



Western Australia

Debt Collectors Licensing Act 1964

Debt Collectors Licensing Act 1964

Contents

| | | |
|------|--|----|
| 1. | Short title | 1 |
| 2. | Commencement | 1 |
| 3. | Terms used | 1 |
| 4. | Application of Act | 2 |
| 5. | Licensing of debt collectors | 3 |
| 6. | Licensees not to assume additional powers | 4 |
| 7. | Licences | 4 |
| 8. | Application for licences | 5 |
| 9. | Grounds on which licence refused | 6 |
| 10A. | Duration of licences | 7 |
| 10. | Cancellation of licence | 7 |
| 11. | Review of Commissioner's decision | 9 |
| 12. | Register to be kept by Commissioner | 9 |
| 12A. | Matters to be included in annual report | 10 |
| 13. | Unlicensed persons not to recover fees etc. | 10 |
| 14. | Offence of furnishing incorrect information in applications etc. | 11 |
| 15. | Duty of debt collectors in respect of trust money | 12 |
| 16. | Duty of bank Manager | 14 |
| 17. | Duty of debt collector as to accounts | 14 |
| 18. | Inspection of records | 15 |
| 19. | Minister may appoint auditor to audit trust accounts | 17 |
| 20. | Fidelity bond | 17 |
| 21. | Termination of fidelity bond | 18 |
| 23. | Offence by corporation | 19 |
| 24. | Evidentiary provision | 19 |
| 25. | Saving of remedies | 19 |

Contents

| | | |
|-----|------------------------------|----|
| 26. | Regulations | 20 |
| | Notes | |
| | Compilation table | 22 |
| | Uncommenced provisions table | 23 |
| | Other notes | 23 |
| | Defined terms | |

Debt Collectors Licensing Act 1964

An Act to provide for the licensing of debt collectors, and for incidental and other purposes.

1. Short title

This Act may be cited as the *Debt Collectors Licensing Act 1964*.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation.

3. Terms used

In this Act unless the contrary intention appears —

bank means an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

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

debt collector means a person (whether or not he carries on any other business) who on behalf of any other person and for or in expectation of any gain, fee or reward whatever, by whomsoever paid or payable and either on his own account or in conjunction with another, carries on the business of collecting requesting or demanding payment of debts or who advertises or notifies that he carries on that business;

licence means a valid and current licence issued under this Act authorising the holder thereof to act as a debt collector;

licensee means the holder of a licence;

money includes any instrument for the payment of money in any case where the instrument may be paid into an account with a bank;

money received for or on behalf of any person includes money that is held for or on behalf of any person whether originally received for or on his behalf or not;

to pay into a trust account means to pay into a bank, carrying on business in the State, to the credit of an account —

- (a) that is kept by the bank; and
- (b) the designation of which includes the words, “trust account of” and the name of the debt collector concerned;

trust account means a record of accounts relating to trust money;

trust money means any money collected or received by a person in the capacity of debt collector as agent for another person.

[Section 3 amended: No. 26 of 1999 s. 73(2); No. 55 of 2004 s. 220; No. 58 of 2010 s. 181.]

4. Application of Act

The provisions of this Act do not apply to any of the following persons, that is to say —

- (a) an Australian legal practitioner within the meaning of that term in the *Legal Profession Act 2008* section 3; and
- (b) a public accountant acting in the ordinary course of his profession or calling as such; and
- (c) the sheriff, or any deputy sheriff or other officer appointed to assist the sheriff in the execution of his duties appointed pursuant to Part IX of the *Supreme Court Act 1935*, acting in pursuance of his duties as sheriff, deputy sheriff or officer; and

- (d) a bailiff or assistant bailiff appointed under Part 7 Division 1 of the *Civil Judgments Enforcement Act 2004*; and
- (e) a liquidator, receiver, or trustee acting in pursuance of his duties as such; and
- (f) a bank; and
- (fa) a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth; and
- (fb) a trustee company carrying on business pursuant to any Act of this State or the Commonwealth; and
- (g) a person who is an officer, employee or clerk of any person, body or authority referred in the preceding paragraphs of this section and who is acting in the ordinary course of the profession, calling or business of, and on behalf of that person, body or authority; and
- (h) a person, body or authority and his or its officers or employees acting in pursuance of his duties as such exempted by the regulations from the application of this Act, who or which does anything pursuant to any Act or law that but for an exemption granted under this paragraph would constitute him or it a debt collector.

