

Approved for Reprint 14th July, 1977.

WESTERN AUSTRALIA.

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# PAINTERS' REGISTRATION.

10° Elizabeth II, No. LXI.

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**No. 61 of 1961.<sup>1</sup>**

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(Affected by Act No. 113 of 1965).

[As amended by Acts:

No. 42 of 1962,<sup>2</sup> assented to 1st November, 1962;

No. 35 of 1963, assented to 19th November, 1963;

No. 75 of 1965, assented to 25th November, 1965;

No. 6 of 1966, assented to 16th September, 1966;

No. 59 of 1970 assented to 5th November, 1970;

No. 68 of 1974,<sup>3</sup> assented to 9th December, 1974;

No. 78 of 1976, assented to 18th October, 1976;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

**AN ACT to provide for the registration of Painters  
and for other purposes.**

[Assented to 28th November, 1961.]

**BE** it enacted—

1. This Act may be cited as the *Painters' Registration Act, 1961-1976*, and shall come into operation on a day to be fixed by proclamation.<sup>1</sup>

Short title  
and citation.  
Amended by  
No. 78 of  
1976, s. 1.

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<sup>1</sup> Came into operation on 1/1/63; see G.G. 28/12/62, p. 4159.

<sup>2</sup> Came into operation on 1/1/63; see s. 2 of Act No. 42 of 1962.

<sup>3</sup> Sections 1-3 and 5-10 came into operation on 31/7/75; see G.G. 31/1/75, p. 266. Section 4 came into operation on 1/1/76; see G.G. 24/12/75, p. 4637.

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Interpreta-  
tion.  
Amended by  
No. 75 of  
1965, s. 2;  
No. 78 of  
1976, s. 2.

2. In this Act unless inconsistent with the context or subject matter—

“the Board” means the Painters’ Registration Board constituted under this Act;

“Association” means the Master Painters, Decorators and Signwriters’ Association of Western Australia (Industrial Union of Employers), Perth;

“painting” means the application by any method recognised or adopted by the painting trade of paint, varnish or stain or any substance or preparation of a composition similar thereto or recognised by the said trade as a substitute therefor to the whole or any part of a building or other structure of a kind recognised by law as a fixture (but not being a floor, path or drive-way composed of concrete or other similar substance) and—

- (a) includes such processes or treatments as are commonly known to the said trade as graining, kalsomining, marbling, distempering, gilding, colour-washing, staining, varnishing and plastic relieving;
- (b) includes the hanging of wall-paper and any substitute therefor;
- (c) does not include painting which consists of the application of a protective coating to part of a building or other structure (not being a dwelling-house or like building or structure) which has first been treated by a process known as abrasive blasting or mechanical cleaning under a contract whereby the same contractor undertook both that process and the application of the protective coating;

(d) does not include painting work in the nature of signwriting;

“painter” means any person, partnership or company or other body corporate who or which carries out painting;

“registered painter” means a painter registered under this Act;

“Minister” means the Minister for the time being charged with the administration of this Act;

“Registrar” means the person who for the time being holds the office of Registrar under this Act;

“Register” means the Register of Painters kept pursuant to this Act;

“Union” means The Operative Painters' and Decorators' Union of Australia, West Australian Branch, Union of Workers.

3. This Act applies only within the metropolitan area as defined in the Second Schedule of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1960.<sup>1</sup>

Areas under Act.

4. (1) No painter shall carry out painting, otherwise than as a *bona fide* employee, where the charge, fee or reward paid or payable in respect of the undertaking exceeds one hundred dollars unless he is a registered painter.

Prohibition against un-registered painters carrying on business. Amended by No. 75 of 1965, s. 3; No. 113 of 1965, s. 8; No. 59 of 1970, s. 2.

Penalty: For a first offence, not exceeding one hundred dollars; for a second or subsequent offence, not less than one hundred dollars, irreducible in mitigation notwithstanding any other Act, and not more than two hundred dollars; and in either case

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<sup>1</sup> See Volume 15 of Reprinted Acts.

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a further penalty of eight dollars a day for every day or part of a day during which the offence continues to be committed after any conviction.

Charges of unregistered painter in excess of \$100 not recoverable.

