

Western Australia

**Consumer Protection Legislation Amendment
Act 2014**

As at 09 Oct 2014

No. 23 of 2014

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Consumer Protection Legislation Amendment Act 2014

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Western Australia

Consumer Protection Legislation Amendment Act 2014

No. 23 of 2014

An Act to amend —

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

[Assented to 9 October 2014]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Consumer Protection Legislation Amendment Act 2014*.

2. Commencement

This Act comes into operation as follows —

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

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

3. Act amended

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

4. Section 9 amended

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

negotiation, preparation or execution of, or obtaining the necessary consents to,

Part 3 — *Employment Agents Act 1976* amended

5. Act amended

This Part amends the *Employment Agents Act 1976*.

6. Section 18 amended

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

7. Section 20 amended

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

the Commissioner of Police,

(2) Delete section 20(2).

8. Section 22 amended

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

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

- (a) to the applicant; and
- (b) if the Commissioner of Police lodged an objection with the Commissioner, to the Commissioner of Police.

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

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

- (b) inform the person of the right to apply to the State Administrative Tribunal for a review of the decision.
- (2) In section 22(4) delete “or a person who lodged an objection with the Commissioner” and insert:
- or, if the Commissioner of Police lodged an objection with the Commissioner, the Commissioner of Police

Part 4 — *Fair Trading Act 2010* amended

9. Act amended

This Part amends the *Fair Trading Act 2010*.

10. Part 6 Division 1 heading replaced

Delete the heading to Part 6 Division 1 and insert:

Division 1 — Preliminary

11. Section 64A inserted

At the end of Part 6 Division 1 insert:

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

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

12. Section 83 amended

After section 83(3) insert:

- (4) If an application under subsection (1) consists of or includes a claim that legal professional privilege applies to the thing seized, the State Administrative Tribunal hearing the application is to be constituted by —
- (a) a judicial member; and
 - (b) such other members, if any, as the President considers appropriate.

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

judicial member

President

13. Section 112 amended

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

regulated person has the meaning given in section 88A.

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

person;

Part 5 — *Land Valuers Licensing Act 1978* amended

14. Act amended

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

15. Section 16 amended

- (1) In section 16(2) in the definition of *person aggrieved* delete “or objects to”.
- (2) In section 16(2) in the definition of *reviewable decision* delete “or objection”.

16. Section 17 amended

Delete section 17(2).

17. Section 18 deleted

Delete section 18.

18. Section 19A amended

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

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

Commissioner may grant licence without notice to applicant

19. Section 22 amended

After section 22(3) insert:

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

20. Section 23A inserted

At the end of Part III insert:

23A. Duplicate licence

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

21. Section 23 amended

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

a person

22. Section 30 amended

Delete section 30(1) and (2).

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

Commissioner’s certificate

Part 6 — *Limited Partnerships Act 1909* amended

23. Act amended

This Part amends the *Limited Partnerships Act 1909*.

24. Section 15 amended

In section 15(3):

- (a) delete “section 61” and insert:

sections 60 and 61

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

those sections and that

Part 7 — *Motor Vehicle Dealers Act 1973* amended

25. Act amended

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

26. Section 5 amended

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

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

27. Section 20 amended

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

do not

28. Section 20E amended

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

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

(2) Delete section 20E(4).

29. Section 20FA inserted

After section 20E insert:

20FA. Authorisation of premises does not affect planning laws

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

30. Section 20F replaced

Delete section 20F and insert:

20F. Changes in authorised premises

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

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

31. Section 21A amended

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

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

(2) Delete section 21A(4).

32. Section 21BA inserted

After section 21A insert:

21BA. Authorisation of premises does not affect planning laws

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

33. Section 21B replaced

Delete section 21B and insert:

21B. Changes in authorised premises

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

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

Part 8 — *Motor Vehicle Repairers Act 2003* amended

34. Act amended

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

35. Section 5 amended

Delete section 5(3) and (5).

36. Section 9 amended

In section 9(1):

- (a) delete “of a class prescribed by the regulations”;
- (b) delete “licence for that class of repair work.” and insert:

licence.

37. Section 10 amended

Delete section 10(2).

38. Section 11 amended

In section 11:

- (a) delete “any class of”;
- (b) delete “licence for that class of repair work.” and insert:

licence.