[Section 4 amended: No. 26 of 1999 s. 73(3); No. 65 of 2003 s. 28; No. 59 of 2004 s. 141; No. 21 of 2008 s. 658.]

5. Licensing of debt collectors

- (1) After the expiration of 3 months after the coming into operation of this Act a person shall not —
 - (a) exercise or carry on; or
 - (b) advertise, notify or state that he carries on or is willing to exercise or carry on; or

- (c) in any way hold himself out to the public as ready to exercise or carry on,

the business or any of the functions of a debt collector, unless he is the holder of a licence under this Act.

- (2) A person who contravenes or fails to comply with any of the provisions of subsection (1) is guilty of an offence.

Penalty for this subsection: a fine of \$50 000.

[Section 5 amended: No. 113 of 1965 s. 8; No. 50 of 2003 s. 55(2); No. 25 of 2019 s. 26.]

6. Licensees not to assume additional powers

- (1) A licensee does not by virtue of his being the holder of a licence have any power or authority that he would not have had if this Act had not come into operation.

- (2) A licensee who suggests or implies that any power or authority, other than the power or authority to exercise or carry on the business or any of the functions of a debt collector, is conferred upon him by this Act or by his licence is guilty of an offence against this Act.

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

[Section 6 amended: No. 25 of 2019 s. 25.]

7. Licences

- (1) A licence shall be in the form approved in writing by the Commissioner.

- (2) Where a licence is issued to —

- (a) a natural person, the licence shall set forth the name, place of business and place of abode of the licensee;
- (b) a corporation, the licence shall set forth the name of the corporation and the address of its sole or principal place of business in the State.

- (3) The fee payable for a licence shall be such amount as may prescribed.

[(4), (5) deleted]

[Section 7 amended: No. 44 of 2016 s. 11.]

8. Application for licences

- (1) A person who desires to obtain a licence or renewal thereof shall make application in the form approved in writing by the Commissioner.
- (2A) Subject to subsection (10), the application shall be accompanied by —
- (a) testimonials as to the character of the applicant signed by not less than 3 reputable persons; and
 - (b) the prescribed fee.
- (2B) The prescribed fee shall be refunded to the applicant if the application is withdrawn or refused.
- (3) The application shall be lodged with the Commissioner.
- (4) Upon the receipt of an application for the grant or renewal of a licence the Commissioner shall as soon as practicable thereafter notify the Commissioner of Police, who —
- (a) shall inquire into the character and suitability of the applicant to be a licensee; and
 - (b) shall report in writing thereon to the Commissioner.
- (5A) The Commissioner of Police may object to the granting of the application and if he objects he shall include in his report a statement setting out that he objects and the grounds for his objection.
- (5B) Any objection made under subsection (5A), may be made only on one or more of the grounds upon which the Commissioner may refuse the grant or renewal of a licence under section 9.

s. 9

- (5C) Where a report of the Commissioner of Police contains an objection, the Commissioner under this Act shall notify the applicant concerned in writing of the objection and afford the applicant the opportunity to make submissions in support of the application.
- (6) The Commissioner, for the purposes of deciding an application for the grant or renewal of a licence under this Act, may consider evidence as to the character and suitability of the applicant to be a licensee and shall take into consideration the report referred to in subsection (4) and may grant or refuse the application.