(1a) Where painting is carried out by a person who is not a registered painter, no part in excess of one hundred dollars of the charge, fee or reward in respect of the undertaking shall be recoverable by action or otherwise.

Penalty splitting contracts.

(2) Where—

- (a) a painter enters into a number of distinct contracts (whether in writing or orally) to carry out painting in respect of the same building or other structure or in respect of the same part or a number of different parts of the same building or other structure; and
- (b) the aggregate of the painting contracted to be done under such distinct contracts substantially is a single undertaking in respect of such building or structure or any part thereof; and
- (c) the aggregate of the charges, fees and rewards payable under such distinct contracts exceeds one hundred dollars,

the painting contracted to be done under each distinct contract shall be deemed to be an undertaking in respect of which there is payable a charge, fee or reward exceeding one hundred dollars notwithstanding that the actual charge, fee or reward paid or payable thereunder is less than one hundred dollars.

Calculation of charges where materials not supplied by painter.

(3) Where materials used in painting are provided or supplied at the cost of a person other than the painter, the charge, fee or reward in respect of the painting shall be deemed, for the purpose of this section, to be increased by the value of those materials.

4A. Any person not registered under this Act who—

Unregistered persons not to assume title of registered painter. Added by No. 6 of 1966, s. 2.

- (a) assumes, takes or uses, either alone or in combination with any other word, letter or device, the name or title of "registered painter" or any name, title or description calculated to lead others to believe he is registered under this Act; or
- (b) by words or conduct holds himself out as being so registered,

commits an offence.

5. For the purposes of this Act there shall be a Board (to be called the Painters' Registration Board) appointed by the Governor and constituted as provided in this Act.

Establishment of Painters' Registration Board.

6. The Board shall be a body corporate incorporated by this Act and shall have perpetual succession and a common seal and be capable of suing and being sued.

Board to be body corporate.

7. (1) The Board shall consist of three members appointed by the Governor, of whom one shall be—

Constitution of Board. Amended by No. 42 of 1962, s. 3.

- (a) the person who, for the time being, is the chairman of the Builders' Registration Board of Western Australia, and he shall be the chairman of the Board;
- (b) a person who is—
  - (i) a member of the Association; and
  - (ii) nominated for appointment as a member of the Board by the Association, in accordance with this section;
- (c) a person who is nominated for appointment as a member of the Board in accordance with this section, by the body known as

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The Confederation of Western Australian Industry (Incorporated) and who shall represent the body known as the Australian Paint Manufacturers Federation (W.A. Branch).

Minister may recommend in default of recommendation.

(2) If within fourteen days after being requested in writing by the Minister so to do The Confederation of Western Australian Industry (Incorporated) or the Association shall fail to submit to the Minister for transmission to the Governor the name of the person which it recommends for appointment as a member of the Board pursuant to the provisions of subsection (1) of this section the Governor may appoint to be a member of the Board pursuant to that subsection any person eligible to be so recommended whom the Minister shall select.

Removal of Board members.

(3) The Governor may at any time remove any member of the Board who is absent without the permission of the Board from four consecutive meetings of the Board or who becomes bankrupt or compounds with his creditors or who is convicted of any indictable offence or who is insane, and any member of the Board may at any time by resignation in writing addressed to the Minister resign from his membership of the Board.

Term of appointment of Board members.

(4) No person, other than the person who is appointed Chairman of the Board by this Act, shall be appointed a member of the Board for a period of more than three years but, subject to this Act, any person appointed a member of the Board may upon the expiration of any period for which he was appointed be re-appointed a member for a further period of not exceeding three years.

Casual vacancies.

(5) On the occurrence of any casual vacancy in the Board the Governor may appoint some other person (to be recommended where applicable by the same body who had previously recommended the member whose place he is taking) to fill such vacancy and the person so appointed shall be a member only for the remainder of the term for which the member whose place he is taking was serving at the time when such vacancy occurred.

8. The members of the Board shall be paid out of the funds of the Board such remuneration for their services as shall from time to time be prescribed.

Remuneration of Board members.

9. (1) The Board shall appoint a Registrar who shall also be secretary to the Board who shall be the Registrar for the time being of the Builders' Registration Board of Western Australia and may also appoint such other officers and servants as it considers necessary to enable it to carry out its duties or functions.

