savings and transitional

124. Terms used

In this Part —

commencement day means the day on which the *Acts Amendment (Fair Trading) Act 2010* Part 7 comes into operation;

former Registrar means a Registrar appointed under section 12 of this Act prior to the commencement day;

liability means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

right means any right, power, privilege or immunity whether actual, contingent or prospective;

the former Board means the Settlement Agents Supervisory Board established by section 5 of this Act immediately prior to the commencement day.

125. Former Board abolished

Subject to sections 132 and 133, at the beginning of the commencement day, the former Board is abolished and its members go out of office.

126. References to the former Board

If in a written law or other document or instrument there is a reference to the former Board, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

127. Immunity continues

Despite the abolition of the former Board, if the former Board had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the Commissioner.

128. Notices and rules made by the former Board

- (1) If the former Board has fixed by notice the maximum amount of remuneration of a licensee under section 44 of the Act immediately prior to the commencement day, that notice is to be taken to have been given by the Commissioner and continues in force until amended or revoked by the Commissioner.
- (2) If the former Board has made rules prescribing a code of conduct under section 82 of the Act as it was immediately prior to the commencement day, those rules and that code of conduct are taken to be made by the Commissioner for the purposes of that section and

continue in force until amended or revoked by the Commissioner.

129. References to a former Registrar

- (1) If in a written law or other document or instrument there is a reference to the former Registrar, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.
- (2) If a certificate has been given by a former Registrar under section 111(3) of the Act as it was immediately prior to the commencement day, that certificate is to be treated as if it were given by the Commissioner for the purposes of that subsection.

130. Unfinished investigations by the former Board

Investigations being carried out by the former Board under the Act as it was prior to the commencement day that are not complete by the commencement day —

- (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
- (b) are to continue under the direction and control of the Commissioner.

131. Unfinished proceedings by the former Board

- (1) Proceedings before the former Board that are not complete by the commencement day —
 - (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.

- (2) Proceedings before the State Administrative Tribunal or another court commenced by allegation against a licensed settlement agent brought by the former Board that are not complete by the commencement day —
- (a) are taken to have been commenced by an allegation by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.

132. Winding-up the former Board

On and after the commencement day —

- (a) the Commissioner is to take control of all registers, documents, books and other records (however compiled, recorded or stored) relating to the former Board and the exercise of its functions, and of any tape, disk or other device or medium relating to such records; and
- (b) all assets of the former Board are to be transferred to the State to be administered in the department, or the residual assets may be realised and the proceeds, together with any moneys in hand, are to be credited to the Consolidated Account; and
- (c) all rights, liabilities and obligations of the former Board that existed immediately before the commencement day devolve on the Commissioner acting on behalf of, and in the name of, the State; and
- (d) all contracts, agreements and undertakings made by and with the former Board and having effect immediately before the commencement day have effect as contracts, agreements and undertakings made with the Commissioner acting on behalf of, and in the name of, the

State and may be enforced by or against the State accordingly; and

- (e) any legal or other proceedings or any remedies that might, but for the operation of the *Acts Amendment (Fair Trading) Act 2010* Part 7, have been commenced or continued by or against or have been available to the former Board may be commenced or continued by or against or are available to the Commissioner acting on behalf of, and in the name of, the State, as the case requires; and
- (f) any fees, charges or other moneys payable to the Board under this Act and outstanding at the commencement day become payable to the chief executive officer at the time, and in the manner, in which those moneys would have been payable to the former Board under this Act.

133. Final report by the former Board

- (1) The provisions of the *Financial Management Act 2006* Part 5 Division 3 apply to the former Board.
- (2) The chief executive officer is to include the final report submitted under subsection (1) in the department's annual report for that financial year.

134. Board staff

- (1) The officers of the former Board and the former Registrar who held office immediately before the commencement day continue to be employed, under and subject to the *Public Sector Management Act 1994* Part 3, as officers of the department.
- (2) A person mentioned in subsection (1) is to be regarded as having been engaged or employed, as is relevant, by the chief executive officer.

- (3) Except as otherwise agreed by a person mentioned in subsection (1), the remuneration, existing or accrued rights, rights under a superannuation scheme or continuity of service of the person are not affected, prejudiced or interrupted by the operation of subsection (1).

135. Powers in relation to transitional matters

- (1) If there is not sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.
- (2) In subsection (1) —
transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from this Act as enacted immediately before the commencement day to this Act as amended by the *Acts Amendment (Fair Trading) Act 2010* Part 7.
- (3) Regulations made under subsection (1) may provide that specific provisions of a written law —
 - (a) do not apply; or
 - (b) apply with specific modifications,to or in relation to any matter.
- (4) Regulations made under subsection (1) must be made within 12 months after the commencement day.
- (5) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.