[(7)-(9) deleted]

- (10) Where an application is made for the renewal of a licence the application is not required to be accompanied by such testimonials as to the character of the applicant as are referred to in subsection (2A)(a), unless the Commissioner so requires.

[Section 8 amended: No. 21 of 1966 s. 2; No. 55 of 2004 s. 221; No. 19 of 2010 s. 51; No. 44 of 2016 s. 12.]

9. Grounds on which licence refused

- (1) The Commissioner has to refuse an application for the grant or renewal of a licence unless satisfied that the applicant named therein —
- (a) is of good fame and character; and
 - (b) is a fit and proper person to be a licensee; and
 - (c) is of the age of 21 years or more.
- (2) Where an applicant is a corporation any reference in subsection (1) to an applicant shall be read and construed as a reference to the directors of that corporation.

[(3) deleted]

- (4) Subject to section 20, where the Commissioner grants an application for a licence or renewal thereof, the Commissioner shall, on payment to him of the fee prescribed, issue the licence.
- (5) Where proof of the loss or destruction of a licence is given to the satisfaction of the Commissioner, he may issue a duplicate licence on payment of the fee prescribed.

[Section 9 amended: No. 55 of 2004 s. 222.]

10A. Duration of licences

- (1) A licence is to be issued or renewed for a period prescribed.
- (2) A period prescribed for the purposes of subsection (1) cannot be less than 12 months.
- (3) Different periods may be prescribed for the purposes of subsection (1) in relation to the renewal of licences of different prescribed descriptions.
- (4) A licence may be renewed even if an application for its renewal has not been made under section 8 before the licence expired if —
 - (a) such an application is made within 28 days after the licence has expired; and
 - (b) any amount prescribed by way of penalty for a late application is paid.
- (5) A licence renewed as described in subsection (4) is to be taken for all purposes to have taken effect on the day immediately succeeding the day on which the previous licence expired.

[Section 10A inserted: No. 44 of 2016 s. 13.]

10. Cancellation of licence

- (1) Any person may, at any time, make a complaint in writing to the Commissioner about the holding of a licence by a specified licensee if the complaint complies with subsection (1ab).

s. 10

- (1a) For a complaint to comply with this subsection —
- (a) the complaint has to specify the licensee and the ground of the complaint; and
 - (b) the ground of the complaint has to be a ground described in subsection (1).
- (1b) The Commissioner may, on receiving a complaint under subsection (1) or on the Commissioner's own initiative, make any investigation or inquiry that the Commissioner considers necessary to decide whether to make an allegation under subsection (2) —
- (a) on the ground that the licensee improperly obtained his licence contrary to the provisions of this Act; or
 - (b) on the ground that the licensee has been convicted of any offence against this Act; or
 - (c) on any of the grounds on which the Commissioner may refuse the grant or renewal of a licence under section 9.
- (1c) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there is a ground for it to make an order under subsection (2).
- (1d) If the Commissioner decides not to make an allegation concerning a licensee about whom a complaint was made to the Commissioner under subsection (1), the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.
- (2) Where the State Administrative Tribunal, on dealing with an allegation under subsection (1c), is satisfied that any of the grounds described in subsection (1b) is proved, it may order that the licence be delivered up to the Commissioner and cancelled and that the licensee be disqualified either permanently or for such period as the Tribunal specifies in the order from holding a licence.
- [(3) deleted]*

- (4) Where the State Administrative Tribunal makes an order under subsection (2), the Commissioner shall, as soon as practicable after the order is made, send a copy of the order to the Commissioner of Police.
- (5) During the period for which a licensee is disqualified from holding a licence he shall be deemed not to be the holder of a licence.

[Section 10 amended: No. 55 of 2004 s. 223.]

11. Review of Commissioner's decision

- (1) Where the Commissioner refuses to grant an application under section 8 the applicant may apply to the State Administrative Tribunal for a review of the decision.
- (2) Where the Commissioner grants an application under section 8 after the Commissioner of Police has objected under that section to the granting of the application, the Commissioner of Police may apply to the State Administrative Tribunal for a review of the decision.