Appointment of Officers.

(2) The remuneration of the Registrar and the other officers and servants of the Board shall be paid out of the funds of the Board.

(3) The remuneration of the Registrar shall be approved by the Minister.

10. (1) The Board shall cause to be kept a Register of Painters and upon a painter becoming registered under this Act there shall be entered in the Register the name of such registered painter and such other particulars as may from time to time be prescribed or required by the Board.

Register of Painters.

(2) The Board shall in the month of July next following the expiration of a period of twelve months from the commencement of this Act and thereafter in the month of July next following a direction by the Minister so to do cause a copy of the Register complete and correct to the thirty-first day of December then last past to be published in the *Government Gazette*.

Register to be gazetted.

(3) In each month of July in which a copy of the Register is not required to be published pursuant to the provisions of subsection (2) of this section the Board shall publish in the *Government Gazette* a supplementary list wherein shall be indicated all alterations or additions to and removals from the Register during the twelve months ended on the thirty-first day of December then last past.

Supplementary Lists.

Published  
copies to be  
read  
together.

(4) Every supplementary list when published shall be deemed to be part of the last published copy of the Register and such published copy shall be read and construed subject to each supplementary list subsequently published.

Evidence.

(5) Each published copy of the Register and each supplementary list published as aforesaid shall be *prima facie* evidence of the facts therein contained and the absence of the name of any person from a published copy or a supplementary list shall be *prima facie* evidence that such person was not a registered painter at the date to which such published copy or supplementary list purports to be compiled.

Certificate.

(6) A certificate signed by the Registrar that any person is or is not or on any particular date was or was not a registered painter shall be *prima facie* evidence of the facts therein contained.

Application  
for regis-  
tration.  
Amended by  
No. 68 of  
1974, s. 3.

11. A painter desiring to be registered under this Act may make application therefor in the prescribed manner and shall pay the prescribed application fee.

Who may  
register.  
Repealed and  
re-enacted  
by No. 35 of  
1963, s. 2.  
Amended by  
No. 75 of  
1965, s. 4;  
No. 68 of  
1975, s. 4.

12. (1) A painter (not being a partnership, company or other body corporate) who applies to be registered under this Act is entitled to be so registered if and when he pays the prescribed fees for such registration and satisfies the Board that he has attained the age of twenty-one years and is of good character and that he—

- (a) has completed the prescribed course of training and has passed the prescribed examination as laid down by the Board for persons (other than apprentices) who have had five years' practical experience in the painting trade;
- (aa) has completed the prescribed course of training and has passed the prescribed examination as laid down under the



Industrial Arbitration Act, 1912, for apprentices to the painting trade and has passed the prescribed additional examination laid down by the Board for those persons;

- (b) was at the date of the commencement of this Act, and is at the time of the application engaged outside the metropolitan area referred to in section three of this Act in the occupation of a painter or as a supervisor of painting as the whole or a part of his means of livelihood; or
- (c) has in some place other than Western Australia attained a degree of proficiency as a painter which the Board considers is comparable with that ordinarily attained by persons who have completed the course of training, passed the examinations and worked as mentioned in paragraph (a) of this subsection.

(2) A painter (not being a partnership, company or other body corporate) who applies on or before the thirty-first day of December, one thousand nine hundred and sixty-three to be registered under this Act is entitled to be so registered if and when he pays the prescribed fees for such registration and satisfies the Board that he has attained the age of twenty-one years and is of good character and that he was at the date of the commencement of this Act engaged in the occupation of a painter as a supervisor of painting as the whole or a part of his means of livelihood.

13. (1) The course of training to be undertaken by and the examination of persons desiring to be registered under paragraph (a) of subsection (1) of section twelve of this Act and the additional examination of persons desiring to be registered under paragraph (aa) of subsection (1) of section

Examina-  
tions.  
Amended by  
No. 68 of  
1974, s. 5.

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twelve of this Act shall be prescribed by the Board, who shall conduct or supervise the conduct of such examinations at such times and places as the Board may appoint.

(2) All costs and expenses with or incidental to the conduct of such examinations shall be paid by the Board.