39. Section 12 replaced

Delete section 12 and insert:

12. Term used: sufficient resources

In this Division —

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

40. Section 13 amended

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

(2) An application —

(a) must be —

(i) made in the form approved; and

(ii) accompanied by the fee prescribed;

and

(b) must comply with section 58.

41. Section 24 amended

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

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

s. 42

42. Section 28 replaced

Delete section 28 and insert:

28. Regulations may prescribe conditions and restrictions

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

43. Section 35 amended

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

44. Section 36 amended

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

45. Section 39 amended

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

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

46. Section 52 amended

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

47. Section 58 replaced

Delete section 58 and insert:

58. Business licence applications to specify premises

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

48. Section 59 amended

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

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

49. Sections 60 to 62 replaced

Delete sections 60, 61 and 62 and insert:

60. Authorisation of premises does not affect planning laws

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

61. Changes in authorised premises

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

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

62. Revocation of authorisation of premises

- (1) The Commissioner may make an order revoking an authorisation in respect of any premises under section 59, other than an authorisation in respect of mobile premises.
- (2) The Commissioner may make an order under subsection (1) only if —
 - (a) the authority responsible for planning matters in the district in which the premises are situated has given the Commissioner written notice that the premises do not comply with specified requirements of written laws relating to planning that apply to those premises; and
 - (b) the Commissioner has given the licensee an opportunity to show cause why the order should not be made.
- (3) In subsection (2)(a) —
specified means specified in the notice referred to in that provision.

50. Section 64 amended

In section 64(2) delete “under section 81,” and insert:

made by the State Administrative Tribunal on a review under section 75,

51. Section 66 inserted

After section 65 insert:

66. Commissioner may make allegations to SAT regarding disciplinary orders

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

52. Section 68 amended

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

in a proceeding commenced by an allegation under section 66

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

or

53. Section 70 amended

Delete section 70(a) and insert:

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

s. 54

54. Section 71 amended

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

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

55. Part 7 heading replaced

Delete the heading to Part 7 and insert:

Part 7 — Reviews

56. Section 73 amended

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

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

or

(3) Delete section 73(3).

57. Section 75 replaced

Delete section 75 and insert:

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

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

76. Transitional

- (1) In this section —
former provisions means this Act as in force immediately before the commencement of the *Consumer Protection Legislation Amendment Act 2014* section 57;
section 75 means section 75 of the former provisions.
- (2) The former provisions continue to have effect for the purposes of an appeal under section 75 that was commenced, but not completed, before the commencement of the *Consumer Protection Legislation Amendment Act 2014* section 57.

58. Sections 77 to 82 deleted

Delete sections 77, 78, 79, 80, 81 and 82.

59. Section 109 amended

- (1) Delete section 109(1) and insert:
 - (1) In this section —
unlicensed repairer means a person or firm that is required to hold, but does not hold, a business licence.
- (2) In section 109(2) delete “any class of” (each occurrence).
- (3) In section 109(3)(c) delete “any class of”.

60. Section 115 deleted

Delete section 115.

s. 61

61. Schedule 1 amended

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

62. Schedule 3 deleted

Delete Schedule 3.

Part 9 — *Petroleum Products Pricing Act 1983* amended

63. Act amended

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

64. Section 22A amended

- (1) In section 22A(1) delete the definition of *displayed price*.
- (2) In section 22A(1) insert in alphabetical order:

relevant price, for a kind of motor fuel, means the price for that kind of motor fuel that would apply if a supplier of the motor fuel from a declared terminal were to make a wholesale sale of the motor fuel to a reseller who —

- (a) was not the subject of any agreement or arrangement affecting price; and
- (b) took delivery of the motor fuel at the terminal from which it was supplied;

65. Section 22B replaced

Delete section 22B and insert:

22B. Commissioner to be notified of proposed price changes

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

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

s. 66

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

Penalty: a fine of \$20 000.

66. Sections 22C and 22D deleted

Delete sections 22C and 22D.