- (6) In subsection (5) —
specified means specified or described in the regulations.
- (7) If regulations contain a provision referred to in subsection (5), the provision does not operate so as —
- (a) to affect, in a manner prejudicial to any person (other than the State), the right of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

175. Schedule 1 amended

In Schedule 1 delete clauses 1(2) and 2(2).

176. Various references to “Commissioner” inserted

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

Table

Provision	Delete	Insert
s. 3(1) def. of <i>approved</i>	Board	Commissioner
s. 3(1) def. of <i>supervisor</i>	Board	Commissioner
s. 23(1)	Board	Commissioner
s. 23(2) def. of <i>person aggrieved</i> par. (b) and (c)	Board	Commissioner
s. 24(1) and (4)	Board (each occurrence)	Commissioner

Acts Amendment (Fair Trading) Act 2010**Part 7**

Settlement Agents Act 1981 amended

s. 176

Provision	Delete	Insert
s. 24(4)	board	Commissioner
s. 25(2)	Board	Commissioner
s. 26A(2), (4), (5) and (8)	Board (each occurrence)	Commissioner
s. 26B(2), (4), (5) and (8)	Board (each occurrence)	Commissioner
s. 27(1) and (2)	Board (each occurrence)	Commissioner
s. 28(1)	Board (each occurrence)	Commissioner
s. 29(1)	Board (each occurrence)	Commissioner
s. 30(3a)(b)	Board	Commissioner
s. 31(1), (2) and (2a)	Board	Commissioner
s. 32(2)	Board (each occurrence)	Commissioner
s. 33(1), (2) and (4)	Board (each occurrence)	Commissioner
s. 34(2)	Board it	Commissioner the Commissioner

Provision	Delete	Insert
s. 34A(2)	Board or Registrar	Commissioner
	Registrar	Commissioner
s. 35(1)	Board (each occurrence)	Commissioner
s. 35(4)	Board	Commissioner
	it	the Commissioner
s. 35(5) and (6)	Board (each occurrence)	Commissioner
s. 36(1) and (2)	Registrar	Commissioner
s. 37(3)	Registrar (each occurrence)	Commissioner
s. 38(1)	Registrar	Commissioner
s. 41(1)	Board	Commissioner
s. 41(2)	Registrar	Commissioner
s. 44(1) and (2)	Board	Commissioner
s. 44(5)	Board which,	Commissioner who,
s. 49C(1) and (3)	Board	Commissioner
s. 50(5)	Board (each occurrence)	Commissioner

Acts Amendment (Fair Trading) Act 2010**Part 7**

Settlement Agents Act 1981 amended

s. 176

Provision	Delete	Insert
s. 51(2), (3), (6), (7) and (8)	Board	Commissioner
s. 51(9)	Board it	Commissioner the Commissioner
s. 52(1), (2), (3) and (5)	Board (each occurrence)	Commissioner
s. 53(2) and (3)	Board	Commissioner
s. 53(3)	it	the Commissioner
s. 54(3)	Board	Commissioner
s. 55	Board (each occurrence)	Commissioner
s. 55	it	the Commissioner
s. 56	Board its it	Commissioner the Commissioner's the Commissioner
s. 60(f)	Board	Commissioner
s. 62	Board	Commissioner
s. 64(1)	Board (each occurrence)	Commissioner

Provision	Delete	Insert
s. 67	Board	Commissioner
s. 69	Board (each occurrence)	Commissioner
s. 69	so, it	so, the Commissioner
s. 70(a)	Board	Commissioner
s. 71(1) and (2)	Board (each occurrence)	Commissioner
s. 72	Board	Commissioner
s. 73(1)	Board by it	Commissioner by the Commissioner
s. 74(1), (2), (3) and (4)	Board (each occurrence)	Commissioner
s. 75(1)	Board (each occurrence)	Commissioner
s. 79(1)	Board	Commissioner
s. 80(1), (2)(b) and (3)(c)	Board (each occurrence)	Commissioner
s. 81A(1) and (8)	Registrar (each occurrence)	Commissioner
s. 82	Board	Commissioner