(3) There shall be paid to the Board by every candidate for examination such fee as the Board, with the approval of the Governor, prescribes.

When corporation may register.  
Amended by No. 59 of 1970, S. 3.

14. (1) A partnership, company or other body corporate which applies to be registered under this Act is entitled to be so registered if and when it pays the fees prescribed for such registration and satisfies the Board that there is already registered under this Act at least one partner of the partnership, or one director of the company, or one member of the board of management of the body corporate or a person employed in such a manner and with such duties and responsibilities by the partnership, company or body corporate to manage and supervise painting carried out by such partnership, company or body corporate as in the opinion of the Board will, in each particular case, ensure the proper management and supervision of painting so carried out.

(2) Notwithstanding anything to the contrary contained in this Act, the registration under this Act of a partnership, company or other body corporate pursuant to this section shall continue and have effect only while at least one partner of the partnership or at least one director of the company or at least one member of the board of management of the body corporate or a person employed as provided by subsection (1) of this section, by the partnership or company or body corporate to manage and supervise the painting undertaken by it, continues to be registered under this Act.

14A. Every registered painter shall affix to or erect on all works under his control, and keep so affixed while the painting is in progress, a sign of reasonable dimensions showing in easily legible letters and figures his name and registered number.

Sign to be displayed.  
Added by No. 35 of 1963, s.3.

14B. (1) Where any painting is carried out by a partnership, the partners therein shall cause—

Painting carried out by partnership, company, etc.  
Added by No. 59 of 1970, s. 4; Amended by No. 68 of 1974, s. 6.

(a) the painting to be managed and supervised by one of the partners who is registered under this Act or by an employee of the partners who is so registered, and shall cause the standards of workmanship and the materials employed in the painting to be those determined by the partner or the employee so registered; and

(b) the name and registered number of that partner or employee to appear—

(i) in any sign affixed or erected on the work pursuant to section fourteen A of this Act; and

(ii) in any advertisement published by or on behalf of the partnership in respect of the painting.

Penalty: Four hundred dollars.

(2) Where any painting is carried out by a company or other body corporate, the company or body corporate shall cause—

(a) the painting to be managed and supervised by a director of the company or member of the board of management of the body corporate, as the case may be, who is registered under this Act or by an employee who is so registered, and shall cause the standards of workmanship and the materials employed in the painting to be those determined by the director of the company or member of the board of management of the body corporate or the employee so registered; and

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- (b) the name and registered number of that person to appear—
- (i) in any sign affixed or erected on the work pursuant to section fourteen A of this Act; and
  - (ii) in any advertisement published by or on behalf of the company or body corporate in respect of the painting.

Penalty: Four hundred dollars.

(3) The penalties imposed by subsections (1) and (2) of this section are in addition to and not in derogation of any penalty, suspension or cancellation of registration imposed or liable to be imposed by any other provision of this Act.

Board to supply reasons for refusal to register.

15. A painter whose application for registration under this Act is refused may apply to the Board for its reasons in writing for such refusal and the Board shall forthwith furnish the same to such painter without charge.

Complaints. Amended by No. 59 of 1970 s. 5; No. 68 of 1974, s. 7.

16. (1) Where a complaint is made to the Board that—

- (a) the registration of a registered painter was obtained by fraud or misrepresentation; or
- (b) a registered painter has been guilty of negligence or incompetence in carrying out painting; or
- (c) a registered painter has been guilty of fraudulent conduct in the carrying out of painting; or
- (ca) a registered painter, being a partnership or company or other body corporate, has failed to comply with any provision of section fourteen B of this Act;
- (d) a registered painter, being a partnership, company or other body corporate, has ceased to have registered under this Act,

at least one partner of the partnership, or one director of the company, or one member of the board of management of the body corporate or a person employed by the partnership, company or body corporate whose duty or part of whose duty it is to manage or supervise painting carried out by such partnership, company or other body corporate—

the Board shall hold a full enquiry into such complaint.

(2) Where the Board finds the complaint proved Penalties. to its satisfaction it may—

- (a) cancel the registration under this Act of the registered painter against whom the complaint is laid; or
- (b) suspend the registration of such registered painter for such period and upon and subject to such conditions as it thinks fit.