67. Section 22E amended

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

relevant

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

68. Act amended

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

69. Section 23 amended

- (1) In section 23(1) delete “of the Commissioner”.
- (2) In section 23(2) in the definition of *person aggrieved*:
 - (a) in paragraph (a) delete “or objects to”;
 - (b) in paragraph (e) delete “Commissioner” and insert:

chief executive officer
- (3) In section 23(2) in the definition of *reviewable decision*:
 - (a) in paragraph (a) after “decision” insert:

of the Commissioner
 - (b) in paragraph (a) delete “or objection”;
 - (c) in paragraphs (b) to (d) after “decision” insert:

of the Commissioner
 - (d) in paragraph (e) after “decision” insert:

of the chief executive officer

s. 70

- (4) After section 23(2) insert:
- (3) If a decision under section 116 or 117 has not been made before the commencement of the *Consumer Protection Legislation Amendment Act 2014* section 69 in respect of a claim made before 1 July 2011, the decision —
- (a) may be made on or after that commencement by the Commissioner; and
 - (b) is taken to be a reviewable decision for the purposes of this section.
- (4) A decision under section 116 or 117 made by the chief executive officer before the commencement of the *Consumer Protection Legislation Amendment Act 2014* section 69 is taken to be a reviewable decision made immediately after that commencement for the purposes of this section.
- (5) The amendments made to this section by the *Consumer Protection Legislation Amendment Act 2014* section 69 do not affect the review of a reviewable decision by the State Administrative Tribunal that began, but was not completed, before the commencement of that section.

70. Section 24 amended

Delete section 24(2).

71. Section 25 deleted

Delete section 25.

72. Section 27 amended

In section 27(2):

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

Schedule 1

- (b) delete “therein and elsewhere”.

73. Section 34A amended

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

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

Commissioner may grant licence or triennial certificate without notice to applicant

74. Section 40A inserted

After section 39 insert:

40A. Duplicate licence, certificate of registration or triennial certificate

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

75. Section 91 amended

In section 91 delete “Board” and insert:

Commissioner

s. 76

76. Section 116 amended

After section 116(1) insert:

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

77. Section 124AA inserted

At the end of Part VIII insert:

124AA. Commissioner may investigate claims against Fidelity Account

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

78. Section 124A amended

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

chief executive officer.

79. Section 124C amended

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

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

80. Section 134 amended

Delete section 134(1) and (2).

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

Commissioner’s certificate

81. Part XI Division 1 deleted

Delete Part XI Division 1.

82. Part XI Division 2 heading deleted

Delete the heading to Part XI Division 2.

s. 83

83. Schedule amended

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

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

[s. 27]

- (2) Delete the heading to the Schedule Division 1.
- (3) In the Schedule clause 3 delete “Such a licence” and insert:

A licence granted to a person who is qualified under clause 1(c)

- (4) In the Schedule clause 4 delete “Such a licence” and insert:

A licence applied for by a person who is qualified under clause 1(d)

- (5) Delete the Schedule Division 2.

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

84. Act amended

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

85. Glossary amended

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

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

Part 12 — Residential Tenancies Act 1987 amended

86. Act amended

This Part amends the *Residential Tenancies Act 1987*.

87. Section 3 amended

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

bond administrator means the chief executive officer of the Department;

88. Section 31B replaced

Delete section 31B and insert:

31B. Increase in rent after renegotiating lease

- (1) Subsection (2) has effect if —
 - (a) a residential tenancy agreement creates a tenancy for a fixed term (the *former agreement*); and
 - (b) the parties enter into a new residential tenancy agreement in relation to the same premises (the *new agreement*) that is to commence immediately after the end of the term of the former agreement, whether under the terms of the agreement or under section 76C.
- (2) The tenant cannot be required under the new agreement to pay an amount of rent, in respect of the first 30 days of the new agreement, that is more than the amount that would have been payable under the former agreement if the former agreement had continued to have effect during that period.

89. Section 31 amended

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

section 30 or 31A,

Part 13 — *Retail Trading Hours Act 1987* amended

Division 1 — *Retail Trading Hours Act 1987* amended

90. Act amended

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

91. Section 3 amended

In section 3(1) delete the definitions of:

Committee
member

92. Section 10 amended

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

25 persons

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

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

4 retail shops

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

3 or more

93. Sections 17 to 21 deleted

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

94. Section 38 amended

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

person or officer of the Department

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

95. Act amended

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

96. Schedule V amended

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

Part 14 — *Settlement Agents Act 1981* amended

97. Act amended

This Part amends the *Settlement Agents Act 1981*.