[Section 11 inserted: No. 55 of 2004 s. 224.]

12. Register to be kept by Commissioner

- (1) The Commissioner shall keep a register of all licences, renewals of licences and cancellation of licences.
- (2) The register shall be available for inspection by any member of the public during the hours that the office of the Commissioner is open to the public on payment of the fee prescribed.

[Section 12 amended: No. 55 of 2004 s. 225.]

12A. Matters to be included in annual report

The annual report of the department in which the Commissioner is employed is to include details of —

- (a) the number, nature, and outcome, of —
 - (i) investigations and inquiries undertaken by, or at the direction of, the Commissioner for the purposes of this Act; and
 - (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- and
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding; and
- (c) any trends or special problems that may have emerged; and
- (d) forecasts of the workload of the Commissioner in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Commissioner's functions under this Act.

[Section 12A inserted: No. 55 of 2004 s. 226.]

13. Unlicensed persons not to recover fees etc.

- (1) Subject to this Act, a person is not entitled to sue for or recover or retain any commission, fees, charges, reward or other remuneration for or in respect of any service done by him as a debt collector, unless —
 - (a) he was a licensee at the time of the doing of that service; and
 - (b) his engagement or appointment to act as debt collector in respect of the service is in writing signed by the person on whose behalf the service is to be done or his agent or representative; and

- (c) the commission, fees, charges, reward or other remuneration for, or in respect of, the service are included in and not in excess of the commission, fees, charges, reward or other remuneration agreed upon by the person acting as a debt collector and the person on whose behalf the service is done.
- (2) This section does not apply in relation to any such service done by a debt collector before the expiration of 3 months after the coming into operation of this Act.

14. Offence of furnishing incorrect information in applications etc.

- (1) A person who in any application or other document or statement made under or for the purposes of this Act, knowingly makes any statement that is not correct or furnishes any particulars that are not correct or knowingly omits to furnish any particulars that are required by this Act to be furnished, is guilty of an offence against this Act.

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

- (2) Where the fees, charges, commission, reward or other remuneration that a licensee is entitled to receive for or in respect of any service done by him are agreed upon between the licensee and the person on whose behalf the service is done, any licensee who for or in respect of that service, demands, receives or retains from any moneys received by him for and on behalf of any person, an amount by way of fees, charges, commission, reward or other remuneration that is in excess of or not included in the fees, charges, commission, reward or other remuneration as the case may be, so agreed upon, is guilty of an offence against this Act.

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

- (3) Upon conviction for an offence against subsection (2), the Court convicting the licensee shall order him to refund any fees, charges, commission, reward or other remuneration received or retained by him, that are in excess of or not included in the fees,

charges, commission, reward or other remuneration so agreed upon.

[Section 14 amended: No. 113 of 1965 s. 8; No. 25 of 2019 s. 22.]

15. Duty of debt collectors in respect of trust money

- (1) Where a debt collector in respect of any service or transaction in the course of his business as such receives or collects an amount of trust money, for or on behalf of any person —
 - (a) he shall, before the expiration of the day next following the day of the receipt or collection of the amount being a day on which the banks in the State are open for business —
 - (i) record the amount, or cause the amount to be recorded in his record of accounts so as to show particulars of the receipt or collection separately from records of money received, collected, or held on his own account or for or on behalf of any other person; and
 - (ii) pay the whole of the amount, or cause the whole of the amount to be paid into a trust account;and
 - (b) shall not withdraw, or permit the withdrawal of the whole or any part of the amount except in payment of —
 - (i) the expenses, commission, fees and other charges of or incidental to the service or transaction; and
 - (ii) any moneys owing to the debt collector by the person on whose behalf the service or transaction was carried out to which the debt collector is lawfully entitled.
- (2) Every debt collector shall within 14 days of demand in writing made by the person on whose behalf the service or transaction was carried out, and in any event unless the person otherwise agrees in writing, within 45 days of receipt of the trust money in

respect of the service or transaction, pay the balance of that money, if any, to the person on whose behalf the service or transaction was carried out or as he may direct in writing.