(3) Where the complaint is made on either of the grounds mentioned in paragraphs (b) or (c) of subsection (1) of this section and the Board finds the same proved it may in addition to imposing any of the penalties mentioned in subsection (2) of this section by direction in writing order the registered painter against whom such complaint is made to rectify within such time as it shall fix and to its satisfaction any painting the subject of such complaint which it considers to be faulty or inferior, and if default shall be made in carrying out any such direction within the time so fixed the Board may procure such faulty or inferior painting to be so rectified and all costs, charges and expenses incurred by it in so doing shall be payable by the registered painter in default upon demand and in default of such payment the same shall be recoverable by the Board in such manner as it may think fit. Board may order rectifications of faulty painting.

Notice of  
complaint  
to be given.

(4) Before holding the enquiry mentioned in subsection (1) of this section the Board shall give to the registered painter against whom the complaint is laid notice in writing containing a copy of the complaint so laid and stating the date, time and place fixed for the holding of the enquiry.

Opportunity  
to answer  
complaint.

(5) At the enquiry the Board shall afford the registered painter against whom the complaint is laid a reasonable opportunity of giving either personally or in writing such explanation in respect of such complaint as he may desire to give.

(6) Where the registration under this Act of a partnership, company or body corporate has been cancelled or suspended by the Board after the holding of an inquiry into a matter or matters arising under paragraph (b) or (c) of subsection (1) of this section, the Board may, if in all the circumstances of the case it considers it proper so to do, without further inquiry, by order cancel or suspend the registration under this Act of the partner, director, member of the board of management or employee by whom the painting to which the inquiry related was, or was required by this Act to be, managed and supervised.

(7) Upon the making of an order of cancellation under subsection (6) of this section, the person named in the order shall cease to be registered under this Act and upon the making of an order of suspension under that subsection, the person named in the order shall cease to be registered under this Act for the period specified in the order.

(8) The Board shall not cancel or suspend the registration of a person under subsection (6) of this section unless—

- (a) it has sent to the partner, director, member of the board of management or employee a copy of the notice sent under subsection (4) of this section to the partnership, company or body corporate; and

- (b) it has afforded him an opportunity of giving an explanation personally at the inquiry or in writing.

16A. (1) Any member of the Board, or any person appointed by the Board for the purpose may, together with any person he thinks competent to assist in making any inspection or examination, enter any premises and therein inspect and examine any painting.

Inspection.  
Added by  
No. 68 of  
1974, s. 8.

(2) Every member of the Board, and every person appointed by the Board for the purposes of this section, shall be furnished with a certificate in the prescribed form evidencing his appointment and shall produce that certificate whenever required so to do by any person on the premises the subject of his inspection.

(3) Production of a certificate in the prescribed form is conclusive proof in any court of the appointment of the person to whom the certificate relates and of the authority of that person to exercise the powers conferred by this section.

(4) A person who wilfully obstructs a person exercising the powers conferred by this section commits an offence.

Penalty: Forty dollars.

17. (1) The Board may on its own motion cancel or suspend the registration of a registered painter for such period and upon and subject to such conditions as it thinks fit.

Cancellation and suspension of registration.  
Amended by  
No. 113 of  
1965, s. 8.

(2) The Board may at any time re-register any painter whose registration it has cancelled or annul any suspension of the registration imposed by it for such reason and upon and subject to such terms as it thinks fit.

(3) A registered painter whose registration has been cancelled or suspended may at any time after the expiration of three months from the date of such cancellation or suspension apply to the Board to re-register him or to annul such suspension.

(4) A registered painter whose registration has been cancelled or suspended shall within fourteen days after being notified of such cancellation or suspension surrender to the Board his current certificate of registration and if he shall fail so to do he shall be liable to a penalty not exceeding forty dollars.

Appeal from  
decision  
of Board.

18. Any person who feels aggrieved by any decision of the Board may within one month after such decision appeal therefrom in manner prescribed to a Local Court held nearest to the place where that person resides.

Signature  
of Chairman  
and  
Registrar.

19. In legal proceedings a signature which purports to be the signature of any person who is or has been the Chairman or a member of the Board or the Registrar and which is attached to a certificate of registration or other document issued under this Act shall in the absence of proof to the contrary be deemed to be the signature of the person whose signature it purports to be.

