

TASMANIA

OCCUPATIONAL LICENSING (AUTOMATIC MUTUAL RECOGNITION CONSEQUENTIAL AMENDMENTS) BILL 2022

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**OCCUPATIONAL LICENSING (AUTOMATIC
MUTUAL RECOGNITION CONSEQUENTIAL
AMENDMENTS) BILL 2022**

*(Brought in by the Minister for Workplace Safety and
Consumer Affairs, the Honourable Elise Nicole Archer)*

A BILL FOR

An Act to amend the *Architects Act 1929*, the *Conveyancing Act 2004*, the *Motor Vehicle Traders Act 2011*, the *Mutual Recognition (Tasmania) Act 1993*, the *Occupational Licensing Act 2005*, the *Property Agents and Land Transactions Act 2016* and the *Security and Investigations Agents Act 2002*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Occupational Licensing (Automatic Mutual Recognition Consequential Amendments) Act 2022*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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Consequential Amendments) Act 2022*
Act No. of 2022

s. 3

Part 2 – Architects Act 1929 Amended

PART 2 – ARCHITECTS ACT 1929 AMENDED

3. Principal Act

In this Part, the *Architects Act 1929** is referred to as the Principal Act.

4. Section 2 amended (Interpretation)

Section 2 of the Principal Act is amended as follows:

- (a) by omitting the definition of *architect* and substituting the following definition:

architect means –

- (a) a person who is registered as an architect in accordance with Part IV; and
 - (b) a person who is entitled to hold deemed registration as an architect;
- (b) by inserting the following definition after the definition of *Board*:

deemed registration means an entitlement to automatic deemed registration, within the meaning

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Consequential Amendments) Act 2022*
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Part 2 – Architects Act 1929 Amended

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of the *Mutual Recognition Act*
1992 of the Commonwealth;

- (c) by omitting the definition of *register* and substituting the following definition:

register means the register of
architects kept by the Registrar in
accordance with Part III;

5. Section 9 amended (Register of architects)

Section 9 of the Principal Act is amended by omitting subsections (1), (2) and (3) and substituting the following subsections:

- (1) The Registrar is to keep a register of architects in a form that the Registrar considers appropriate.
- (2) The register is to contain details of the following matters relating to each architect:
 - (a) the name and business or other address of the architect;
 - (b) the class of registration and the conditions, if any, imposed on the registration;
 - (c) in the case of a person registered as an architect in accordance with Part IV, the date and description of the qualification in respect of which the registration is granted;

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s. 6

Part 2 – Architects Act 1929 Amended

- (d) in the case of a person who is an architect due to holding deemed registration, any details that the Registrar considers necessary in relation to the architect;
 - (e) any other matter that the Registrar considers appropriate;
 - (f) any prescribed matter.
- (3) If the Registrar becomes aware of any change to a matter entered in the register in respect of an architect, the Registrar is to amend that particular accordingly.

6. Sections 11A, 11B and 11C inserted

Before section 12 of the Principal Act, the following sections are inserted in Part IV:

11A. Application of Part

Sections 12, 13, 14, 15 and 16 do not apply to a person who is an architect by virtue of holding deemed registration.

11B. Deemed registration as an architect

- (1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth;

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participating jurisdiction has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth.

- (2) A person who intends to carry out work as an architect in the State by virtue of holding deemed registration must give to the Registrar notice of the person's entitlement to hold deemed registration before carrying out the work.

Penalty: Fine not exceeding 10 penalty units.

- (3) A notice under subsection (2) –
- (a) must be in a manner approved by the Registrar; and
 - (b) must be in a form approved by the Registrar; and
 - (c) is to contain any information that the Registrar considers necessary.
- (4) If any of the information provided by a person in a notice to the Registrar under subsection (2) changes, the person must, as soon as practicable, give a notice to the Registrar, in a form approved by the Registrar, setting out the change.

Penalty: Fine not exceeding 10 penalty units.

