



NORTHERN TERRITORY OF AUSTRALIA

No. 66 of 1985

AN ACT

To amend the *Land and Business Agents Act*

[Assented to 24 December 1985]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Land and Business Agents Amendment Act 1985*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Land and Business Agents Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 5(1) of the Principal Act is amended by inserting after the definition of "Chairman" the following:

"'Committee' means the Land and Business Agents Funds Control Committee established by section 95A(1);".

5. REGISTRAR, DEPUTY REGISTRARS AND INSPECTORS

Section 8 of the Principal Act is amended by omitting subsection (3) and substituting the following:

"(3) Subject to Division 2A of Part XII, the Registrar and Deputy Registrar are subject to the directions, if any, of the Board."

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6. REPEAL AND SUBSTITUTION

Section 25 of the Principal Act is repealed and the following substituted:

"25. LICENCE OF COMPANY OR FIRM

"A company or firm constituted by 2 or more persons is eligible for the grant of a licence where the Board is satisfied that -

- (a) in the case of a company -
 - (i) the company is, by its memorandum of association, authorized to carry on business as an agent; and
 - (ii) all of the directors of the company and all of the persons concerned in the management or control of the company are fit and proper persons;
- (b) each person in effective and substantial control of the business to be operated under the licence sought at an office of the company or firm is a licensed agent; and
- (c) in the case of a firm, all of the persons by whom the firm is constituted and all of the persons concerned in the management or control of the firm are fit and proper persons.

7. RULES OF CONDUCT

Section 65(1)(i) of the Principal Act is amended by omitting "property which he is not authorized to sell" and substituting ", or otherwise deal with, property which he is not authorized to so sell or deal with,".

8. GROUNDS FOR REVOCATION

Section 67 of the Principal Act is amended -

- (a) by omitting "Subject to this Part" and substituting "(1) Subject to this Part"; and
- (b) by omitting paragraphs (i) and (j) and substituting the following:
 - "(j) the licensed agent has ceased to carry on business in the Territory as a licensed agent or has failed to maintain an office in the Territory;

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- (k) the licensed agent does not meet the conditions of eligibility, specified in Division 2 of Part III, which relate to the licence of the licensed agent, other than such conditions which the Board has, under this Act, waived; or
- (m) any other reasonable ground which, in the opinion of the Board, is sufficient to warrant revocation of the licence of the agent."; and
- (c) by adding at the end the following:

"(2) For the purposes of this Part, the revocation by the Board of a licence is deemed to include a direction by the Board to the Registrar not to renew a licence."

9. NEW SECTION

The Principal Act is amended by inserting after section 68 the following:

"68A. BOARD MAY SUSPEND LICENCE PENDING INQUIRY

"(1) Subject to this section, where the Board is to hold an inquiry referred to in section 68(4), it may, as it thinks fit, suspend the licence of the licensed agent to which the inquiry relates until the conclusion of that inquiry.

"(2) Where, under subsection (1), the Board suspends the licence of a licensed agent, the Registrar shall accordingly, by notice, inform the licensed agent and where he is -

- (a) an employee or director of a company which is a licensed agent - the company; or
- (b) an employee of a firm which is a licensed agent or a person by whom such a firm is constituted - the firm.

"(3) A suspension under subsection (1) does not take effect until the day immediately after the date on which the notice, under subsection (2), is given to the licensed agents."

10. POWERS OF BOARD AFTER INQUIRY

Section 69 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) The Board shall, for the purposes of taking action of a kind specified in subsection (1)(a), (b), (c) or (d), take into account a period of suspension, if any, imposed under section 68A(1) on the licensed agent in respect of whom it proposes to take that action."

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11. ACCOUNT

Section 90 of the Principal Act is amended by omitting subsection (3).

12. APPLICATION OF MONEYS

Section 92 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following:

"(1) Subject to subsection (3), the Registrar shall, as soon as practicable after the first day of the months of, respectively, January, April, July and October of each year, pay into the Fund all moneys standing to the credit of the Consolidated Interest Account as a consequence of payments made, in pursuance of section 91(b), into that Account.

"(2) The Registrar may, at any time during a year, pay into the Fund all or any part of the moneys standing to the credit of the Consolidated Interest Account as a consequence of payments made, in pursuance of section 91(a), into that Account."

13. FUND

Section 94 of the Principal Act is amended by omitting subsection (2).

14. NEW DIVISION

Part XII of the Principal Act is amended by inserting after Division 2 the following:

*"Division 2A - Land and Business Agents
Funds Control Committee*

"95A. ESTABLISHMENT AND COMPOSITION OF COMMITTEE

"(1) There is established by this Act a committee by the name of the Land and Business Agents Funds Control Committee.

"(2) The Committee shall consist of -

- (a) the Registrar; and
- (b) the Chairman or his nominee.

"95B. FUNCTIONS OF COMMITTEE

"(1) The functions of the Committee are to maintain and operate, in accordance with determinations, if any, made under subsection (2) by the Minister -

- (a) the Consolidated Interest Account; and

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(b) the Fund.

"(2) The Minister may, by instrument in writing, determine the manner in which the Committee shall maintain and operate the Consolidated Interest Account or the Fund.

"(3) For the purposes of subsection (1), but subject to a determination, if any, under subsection (2) by the Minister to the contrary, the Committee shall -

(a) keep separate records of transactions concerning the Consolidated Interest Account and the Fund showing -

(i) in the case of the Consolidated Interest Account -

(A) the payments referred to in section 91 made into; and

(B) the payments made under section 92 out of,

that Account; and

(ii) in the case of the Fund -

(A) the payments referred to in section 94(3) made into; and

(B) the payments made under section 95 out of,

the Fund;

(b) provide copies of the records referred to in paragraph (a) to the Board upon demand but, in any case, not less than once in each period of 3 months; and

(c) ensure that each cheque concerning the Consolidated Interest Account or the Fund is signed by -

(i) the Registrar and a member; or

(ii) in the absence of the Registrar from Darwin, 2 members.

"95C. POWERS OF COMMITTEE

"Subject to this Act, the Committee has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions.

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"95D. MEETINGS OF COMMITTEE

"(1) The Registrar shall call such meetings of the Committee as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 3 months.

"(2) Subject to subsections (3) and (4), the Committee shall determine the procedure to be followed at or in connection with its meetings.

"(3) The Registrar shall preside at a meeting of the Committee and, in the event of a dispute between him and the other member of the Committee on a matter being considered by the Committee, the Registrar's decision on that matter shall be final.

"(4) The Committee shall keep records of its meetings."

15. REQUIREMENTS WITH RESPECT TO REGISTERED OFFICES

Section 110 of the Principal Act is amended -

- (a) by inserting in subsection (3) after "Subject to" the words "subsection (3A) and"; and
- (b) by inserting after subsection (3) the following:

"(3A) A licensed agent shall not, at a registered office referred to in subsection (3), have under that subsection more than one branch manager."

16. TRANSITIONAL

Where a determination under section 90(3) or 94(2) of the Principal Act as in force immediately before the commencement of this Act was in force immediately before that commencement, the determination shall, on and from that commencement, and notwithstanding the amendments effected by sections 11 and 13 of this Act, continue in force as if made under section 95B(2) of the Principal Act as amended by this Act but -

- (a) subject to the same terms and conditions (including conditions relating to its duration), if any, to which it was subject immediately before that commencement; and
- (b) may be varied or revoked by action taken under section 95B(2) of the Principal Act as amended by this Act.



