



# THE NORTHERN TERRITORY OF AUSTRALIA

No. 21 of 1981

## AN ACT

To amend the Commercial and Private Agents Licensing Act

[Assented to 25 March 1981]

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 Commercial and Private Agents Licensing Amendment Act 1981.

### 2. PRINCIPAL ACT

The Commercial and Private Agents Licensing Act is in this Act referred to as the Principal Act.

### 3. DEFINITIONS

Section 3 of the Principal Act is amended by omitting from the definition of "harassment" the words "'harassment' means" and substituting "'harassing tactics' means".

### 4. APPLICATION

Section 4 of the Principal Act is amended -

(a) by omitting from paragraph (h) "insurance broking" and substituting "insurance broking, insurance adjustment"; and

(b) by adding at the end the following:

"(2) The Regulations under this Act may exempt to the extent prescribed any class of persons from the operation of this Act."

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5. APPLICATION FOR LICENCE

Section 7(4) of the Principal Act is amended by omitting all words before and including "a private bailiff's licence" and substituting "Subject to section 18(2), an application for a commercial agent's licence or a private bailiff's licence".

6. GRANT OF LICENCE

Section 8(2) of the Principal Act is amended -

(a) by omitting "a corporation is entitled to hold a licence" and substituting ", a corporation is entitled to the grant of, and to hold a licence"; and

(b) by omitting "sub-section (1)" and substituting "sub-section (1)(a), (c), (d) and (e)".

7. APPOINTMENT OF NOMINEE

Section 10 of the Principal Act is amended -

(a) by omitting sub-section (3); and

(b) by omitting from sub-section (4) "or partnership".

8. OBJECTIONS

Section 11(4) of the Principal Act is amended -

(a) by omitting "or firm"; and

(b) by omitting paragraph (d) and substituting the following:

"(d) has been engaging in harassing tactics;"

9. COURT MAY SUMMON TO SHOW CAUSE

Section 16(1) of the Principal Act is amended -

(a) by omitting from paragraph (d) "or" (second occurring); and

(b) by adding after paragraph (e) the following:

"; or

(f) the agent failed to comply with a direction given under section 33(5) by the Clerk of the Court".

10. APPEALS

Section 17(4) of the Principal Act is amended by omitting "the Court may," and substituting "the Supreme Court may,".

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11. REPEAL AND SUBSTITUTION

Sections 18 and 19 of the Principal Act are repealed and the following substituted:

"18. LODGEMENT OF BOND

"(1) A commercial agent or a private bailiff shall ensure that at all times during the currency of his licence there is lodged with the Clerk of the Court a bond in full force and effect in the prescribed form, accompanied by the prescribed security.

"(2) Notwithstanding sub-section (1), an employee of a commercial agent or of a private bailiff or, where the commercial agent or the private bailiff is a corporation, a manager referred to in section 36(1), shall not be required to lodge a bond or security with the Clerk of the Court in accordance with sub-section (1).

"(3) An agent who ceases to be an employee or a manager shall not act as a commercial agent or a private bailiff unless he complies with sub-section (1).

"(4) Where a commercial agent or private bailiff has not lodged with the Clerk of the Court a bond in the prescribed form accompanied by the prescribed security or, a bond lodged by the commercial agent or private bailiff is not in full force and effect, he shall, for the purposes of this Act, be deemed not to be licensed for such period as a bond or security is not lodged or the bond is not in full force and effect.

"19. AMOUNT OF BOND

"The amount of a bond under this Part shall be -

- (a) where the agent is a corporation - \$2,000;
- (b) where the agent is not a corporation and the agent proposes to carry on or carries on business as an agent in partnership with another person - \$1,500; and
- (c) in all other cases - \$1,000."

12. MONEYS HELD ON TRUST

Section 23 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "section 23 of the Local Courts Act," and substituting "this Act,"; and
- (b) by omitting sub-section (4) and substituting the following:

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"(4) Where an agent receives money from a person upon whom he has served a summons or against whom he has executed a warrant, the agent shall immediately notify the Clerk of the Court of the receipt of that money."

13. EMPLOYMENT OF PRIVATE BAILIFF

Section 30(1) of the Principal Act is amended by omitting "of execution or arrest".

14. RIGHTS AND POWERS OF PRIVATE BAILIFF

(1) Section 33 of the Principal Act is amended -

(a) by omitting sub-section (1) and substituting the following:

"(1) Where a private bailiff is employed under section 30, the fees payable under section 272 of the Local Courts Act shall not be payable to the Clerk of the Court by the person entitled to the issue of the warrant, and the private bailiff shall be entitled only to such amount as is agreed between the private bailiff and the person employing him.

"(1A) Where a private bailiff is employed under section 31, the fees payable under section 272 of the Local Courts Act shall be paid to the Clerk of the Court by the person entitled to the issue of the warrant, and the private bailiff shall, subject to the approval of the Clerk of the Court, be entitled to those fees."; and

(b) by inserting after sub-section (4) the following:

"(5) A private bailiff is, in the execution of a warrant issued to him under this Act and in respect of any money recovered under such a warrant, subject to the direction of the Clerk of the Court."

15. NEW SECTION

The Principal Act is amended by inserting in Part VII after section 33 the following:

"33A. RECOVERY OF COSTS ON EXECUTION OF WARRANT

"(1) Subject to sub-section (2) but notwithstanding section 33(1), a person employing a private bailiff may recover the fees payable under section 272 of the Local Courts Act from the person against whom a warrant is executed.

"(2) When a person employing a private bailiff pays the private bailiff an amount exceeding the fees payable under section 272 of the Local Courts Act, the person against whom a warrant is executed shall not be liable for the excess so paid."

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16. MANAGER TO BE LICENSED

Section 36 of the Principal Act is amended by adding at the end of sub-section (3) the following:

"Penalty: \$500 and \$10 for every day during which the offence continues."

17. NEW SECTIONS

The Principal Act is amended by inserting after section 46 the following:

"46A. EFFECT OF SUSPENSION OF LICENCE

"Where the licence of an agent is suspended under this Act, the agent shall, during the period of the suspension, be deemed not to be licensed in respect of the category of licence to which the suspension relates.

"46B. SERVICE OF NOTICE, &c., ON CORPORATION

"Where, under this Act, a summons, notice, order or other document is required to be served on or delivered to a corporation, the summons, notice, order or document may be served on or delivered to the nominee appointed under section 10(1)."

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