- (3) A debt collector shall not draw against or cause any payment to be made from a trust account unless the drawing or payment is made by or on his cheque, and where the cheque is in respect of a payment referred to in subsection (2), that cheque requires payment to be made to or to the order of the person to whom the sum for which that cheque is drawn is payable under or in pursuance of that subsection, is crossed and bears across its face the words “not negotiable”.
- (4) A debt collector, shall within 14 days after —
- (a) any trust account is opened by him notify in writing the Commissioner of the name of the trust account and the name and address of the bank where the account is kept; and
 - (b) any change of the name of that trust account or in the bank where the trust account is kept, so notify the Commissioner of the new name of the trust account and the name and address of that bank.
- (5) A debt collector who neglects or fails to comply with this section commits an offence against this Act.
Penalty for this subsection: a fine of \$25 000.
- (6) Money paid into a trust account in accordance with this section is not —
- (a) available for payment of the debts of a debt collector or to any other creditor of the debt collector; or
 - (b) liable to be attached or taken into execution under the order or process of any court whatsoever at the instance of any other creditor.

s. 16

- (7) Nothing in this section takes away or affects any lawful claim or lien that any licensee may have against or upon any money standing to the credit of a trust account.

[Section 15 amended: No. 55 of 2004 s. 227; No. 25 of 2019 s. 26.]

16. Duty of bank Manager

- (1) The Manager or other principal officer of a bank with which a licensee has deposited any money whether in his own account or in any trust account, shall disclose each such account to any person authorised in writing by the Minister to examine the account, upon demand in writing delivered to him personally by the person so authorised and to permit that person to inspect and make and take with him a copy of or extract from each account and of or from any book, account, document or writing in the possession of the Manager or principal officer that relates to any of those accounts.

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

- (2) For the purposes of this section the expression *licensee* includes a person whose licence has expired or has been cancelled, suspended or surrendered.

[Section 16 amended: No. 25 of 2019 s. 25.]

17. Duty of debt collector as to accounts

- (1) A debt collector —
- (a) shall keep or cause to be kept full and accurate records of accounts —
 - (i) of particulars of all trust money; and
 - (ii) of particulars of withdrawals and payments of trust money made by him or anyone employed by him;
- and

- (b) shall keep the accounts mentioned in paragraph (a) in such manner that they can be conveniently and properly audited; and
- (c) shall correctly balance those accounts at the end of each month.

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

- (2) Every entry in the records of accounts deferred to in subsection (1) kept at any place of business of the licensee shall be deemed, unless the contrary is proved, to have been made by or with the authority of the debt collector.

[(3) deleted]

[Section 17 amended: No. 25 of 2019 s. 23.]

18. Inspection of records

- (1) All books and records of accounts or other written records that are required to be kept under this Act by a licensee, shall at all reasonable times be open to inspection by any person duly authorised in writing in that behalf by the Minister either generally or in any particular case.
- (2) Upon the production of his written authority a person authorised as provided in subsection (1), may require any licensee or in his absence any employee or agent of the licensee for the time being having the apparent control or charge of the office or place of business of the licensed —
 - (a) to produce for inspection —
 - (i) all books, papers, accounts or other documents relating to the trust account of the licensee; and
 - (ii) all records of accounts required to be kept by the licensee in accordance with section 17; and
 - (iii) all contracts; agreements or other documents relating to any transaction by or with the licensee in connection with his business as a debt

collector, in the possession, custody or control of the licensee;