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s. 6

Part 2 – Architects Act 1929 Amended

- (5) A person who is an architect by virtue of holding deemed registration must not carry out work as an architect in this State unless the work is within the scope of the work that the person is authorised to carry out for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Registrar may –
- (a) suspend or cancel the deemed registration held by the architect; and
 - (b) disqualify the person from holding deemed registration as an architect for a specified period or until the person fulfils a specified condition.
- (7) The Registrar may, at any time, request a person, who is an architect by virtue of holding deemed registration, to provide to the Registrar any information that the Registrar requires in relation to the maintenance of the person's skills and any continuing professional development undertaken by the person.

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Part 2 – Architects Act 1929 Amended

s. 6

11C. Insurance for holders of deemed registration

- (1) A person who is an architect by virtue of holding deemed registration must, before the person proposes to carry out any work as an architect in this State, give to the Registrar a notice, in an approved form, containing approved evidence that the person is covered by approved insurance.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person who is an architect by virtue of an entitlement to hold deemed registration must not carry out any work as an architect in this State unless the person is covered by approved insurance.

Penalty: Fine not exceeding 10 penalty units.

- (3) If a person who is an architect is found guilty of an offence against subsection (1) or (2), the Registrar may –
- (a) suspend or cancel the deemed registration held by the person; and
 - (b) disqualify the person from holding deemed registration as an architect for a specified period or until the person fulfils a specified condition.

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Part 2 – Architects Act 1929 Amended

- (4) If any of the information provided by a person in a notice to the Registrar under subsection (1) changes, the person must, as soon as practicable, notify the Registrar, in a form approved by the Registrar, of the change.

Penalty: Fine not exceeding 10 penalty units.

7. Section 17 amended (Certificates of registration)

Section 17 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “The Board” and substituting “In the case of a person who is registered as an architect in accordance with Part IV, the Board”;
- (b) by inserting in subsection (2) “issued under subsection (1)” after “registration”;
- (c) by inserting the following subsections after subsection (3):
 - (4) In the case of a person who is an architect by virtue of holding deemed registration, the Board may, in a form approved by the Board, issue a certificate of registration to the person specifying any information that the Board considers relevant.

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Part 2 – Architects Act 1929 Amended

s. 7

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- (5) If any of the information specified in a certificate of registration in accordance with subsection (4) changes, the architect must, within 14 days after the change, notify the Board, in writing, of the change.

Penalty: Fine not exceeding 10 penalty units.

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Consequential Amendments) Act 2022
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s. 8

Part 3 – Conveyancing Act 2004 Amended

PART 3 – CONVEYANCING ACT 2004 AMENDED

8. Principal Act

In this Part, the *Conveyancing Act 2004** is referred to as the Principal Act.

9. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting “with a branch or head office in the State” after “deposit-taking institution” in the definition of *approved institution*;
- (b) by inserting the following definition after the definition of *Court*:

deemed registration means an entitlement to automatic deemed registration, within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth;

- (c) by omitting the definition of *licence* and substituting the following definition:

licence, in relation to the carrying on of business as a conveyancer, means –

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*Occupational Licensing (Automatic Mutual Recognition
Consequential Amendments) Act 2022*
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Part 3 – Conveyancing Act 2004 Amended

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- (a) a licence that is issued and in force in accordance with Division 1 of Part 2; or
 - (b) a licence held by a person by virtue of deemed registration;
 - (d) by inserting “, maintained for the purposes of this Act in the State,” after “an account” in the definition of *trust account*.

10. Section 4 substituted

Section 4 of the Principal Act is repealed and the following sections are substituted:

4. Conveyancers to be licensed

A person who is not a legal practitioner must not carry on business as a conveyancer for fee or reward unless –

- (a) the person is the holder of a licence granted by the Director in accordance with this Division; or
- (b) the person is the holder of a licence by virtue of holding deemed registration.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

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Part 3 – Conveyancing Act 2004 Amended

4A. Deemed registration of conveyancers

(1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth;

participating jurisdiction has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth.

(2) A person who intends to carry on a business as a conveyancer in the State by virtue of holding deemed registration must notify the Director of the person's entitlement to hold deemed registration before carrying on the business.

Penalty: Fine not exceeding 10 penalty units.