s. 176

Provision	Delete	Insert
s. 83	Board	Commissioner
s. 84(3)(b)	Registrar	Commissioner
s. 85	Registrar of the Board	Commissioner
s. 86(1) and (2)	Board	Commissioner
s. 110(1), (2), (3) and (4)	Registrar	Commissioner
s. 111(1), (2), (3) and (4)	Registrar	Commissioner
s. 113	Board (each occurrence)	Commissioner
s. 113	board	Commissioner
s. 114	Board may	Commissioner may
s. 121(1)	Registrar or an inspector	Commissioner
s. 122	Board	Commissioner
s. 123(2)(a)	Board	Commissioner
Sch. 1 cl. 1(1)(a)	Board	Commissioner
Sch. 1 cl. 2(1)(a)	Board	Commissioner
Sch. 1 cl. 4	Board (each occurrence)	Commissioner
Sch. 1 cl. 5(1) and (2)	Registrar	Commissioner

Provision	Delete	Insert
Sch. 1 cl. 7	Board	Commissioner
Sch. 1 cl. 8	Board	Commissioner
Sch. 1 cl. 9	Board (each occurrence)	Commissioner
Sch. 1 cl. 10(1)	Registrar	Commissioner
Sch. 1 cl. 10(1)	Board	Commissioner

Notes: The heading to amended section 36 is to read:

**Notification by licensee when commencing or ceasing business,
etc.**

The heading to amended section 49C is to read:

Trust accounts, certain information to be given to Commissioner

The heading to amended section 69 is to read:

Audit of trust account may be ordered

The heading to amended section 81A is to read:

Commissioner may obtain information about trust accounts

Part 8 — Miscellaneous amendments to other Acts

Division 1 — The Commissioner in some registration Acts

177. Motor Vehicle Dealers Act 1973 amended

- (1) This section amends the *Motor Vehicle Dealers Act 1973*.
- (2) In section 5(1) delete the definition of *Commissioner* and insert:

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

- (3) Delete section 5AA.

178. Motor Vehicle Repairers Act 2003 amended

- (1) This section amends the *Motor Vehicle Repairers Act 2003*.
- (2) In section 3(1) delete the definition of *Commissioner* and insert:

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

Division 2 — The Commissioner in other Acts

179. Builders' Registration Act 1939 amended

- (1) This section amends the *Builders' Registration Act 1939*.
- (2) In section 4A(5) delete “section 4(1) of the *Consumer Affairs Act 1971*” and insert:

the *Fair Trading Act 2010* section 6

- (3) In section 37(3) delete “section 4(1) of the *Consumer Affairs Act 1971*” and insert:

the *Fair Trading Act 2010* section 6

180. *Co-operatives Act 2009* amended

- (1) This section amends the *Co-operatives Act 2009*.
- (2) In section 451 delete “*Consumer Affairs Act 1971* section 4(1)” and insert:

Fair Trading Act 2010 section 6

181. *Debt Collectors Licensing Act 1964* amended

- (1) This section amends the *Debt Collectors Licensing Act 1964*.
- (2) In section 3 delete the definition of ***Commissioner*** and insert:

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

182. *Local Government Act 1995* amended

- (1) This section amends the *Local Government Act 1995*.
- (2) In section 9.58(4)(b) delete “section 4(1) of the *Consumer Affairs Act 1971*,” and insert:

the *Fair Trading Act 2010* section 6,

183. *State Administrative Tribunal Act 2004* amended

- (1) This section amends the *State Administrative Tribunal Act 2004*.

- (2) In section 37(2) delete “section 15 of the *Consumer Affairs Act 1971*” and insert:

the *Fair Trading Act 2010* section 6

184. *Machinery of Government (Miscellaneous Amendments) Act 2006* amended

- (1) This section amends the *Machinery of Government (Miscellaneous Amendments) Act 2006*.
- (2) Delete section 151.

Division 3 — Investigation powers

185. *Business Names Act 1962* amended

- (1) This section amends the *Business Names Act 1962*.
- (2) Delete section 31D and insert:

31D. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

186. *Chattel Securities Act 1987* amended

- (1) This section amends the *Chattel Securities Act 1987*.
- (2) Delete section 30D and insert:

30D. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

187. Hire-Purchase Act 1959 amended

- (1) This section amends the *Hire-Purchase Act 1959*.
- (2) Delete section 36C and insert:

36C. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

188. Limited Partnerships Act 1909 amended

- (1) This section amends the *Limited Partnerships Act 1909*.
- (2) Delete section 15(3) and insert:
 - (3) The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply, with such modifications as are necessary, to and in relation to the functions of the Registrar and persons and matters affected by the exercise of those functions as if —
 - (a) that section and Part were part of this Act; and
 - (b) a reference to the Commissioner in those provisions were a reference to the Registrar.