and

- (b) to furnish all authorities and orders to bankers as may be reasonably required of him; and
 - (c) to answer any questions or supply any information with respect to any of those books, papers, accounts, written records, contracts, agreements or other documents or any entry in any of them.
- (3) Any person authorised as referred to in subsection (2), may make notes, copies or extracts of or from any of those books, papers, accounts, written records, contracts, agreements or other documents so referred to.
- (4) A person who —
- (a) wilfully delays or obstructs any person so authorised in the exercise of his powers or functions under this section; or
 - (b) on demand refuses or fails to produce any books, papers, accounts, written records, contracts, agreements or other documents required for inspection under this section in his possession, custody or control; or
 - (c) on demand refuses or fails to furnish any authorities and orders to bankers as may be reasonably required of him under this section; or
 - (d) on demand refuses or fails without lawful excuse to answer truthfully any questions relating to any books, papers, accounts, written records, contracts, agreements or other documents required for inspection under this section,

is guilty of an offence against this Act.

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

- (5) A person is not required under this section to answer any question or give any information that tends to incriminate him.

[Section 18 amended: No. 25 of 2019 s. 25.]

19. Minister may appoint auditor to audit trust accounts

- (1) The Minister may, in any case where he is of opinion that for the protection of the public, or the creditor of a licensee, it is desirable so to do, by notice in writing appoint an auditor, at the expense of the licensee, to arrange for the audit of the trust account of the licensee in respect of the period specified in the notice and to prepare and deliver to the Minister a report on the audit of the trust account.

- (2) The auditor so appointed has, in respect of the trust account, the same powers as the powers conferred upon the Auditor General by the *Auditor General Act 2006*.

[Section 19 amended: No. 98 of 1985 s. 3; No. 77 of 2006 Sch. 1 cl. 44.]

20. Fidelity bond

- (1) Where the Commissioner grants an application for, or renewal of, a licence, the Commissioner shall not issue the licence or renewal unless the fidelity bond or approved security referred to in subsection (2) has been lodged with him and is in force.
- (2) The fidelity bond shall be a bond in the form prescribed in the sum —
- (a) in the case of a corporation whether in partnership or otherwise, of \$10 000, or such greater sum as may be prescribed;
 - (b) in the case of a natural person who proposes to act as or carry on the business of a debt collector on his own account or in partnership with another natural person or natural persons, of \$6 000, or such greater sum as may be prescribed,

from some insurance company approved by the Minister and the security referred to in subsection (1) shall be to the same amount as would be required in the case of a fidelity bond and in a form approved by the Minister, and the fidelity bond and security shall be conditioned for duly accounting to the persons entitled thereto for any trust money.

[Section 20 amended: No. 113 of 1965 s. 8; No. 55 of 2004 s. 228.]

21. Termination of fidelity bond

- (1A) A fidelity bond given pursuant to this Act may be terminated by the insurance company that executed it by notice in writing served upon the licensee to whom the bond relates, the Commissioner of Police and the Commissioner.
- (1B) The notice shall specify the date, being a date not earlier than 30 days after the date of the service of the notice, upon which the bond is to terminate.
- (1C) The obligation of the insurance company that executed the bond shall as from that date so specified be determined but notwithstanding such determination the insurance company shall continue to be liable —
 - (a) in respect of all penalties, damages and costs adjudged against the licensee to whom the bond relates in respect of any act, done or omitted before the date of the determination of the bond; and
 - (b) for the due accounting after the specified date by the licensee to the persons entitled thereto, of all trust money received by the licensee before the specified date.
- (2) When a fidelity bond given in respect of a licensee is so terminated during the currency of the licence held by the licensee, then, as from the date the bond is terminated, and until a further bond has been duly lodged with the Commissioner and is in force, the licence held by the licensee is suspended and the

debt collector to whom the licence was issued shall be deemed not to be a licensee.

- (3) Any person may, with the written approval of the Minister, sue upon any fidelity bond or approved security lodged pursuant to this Act for indemnity in respect of any loss covered, by the bond or approved security.
- (4) Any action taken pursuant to subsection (3) shall be taken within 2 years after the date upon which the cause of the action arose.