(3) A notification under subsection (2) –

- (a) must be in a manner approved by the Director; and
- (b) must be in a form approved by the Director; and
- (c) is to contain any information that the Director considers necessary.

(4) If there is a change in the information provided in a notification to the Director

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Part 3 – Conveyancing Act 2004 Amended

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under subsection (2), the person referred to in that subsection must, as soon as is practicable, in a form approved by the Director, notify the Director of the change.

Penalty: Fine not exceeding 10 penalty units.

- (5) A person who holds a licence by virtue of holding deemed registration must not carry on business as a conveyancer in the State unless the work is within the scope of the work that the person is authorised to carry on for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Director may –
- (a) suspend or cancel the deemed registration held by the person; and
 - (b) disqualify the person from holding a licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.

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Part 3 – Conveyancing Act 2004 Amended

- (7) The Director may, at any time, request a person, who is a licence holder by virtue of holding deemed registration, to provide the Director with any information that the Director requires in relation to the maintenance of the person's skills and any continuing professional development undertaken by the person.

11. Section 5 amended (Ineligibility to be licensed)

Section 5(1) of the Principal Act is amended as follows:

- (a) by omitting “hold a licence if—” and substituting “apply for a licence under section 6, or hold a licence by virtue of holding deemed registration, if—”;
- (b) by omitting paragraph (a) and substituting the following paragraph:
 - (a) in the case of a person applying for a licence under section 6, the person does not hold the prescribed qualifications and have the prescribed experience; or

12. Section 6 amended (Application)

Section 6 of the Principal Act is amended as follows:

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Part 3 – Conveyancing Act 2004 Amended

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(a) by omitting subsection (1) and substituting the following subsection:

(1) Subject to subsection (3), a person who is eligible to hold a licence may apply to the Director for a licence.

(b) by inserting the following subsection after subsection (2):

(3) A person who is entitled to hold a licence by virtue of holding deemed registration is not required to make an application for the licence in accordance with this Act.

13. Section 7 amended (Character report)

Section 7 of the Principal Act is amended by inserting “under section 6” after “for a licence”.

14. Section 8 substituted

Section 8 of the Principal Act is repealed and the following section is substituted:

8. Refusal of application

After receiving a report from the Commissioner of Police under section 7(b) in respect of an application, the Director may refuse to grant a licence

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Part 3 – Conveyancing Act 2004 Amended

to the applicant only if the Director is satisfied that –

- (a) the applicant is not a fit and proper person to hold a licence having regard to the report under section 7(b); or
- (b) the applicant has been convicted of a prescribed offence; or
- (c) if the applicant were the holder of a licence –
 - (i) there would be grounds for disciplinary action against the person under section 37; or
 - (ii) there would be grounds for suspension or cancellation of the licence under section 38.

15. Section 9 amended (Conditions of licence)

Section 9 of the Principal Act is amended by omitting “A Licence may be granted” and substituting “The Director may grant an application for a licence”.

16. Section 11 amended (Validity of licence)

Section 11 of the Principal Act is amended as follows:

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Part 3 – Conveyancing Act 2004 Amended

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(a) by omitting subsection (2) and substituting the following subsections:

(2) A licence granted by the Director under this Act is valid for the period of 3 years commencing on the date on which the licence is granted.

(2A) A licence held by a person by virtue of holding deemed registration is valid for the period in respect of which the deemed registration is in force.

(b) by omitting from subsection (3)(b) “this Act” and substituting “this Act or in accordance with an Act of another State or of a Territory”.

17. Section 12 amended (Form and content of licences)

Section 12 of the Principal Act is amended as follows:

(a) by inserting in subsection (1) “granted by the Director under this Act” after “licence”;

(b) by inserting the following subsections after subsection (2):

(3) After receiving a notification under section 4A, the Director may provide, to a person who is

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Part 3 – Conveyancing Act 2004 Amended

entitled to hold a licence by virtue of holding deemed registration, a licence –

(a) in a form approved by the Director; and

(b) specifying any information that the Director considers relevant.

(4) If there is a change to the information specified in a licence provided under subsection (3), the holder of the licence must, within 14 days after the change, notify the Director, in writing, of the change.

