

BUSINESS FRANCHISE (TOBACCO).

No. 32 of 1980.

**AN ACT to amend the Business Franchise (Tobacco)
Act 1975.**

[Assented to 28 October 1980.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Business Franchise (Tobacco) Amendment Act 1980*. Short title and citation.

(2) In this Act the Business Franchise (Tobacco) Act 1975 is referred to as the principal Act. Act No. 84 of 1975.

(3) The principal Act as amended by this Act may be cited as the Business Franchise (Tobacco) Act 1975-1980.

Commence-
ment.

2. This Act shall come into operation on the twenty-eighth day after the day on which it is assented to by the Governor.

Section 3
amended.

3. Section 3 of the principal Act is amended in subsection (2) by deleting "(Stamp Duties)".

Section 6
amended.

4. Section 6 of the principal Act is amended—

(a) by inserting after subsection (1) the following—

“ Penalty: One thousand dollars. ”;

(b) in subsection (2), by inserting after “1976” the following—

“ and before the first day of July, 1981 ”; and

(c) by inserting after subsection (2) and the penalty provision the following—

“ (3) A person shall not on or after the first day of July, 1981 in the course of carrying on tobacco retailing purchase tobacco other than from the holder of a wholesale tobacco merchant’s licence under this Act unless he is the holder of a retail tobacconist’s licence under this Act.

Penalty: One thousand dollars. ” .

Section 7
amended.

5. Section 7 of the principal Act is amended—

(a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) An application for a wholesale tobacco merchant’s licence or a retail tobacconist’s licence under this Act shall be made to the Commissioner in a form approved by him.

(2) Upon receiving an application under and in accordance with subsection (1), the Commissioner may, subject to

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this Act, issue a licence to the applicant. ”; and

- (b) in subsection (5), by deleting “and on payment of the prescribed fee” and “and the prescribed fee”.

6. Section 8 of the principal Act is amended—

Section 8 amended.

- (a) in subsection (1), by inserting after “1976” the following—

“ and before the first day of July, 1981 ”; and

- (b) by inserting after subsection (1) and the penalty provision the following—

“ (1a) On or after the first day of July, 1981 a person shall not sell tobacco in the course of intrastate trade unless—

(a) he is the holder of a licence under this Act; or

(b) the sale is made in the course of tobacco retailing and is a sale of tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant’s licence under this Act.

Penalty: One thousand dollars. ” .

7. Section 10 of the principal Act is amended in subsection (1)—

Section 10 amended.

- (a) by inserting after “1977” in subparagraph (ii) of paragraph (b) the following—

“ and ending on or before the thirtieth day of June, 1981 ”;

- (b) by deleting the full stop at the end of subparagraph (ii) of paragraph (b) and substituting the following—

“ ; and ” ; and

(c) by inserting after subparagraph (ii) of paragraph (b) the following subparagraph—

“ (iii) which is in force for any period after the thirtieth day of June, 1981 a fee of an amount equal to ten per centum of the value of tobacco sold by the applicant in the course of tobacco retailing in the year ending on the thirty-first day of March last past (other than tobacco purchased in the course of intrastate trade from the holder of a wholesale tobacco merchant’s licence under this Act). ” .

Section 13 amended.

8. Section 13 of the principal Act is amended—

(a) in subsection (1), by deleting “accompanied by the prescribed fee”; and

(b) by deleting subsection (2) and substituting the following subsection—

“ (2) On receipt of the application and upon production of the licence, the Commissioner may endorse the transfer on the licence and the licence shall thereupon be deemed to be transferred . ” .

Section 13A inserted.

9. After section 13 of the principal Act, the following section is inserted—

Appeal against refusal of licence or transfer of licence.

“ 13A. (1) A person who is dissatisfied with a decision made by the Commissioner in the exercise of a discretion conferred on him by section 7 (2) or section 13 (2) may, within forty-two days after being informed of the decision or within such further time as the Treasurer may allow, post to or lodge with the Treasurer an appeal in writing stating fully and in detail the grounds on which he relies.

(2) The Treasurer shall with all reasonable dispatch consider an appeal posted to or lodged with him under subsection (1) and may either disallow the appeal or, for reasonable cause shown by the appellant, allow the appeal.

(3) The Treasurer shall give to an appellant under this section notice in writing of his decision on that appeal and that decision shall be final. " .