98. Section 23 amended

- (1) In section 23(1) delete “of the Commissioner”.
- (2) In section 23(2) in the definition of *person aggrieved*:
 - (a) in paragraph (a) delete “or objects to”;
 - (b) in paragraph (c) delete “Commissioner” and insert:

chief executive officer
- (3) In section 23(2) in the definition of *reviewable decision*:
 - (a) in paragraph (a) after “decision” (1st occurrence) insert:

of the Commissioner
 - (b) in paragraph (a)(ii) delete “or objection”;
 - (c) in paragraph (b) after “decision” insert:

of the Commissioner
 - (d) in paragraph (c) after “decision” insert:

of the chief executive officer
- (4) After section 23(2) insert:
 - (3) If a decision under section 93 or 95 has not been made before the commencement of the *Consumer Protection*

Legislation Amendment Act 2014 section 98 in respect of a claim made before 1 July 2011, the decision —

- (a) may be made on or after that commencement by the Commissioner; and
 - (b) is taken to be a reviewable decision for the purposes of this section.
- (4) A decision under section 93 or 95 made by the chief executive officer before the commencement of the *Consumer Protection Legislation Amendment Act 2014* section 98 is taken to be a reviewable decision made immediately after that commencement for the purposes of this section.
- (5) The amendments made to this section by the *Consumer Protection Legislation Amendment Act 2014* section 98 do not affect the review of a reviewable decision by the State Administrative Tribunal that began, but was not completed, before the commencement of that section.

99. Section 24 amended

Delete section 24(2).

100. Section 25 deleted

Delete section 25.

101. Section 31 amended

Delete section 31(2a) and insert:

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

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

102. Section 34A amended

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

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

Commissioner may grant licence or triennial certificate without notice to applicant

103. Section 36 amended

In section 36(2):

- (a) after paragraph (a) insert:
 - (ba) where the licensee is a firm, of any change in the persons by whom or by which it is constituted;
- (b) in paragraph (b) before “the licensee” insert:

where

104. Section 41A inserted

After section 40 insert:

41A. Duplicate licence or triennial certificate

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

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

105. Section 93 amended

After section 93(1) insert:

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

106. Section 102AA inserted

At the end of Part V insert:

102AA. Commissioner may investigate claims against Fidelity Account

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

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107. Section 102C amended

Delete section 102C(e) and insert:

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

108. Section 111 amended

Delete section 111(1) and (2).

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

Commissioner's certificate

Part 15 — *Travel Agents Act 1985* amended

109. Act amended

This Part amends the *Travel Agents Act 1985*.

110. Section 3 amended

In section 3(1) insert in alphabetical order:

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

111. Section 10 amended

- (1) Delete section 10(1).
- (2) In section 10(2) delete “The” and insert:

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

112. Section 11 deleted

Delete section 11.

113. Section 12 amended

- (1) Delete section 12(1) and insert:
 - (1) Unless subsection (2) or (4) requires it to be refused, the Commissioner is to grant an application as soon as practicable.

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(2) Delete section 12(2)(ba) and insert:

(ba) the individual has been found guilty of an offence under *The Criminal Code* section 187, the *Criminal Code Act 1995* (Commonwealth) section 272.18, 272.19 or 272.20 or a former Crimes Act provision; or

(3) In section 12(4)(i) delete “section 187 of *The Criminal Code* or section 50DA or 50DB of the *Crimes Act 1914* of the Commonwealth.” and insert:

The Criminal Code section 187, the *Criminal Code Act 1995* (Commonwealth) section 272.18, 272.19 or 272.20 or a former Crimes Act provision.

(4) Delete section 12(5)(b) and insert:

(b) has afforded the applicant an opportunity to make submissions and adduce evidence.

(5) In section 12(6) delete “and each objector (if any) to the granting of the application”.

(6) Delete section 12(7)(a) and insert:

(a) the Commissioner is forthwith, by notice in writing, to inform the applicant of the granting of the application and the right to apply to the State Administrative Tribunal for a review of any condition imposed; and

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

or

114. Section 21 amended

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

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

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

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

or

115. Section 22 amended

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

Subject to subsection (1a), if

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

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

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

116. Section 23 amended

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

- (a) a person upon whose application a reviewable decision is made; or

117. Section 30 amended

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

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

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

or