189. Residential Tenancies Act 1987 amended

- (1) This section amends the *Residential Tenancies Act 1987*.
- (2) Delete section 11B and insert:

11B. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

Acts Amendment (Fair Trading) Act 2010

Part 8 Miscellaneous amendments to other Acts

Division 4 Committee amendments

s. 190

190. Retirement Villages Act 1992 amended

- (1) This section amends the *Retirement Villages Act 1992*.
- (2) Delete section 11B and insert:

11B. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

Division 4 — Committee amendments

191. Constitution Acts Amendment Act 1899 amended

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3:
 - (a) delete “The Consumer Affairs Council established under the *Consumer Affairs Act 1971*.”;
 - (b) delete “The Consumer Products Safety Committee established under the *Consumer Affairs Act 1971*.”.
- (3) In Schedule V Part 3 insert in alphabetical order:

The Consumer Advisory Committee established under the *Fair Trading Act 2010*.

The Motor Vehicle Industry Advisory Committee established under the *Fair Trading Act 2010*.

The Property Industry Advisory Committee established under the *Fair Trading Act 2010*.

Division 5 — Other Fair Trading Act 2010 amendments

192. *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 amended*

- (1) This section amends the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*.
- (2) Delete section 23 and insert:

23. *Fair Trading Act 2010 amended*

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Agricultural Products Act 1929*”.
- (3) Delete section 29 and insert:

29. *Fair Trading Act 2010 amended*

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Agriculture and Related Resources Protection Act 1976*”.
- (4) Delete section 61 and insert:

61. *Fair Trading Act 2010 amended*

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Fertilizers Act 1977*”.

(5) Delete section 64 and insert:

64. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Plant Diseases Act 1914*”.

(6) Delete section 75 and insert:

75. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Seeds Act 1981*”.

(7) Delete section 83 and insert:

83. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Veterinary Chemical Control and Animal Feeding Stuffs Act 1976*”.

(8) Delete section 86 and insert:

86. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 insert in alphabetical order:

Biosecurity and Agriculture Management Act 2007

193. *Civil Liability Act 2002* amended

- (1) This section amends the *Civil Liability Act 2002*.
- (2) In section 5AI in the definition of *apportionable claim* delete paragraph (b) and insert:
 - (b) a claim for economic loss or damage to property in an action for damages under the *Fair Trading Act 2010* based on misleading or deceptive conduct;

194. *Credit (Administration) Act 1984* amended

- (1) This section amends the *Credit (Administration) Act 1984*.
- (2) In section 56(3)(b)(i) delete “*Consumer Affairs Act 1971*,” and insert:

Fair Trading Act 2010,

195. *Education Service Providers (Full Fee Overseas Students) Registration Act 1991* amended

- (1) This section amends the *Education Service Providers (Full Fee Overseas Students) Registration Act 1991*.
- (2) In section 40(3)(a) delete “*Consumer Affairs Act 1971*,” and insert:

Fair Trading Act 2010;

196. *Higher Education Act 2004* amended

- (1) This section amends the *Higher Education Act 2004*.

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(2) In section 26(2):

(a) in paragraph (a) delete “*Consumer Affairs Act 1971*;”
and insert:

Fair Trading Act 2010; or

(b) in paragraph (b) delete “*Consumer Affairs Act 1971*; or”
and insert:

Fair Trading Act 2010; or

197. *Legal Aid Commission Act 1976* amended

(1) This section amends the *Legal Aid Commission Act 1976*.

(2) In section 7(1)(b)(ii) delete “*Consumer Affairs Act 1971*” and
insert:

Fair Trading Act 2010

198. *Medical Practitioners Act 2008* amended

(1) This section amends the *Medical Practitioners Act 2008*.

(2) In section 7(2)(d) delete “*Consumer Affairs Act 1971*” and
insert:

Fair Trading Act 2010

199. *Retirement Villages Act 1992* amended

(1) This section amends the *Retirement Villages Act 1992*.

- (2) In section 3(1) in the definition of *code* delete “*Fair Trading Act 1987*” and insert:

Fair Trading Act 2010

200. Trade Measurement Act 2006 amended

- (1) This section amends the *Trade Measurement Act 2006*.
(2) Delete section 102 and insert:

102. Operation of *Fair Trading Act 2010* not affected

Nothing in this Act affects the operation of the *Fair Trading Act 2010*.

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