[Section 21 amended: No. 55 of 2004 s. 229; No. 19 of 2010 s. 51.]

[22. Deleted: No. 25 of 2019 s. 24.]

23. Offence by corporation

Where an offence against this Act is committed by a corporation any person who at the time of the commission of the offence was a director or manager of the corporation is liable to the penalty or punishment provided by this Act for the offence, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

24. Evidentiary provision

In any proceedings for an offence against this Act a certificate purporting to be signed by the Minister and stating that any person described in the certificate was not at the date specified in the certificate licensed under this Act, is evidence of the matter stated in the certificate.

25. Saving of remedies

No proceeding for an offence against this Act or conviction therefor affects any civil right or remedy to which any person aggrieved by the offence may be entitled.

26. Regulations

- (1) The Governor may make any regulations necessary or convenient for carrying this Act into effect and in particular may make regulations for all or any of the following purposes —
- (a) the issue of licences and the fees to be paid for licences; and
 - (b) the transfer and surrendering of licences; and
 - (c) the form, manner and place of registration of licences, renewals, cancellations and other matters requiring registration under this Act, where not specially provided for in this Act; and
 - (da) maintaining the accuracy of the register, including the provision of information to the Commissioner to assist in maintaining the accuracy of the register; and
 - (d) prescribing the charges that a debt collector is entitled to charge, recover or receive from any debtor of a creditor for or in connection with the collection of a debt from the debtor on behalf of the creditor where the debt is paid by instalments and prescribing that the maximum amount thereof shall not exceed 2½% of the amount of the debt and providing for a minimum charge; and
 - (e) providing that any auditor or authorised person auditing or examining any documents, books, accounts, or records of a licensee shall be subject to an obligation not to divulge, otherwise than prescribed, any matter of which he shall be informed in the course of any such audit or inspection; and
 - (f) exempting any person, body or authority from the application of this Act in accordance with section 4(h) and exempting wholly or to the extent prescribed any other person, body or authority or class of persons, bodies or authorities from the operation of this Act and specifying what provisions, if any, of this Act and the regulations are, with such modifications as are necessary or seem desirable and are specified in the regulations, to

- apply to the person, body or authority or any class thereof so exempted; and
- (g) regulating and prohibiting the method and manner in which a debt collector may make known the place where, and the fact that he is a debt collector; and
 - (h) imposing penalties not exceeding \$5 000 for breach of any regulation; and
 - (i) prescribing all matters and things required or permitted by this Act to be prescribed.
- (2) The *Interpretation Act 1984* section 45(1) and (2) applies in respect of fees prescribed under this Act despite sections 3(3) and 45(3) of that Act.

[Section 26 amended: No. 113 of 1965 s. 8; No. 44 of 2016 s. 14; No. 25 of 2019 s. 26.]



Notes

This is a compilation of the *Debt Collectors Licensing Act 1964* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

| Short title | Number and year | Assent | Commencement |
|---|--|-------------|---|
| <i>Debt Collectors Licensing Act 1964</i> | 108 of 1964 (13 Eliz. No. 108) | 23 Dec 1964 | 1 May 1965 (see s. 2 and <i>Gazette</i> 15 Apr 1965 p. 1041) |
| <i>Decimal Currency Act 1965</i> | 113 of 1965 | 21 Dec 1965 | Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2)) |
| <i>Debt Collectors Licensing Act Amendment Act 1966</i> | 21 of 1966 | 17 Oct 1966 | 17 Oct 1966 |
| Reprint of the <i>Debt Collectors Licensing Act 1964</i> approved 2 Feb 1972 (includes amendments listed above) | | | |
| <i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i> | 98 of 1985 | 4 Dec 1985 | 1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255) |
| <i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999 s. 73</i> | 26 of 1999 | 29 Jun 1999 | 1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905) |
| Reprint 2: The <i>Debt Collectors Licensing Act 1964</i> as at 7 Mar 2003 (includes amendments listed above) | | | |
| <i>Sentencing Legislation Amendment and Repeal Act 2003 s. 55</i> | 50 of 2003 | 9 Jul 2003 | 15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445) |
| <i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 28</i> | 65 of 2003 | 4 Dec 2003 | 1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722) |
| <i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i> ¹ | 59 of 2004 (as amended by No. 2 of 2008 s. 77(13)) | 23 Nov 2004 | 1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128) |