Proceedings  
under this  
Act.

20. Proceedings under this Act may be taken by the Registrar or by any other person authorised by the Board either generally or in any particular case.

Fees payable  
on registra-  
tion and  
annual fee.  
Amended by  
No. 68 of  
1974, s. 9.

21. (1) There shall be paid by or in respect of every registered painter such annual registration fee as is prescribed.

(2) Upon the acceptance of his application for registration a registered painter shall pay to the Board the annual registration fee prescribed under subsection (1) of this section.



(3) On the first day of February in each year during the continuance of his registration under this Act a registered painter shall pay to the Board the annual registration fee prescribed under subsection (1) of this section.

(4) The Board may suspend or cancel the registration of a registered painter who makes default in paying any fees payable by him under this section.

22. (1) All fees and penalties payable under this Act shall be paid to the Board and be recoverable by it by any such means as it may legally employ.

Funds of Board.

(2) The funds of the Board shall consist of—

- (a) all fees and penalties payable under this Act; and
- (b) all fees and penalties payable under any rules of the Board or prescribed by regulations under this Act; and
- (c) any other moneys which may come into the hands of the Board under or for the purposes of this Act.

(3) The funds of the Board may be applied by the Board—

- (a) in or towards payment of the remuneration of the members of the Board and all other expenses of or incidental to the carrying out of the provisions of this Act; and
- (b) for such other purposes as the Board with the approval of the Minister may from time to time determine.

23. (1) The Board shall as soon as practical after the thirty-first day of December in each year and not later than the last day of February in the following year prepare a financial statement compiled to the said thirty-first day of December

Financial statement audit and annual report.

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showing the assets and liabilities and the receipts and expenditure of the Board during the preceding period of twelve months. Such financial statement shall be audited by a qualified auditor appointed by the Board with the approval of the Minister.

(2) The Board shall on or before the thirty-first day of March in each year—

- (a) submit to the Minister a duly audited copy of the statement mentioned in subsection (1) of this section compiled to the thirty-first day of December in the previous year; and
- (b) present to the Minister a report of its proceedings up to the said thirty-first day of December.

Power to  
make rules.

24. The Board with the approval of the Governor may make rules for or in respect to—

- (1) the time for and the mode of nominating members of the Board;
- (2) the regulating of its meetings and proceedings;
- (3) the method of application for representation under this Act;
- (4) the issue, suspension and cancellation of certificates of registration;
- (5) the particulars to be entered in the Register;
- (6) the particulars required to be given in any notice given under this Act;
- (7) any forms to be used under this Act;

- (8) any matters authorised by this Act to be prescribed;
- (9) generally any matters or things necessary or convenient to be prescribed for the due and proper carrying out of the provisions of the Act.

25. Every registration granted under this Act shall be personal to the painter to whom it is granted and the benefit thereof shall not be transferred or assigned whether for consideration or gratuitously.

No traffick-  
ing in regis-  
trations.

26. Any person who contravenes any provision of this Act or any regulation made hereunder or fails to carry out any rule made by or any direction given by the Board shall be guilty of an offence against this Act and upon summary conviction shall be liable to a penalty not exceeding forty dollars or such other sum as is herein provided in respect of any particular breach of this Act.

Offences.  
Amended by  
No. 113 of  
1965, s. 8.

26A. (1) Where a company or other body corporate is convicted of an offence against this Act, every person who at the time of the commission of the offence was a director or member of the governing authority of the company or other body corporate or an officer concerned in the management thereof and who authorised or permitted the commission of the offence is guilty of the like offence.

Offences by  
Company or  
Body  
Corporate.  
Added by  
No. 65 of  
1974, s. 10.

(2) A person referred to in subsection (1) of this section may, on the request of the complainant, be convicted on the proceedings on which the company or other body corporate is convicted if the court is satisfied that the person had reasonable notice that the complainant intended to make that request.

Act not to  
affect Union  
coverage.

27. Nothing in this Act contained shall be construed to grant to the Union any greater coverage in respect of persons entitled to be members of the Union than that to which it would at any time be entitled had this Act not been passed.