

REAL ESTATE AND BUSINESS AGENTS.

No. 74 of 1980.

**AN ACT to amend the Real Estate and Business
Agents Act 1978-1979.**

[Assented to 5 December 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 *Real Estate and Business Agents Amendment Act 1980*.

Short title
and
citation.

(2) In this Act, the Real Estate and Business Agents Act 1978-1979 is referred to as the principal Act.

Act No. 72 of
1978 as
amended by
No. 74 of 1979.

(3) The principal Act as amended by this Act may be referred to as the Real Estate and Business Agents Act 1978-1980.

Commence-
ment.

2. (1) This Act, other than section 13, shall come into operation on the twenty-eighth day after the day on which it is assented to by the Governor.

(2) Section 13 of this Act shall come into operation on 1 December 1980.

Section 4
amended.

3. Section 4 of the principal Act is amended in subsection (1) by inserting after paragraph (b) of the definition of "real estate transaction" the following paragraph—

“ (ba) includes the collection of rents or other payments for use or occupation; and ” .

Section 8
amended.

4. Section 8 of the principal Act is amended in paragraph (d) of subsection (4) by deleting "three consecutive meetings of the Board" and substituting the following—

“ meetings of the Board for a period exceeding 8 weeks ” .

Section 30
amended.

5. Section 30 of the principal Act is amended by inserting after subsection (2) the following subsection—

“ (2a) A licensee who does not hold a current triennial certificate in respect of his licence shall pay to the Board the prescribed annual fee and in default of such payment in accordance with the regulations the licence shall expire. ” .

Section 66
amended.

6. Section 66 of the principal Act is amended in paragraph (a) of subsection (2) by inserting after "person" the following—

“ , other than a licensee or a sales representative, ” .

7. Section 69 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

Section 69
amended.

“ (1) When an agent receives money for or on behalf of any other person, he shall—

(a) forthwith give to the person paying the money a receipt for it which shall comply with this section and specify briefly the subject matter or purpose for which the money was received; and

(b) retain a legible carbon duplicate of the receipt. ” .

8. Section 79 of the principal Act is amended—

Section 79
amended.

(a) by deleting “and” after paragraph (d); and

(b) by inserting after paragraph (d) the following paragraph—

“ (da) whether such agent has complied with the requirements of section 127; and ” .

9. Section 89 of the principal Act is repealed.

Section 89
repealed.

10. Section 102 of the principal Act is amended by inserting after subsection (5) the following subsection—

Section 102
amended.

“ (6) Notwithstanding the expiry of the certificate of registration of a sales representative, an application under subsection (1) in respect of the conduct of a sales representative may be made to the Board not later than 12 months after the day on which his certificate of registration expired and, upon consideration of such an application, the Board may hold an inquiry under this section into the conduct of that sales representative and exercise the powers conferred by section 103, other than the powers of suspension or cancellation of registration. ” .

Section 114
amended.

11. Section 114 of the principal Act is amended by deleting "subsection (1) of" .

Section 136A
inserted.

12. After section 136 of the principal Act, the following section is inserted—

Refund
of fees.

" 136A. The Board may in special circumstances refund the whole or part of any fee paid for a licence or triennial certificate or any sum paid to the Board by way of contribution or levy to the Fund. " .

Schedule
amended.

13. The Schedule to the principal Act is amended—

(a) in clause 1, by deleting "exceeding" in paragraph (d) and substituting the following—

" exceeding ";

(b) in the heading before clause 6, by inserting after "*Death*" the following—

" *or Withdrawal* ";

(c) in clause 6—

(i) by deleting subclause (1) and substituting the following—

" (1) Where a firm or body corporate is licensed and the holder of a current triennial certificate but subsequently by reason of a death or withdrawal it ceases to be qualified in terms of paragraphs (c) and (d) of section 28 or paragraphs (c) and (d) of section 29, the firm or body corporate shall immediately give to the Registrar written notice to that effect, and the firm or body corporate may, on such terms as the Board may notify to the firm or body corporate, carry

on the business for a period of three months after the death or withdrawal or until other arrangements are made to comply with the Act, whichever is the sooner. ”; and

(ii) by inserting after “death” in subclause (2) the following—

“ or withdrawal ”;

(d) in clause 8—

(i) by deleting in paragraph (a) of subclause (3) “a date two years after the appointed day” and substituting the following—

“ 1 April 1982 ” ; and

(ii) by deleting in paragraph (b) of subclause (3) “a date three years after the appointed day” and substituting the following—

“ 1 April 1983 ”;

(e) in clause 9, by deleting “a date three years after the appointed day” and substituting the following—

“ 1 April 1983 ”;

(f) in clause 10, by deleting “a date three years after the appointed day” and substituting the following—

“ 1 April 1983 ”;

(g) in clause 16, by deleting in subclause (1) “A person” and substituting the following—

“ Notwithstanding subsection (2) of section 37, a person ” .

(h) after clause 23, by adding the following—

*“Holders of Business Agents’
Permits may apply for Licences.*

24. (1) Where immediately before 1 December 1980 a person or firm is carrying on the business of a business

agent pursuant to a Business Agent's Permit granted under clause 21 of this Schedule and the Board is of the opinion first that during the period from the date of the grant of the permit to 1 December 1980 that person or firm has performed the function of a business agent in a satisfactory manner and secondly that the person or firm has sufficient material and financial resources available to him or it to enable that person or firm to comply with the requirements of this Act, the Board shall—

- (a) upon the application of such a person or firm and upon payment of the prescribed fee, grant to that person or firm a licence under this Act as a business agent as if the applicant were qualified under this Act to be granted such a licence; and
- (b) in the case of an application by a firm and upon payment of the prescribed fee, grant to the person in *bona fide* control of the business agent's business (if he is one of the persons constituting the firm) a licence under this Act as a business agent as if the applicant were qualified under this Act to be granted such a licence; and
- (c) in the case of an application by a body corporate and upon payment of the prescribed fee, grant to the person in *bona fide* control of the business agent's business (if he is a director of the body corporate) a licence under this Act as a business agent as if the applicant were qualified under this Act to be granted such a licence.

(2) An application under subclause (1) of this clause for a licence as a business agent shall be made in accordance with section 24 but subsection (2) of that section shall not apply.

(3) Section 25 shall not apply in respect of the grant of a licence under this clause.

(4) Upon the grant of a licence as a business agent under this clause—

(a) the Board shall grant the licensee a triennial certificate under and subject to section 31; and

(b) subject to subclause (5) of this clause, this Act shall apply to and in relation to the licensee in all respects as though his licence and triennial certificate had been granted under Part III.

(5) Until 1 April 1983, the provisions of paragraph (c) of section 28, paragraph (c) of section 29, and sections 37, 38 and 41 do not apply to or in relation to licensees granted licences under this clause. " .