| Short title | Number and year | Assent | Commencement |
|---|-----------------|-------------|--|
| <i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 35</i> ^{2,3} | 55 of 2004 | 24 Nov 2004 | 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130) |
| Reprint 3: The Debt Collectors Licensing Act 1964 as at 26 May 2006 (includes amendments listed above) | | | |
| <i>Financial Legislation Amendment and Repeal Act 2006 Sch. 1 cl. 44</i> | 77 of 2006 | 21 Dec 2006 | 1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137) |
| <i>Legal Profession Act 2008 s. 658</i> | 21 of 2008 | 27 May 2008 | 1 Mar 2009 (see s. 2(b) and <i>Gazette</i> 27 Feb 2009 p. 511) |
| <i>Standardisation of Formatting Act 2010 s. 51</i> | 19 of 2010 | 28 Jun 2010 | 11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341) |
| <i>Acts Amendment (Fair Trading) Act 2010 s. 181</i> | 58 of 2010 | 8 Dec 2010 | 1 Jan 2011 (see s. 2(c) and <i>Gazette</i> 24 Dec 2010 p. 6805) |
| Reprint 4: The Debt Collectors Licensing Act 1964 as at 23 Sep 2011 (includes amendments listed above) | | | |
| <i>Licensing Provisions Amendment Act 2016 Pt. 3</i> | 44 of 2016 | 1 Dec 2016 | 1 Jul 2017 (see s. 2(b) and <i>Gazette</i> 27 Jun 2017 p. 3407) |
| <i>Consumer Protection Legislation Amendment Act 2019 Pt. 4</i> | 25 of 2019 | 24 Oct 2019 | 1 Jan 2020 (see s. 2(b) and <i>Gazette</i> 24 Dec 2019 p. 4415) |

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

| Short title | Number and year | Assent | Commencement |
|---|-----------------|-------------|--------------------------------|
| <i>Business Licensing Amendment Act 1995 Pt. 3</i> ⁴ | 56 of 1995 | 20 Dec 1995 | To be proclaimed (see s. 2(2)) |

Other notes

- ¹ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 13 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

² The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28, 42 and 46 deal with certain transitional issues some of which may be relevant for this Act.

³ The *State Administrative Tribunal Regulations 2004* r. 46 reads as follows:

46. Debt Collectors Licensing Act 1964

(1) In this regulation —

commencement day means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Part 2 Division 35 comes into operation;

Commissioner has the meaning given to that term in the *Consumer Affairs Act 1971* section 4(1);

DCL Act means the *Debt Collectors Licensing Act 1964*.

(2) If immediately before the commencement day, a Clerk of a Local Court possesses —

(a) a register kept under the DCL Act section 12;

(b) a notice given to the Clerk under the DCL Act section 15(4); or

(c) a fidelity bond or approved security lodged under the DCL Act section 20(1),

as soon as possible after the commencement day, the Clerk is to send those records or documents to the Commissioner.

⁴ The insertion of s. 12A by the *Business Licensing Amendment Act 1995* s. 9 would conflict with an amendment in the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* s. 226.

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

| Defined term | Provision(s) |
|--|---------------------|
| bank..... | 3 |
| Commissioner | 3 |
| debt collector..... | 3 |
| licence | 3 |
| licensee | 3, 16(2) |
| money | 3 |
| money received for or on behalf of any person..... | 3 |
| to pay into a trust account | 3 |
| trust account..... | 3 |
| trust money | 3 |