Penalty: Fine not exceeding 10 penalty units.

18. Section 13 amended (Requirement for professional indemnity insurance)

Section 13 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

(2) A conveyancer's licence –

(a) that is issued and in force in accordance with Division 1 of Part 2, is taken to be suspended

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Part 3 – Conveyancing Act 2004 Amended

s. 19

for any period for which the conveyancer is not insured as required under subsection (1); or

- (b) that is held by a person by virtue of holding deemed registration, is taken to be suspended for any period for which the conveyancer is not insured as required under subsection (1).

19. Section 15A amended (Prohibition on advertising while licence suspended)

Section 15A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “this Act” and substituting “this Act or an Act of another State or a Territory”;
- (b) by omitting from subsection (2) “this Act” and substituting “any Act”.

20. Section 17 amended (Trust accounts)

Section 17(1)(a) of the Principal Act is amended by inserting “with a branch or head office in this State” after “institution”.

21. Section 35 substituted

Section 35 of the Principal Act is repealed and the following section is substituted:

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s. 21

Part 3 – Conveyancing Act 2004 Amended

35. Power of Director in relation to complaints

- (1) A person may make to the Director a complaint, in a form approved by the Director, about the conduct of a conveyancer or a former conveyancer.
- (2) On receipt of a complaint under subsection (1), the Director must consider whether there are grounds for disciplinary action against the conveyancer, or former conveyancer, and, for that purpose, may conduct an investigation as the Director thinks fit.
- (3) If the Director considers that the public interest so requires, the Director may suspend a conveyancer's licence during an investigation in relation to the conveyancer.
- (4) A person may make a complaint under this section even though –
 - (a) the person has suffered no economic loss, or no legal right of the person has been affected by the conduct complained about; or
 - (b) the licence of the conveyancer was suspended or had been cancelled at the time of the conduct complained about; or
 - (c) the conveyancer has ceased to carry on business as a

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Part 3 – Conveyancing Act 2004 Amended

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conveyancer since the time of the
conduct complained about.

- (5) In this Part, a reference to a conveyancer includes a reference to a conveyancer –
- (a) who has ceased to carry on business as a conveyancer; or
 - (b) who holds, or who held, a licence by virtue of holding deemed registration

22. Section 39 amended (Disciplinary action)

Section 39(1) of the Principal Act is amended by inserting after paragraph (c) the following paragraph:

- (ca) in the case of a person who has ceased to carry on business as a conveyancer, permanently prohibit the person from holding a licence or disqualify the person from holding a licence for a specified period;

23. Section 44 amended (Register of conveyancers)

Section 44 of the Principal Act is amended as follows:

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

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Part 3 – Conveyancing Act 2004 Amended

- (1) The Director must keep a register of each person carrying on business as a conveyancer –
 - (a) by virtue of the person holding a licence that is issued and in force in accordance with Division 1 of Part 2; or
 - (b) who has notified the Director of the person's entitlement to hold deemed registration in accordance with section 4A.
- (b) by inserting the following paragraph after paragraph (b) in subsection (2):
 - (ba) in the case of a licence held by a person by virtue of holding deemed registration, any details that the Director considers necessary in relation to the licence;

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Part 4 – Motor Vehicle Traders Act 2011 Amended

s. 24

**PART 4 – MOTOR VEHICLE TRADERS ACT 2011
AMENDED**

24. Principal Act

In this Part, the *Motor Vehicle Traders Act 2011** is referred to as the Principal Act.

25. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *deal in motor vehicles*:

deemed registration means an entitlement to automatic deemed registration, within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth;

- (b) by omitting the definition of *licence number* and substituting the following definition:

licence number means the identifying number on a motor vehicle trader licence issued and in force in accordance with section 14;

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s. 26

Part 4 – Motor Vehicle Traders Act 2011 Amended

- (c) by omitting the definition of *motor vehicle trader licence* and substituting the following definition:

motor vehicle trader licence means –

- (a) a licence issued and in force in accordance with section 14; or
- (b) a motor vehicle trader licence held by a person by virtue of holding deemed registration;

26. Section 4 amended (Meaning of “dealing in motor vehicles”)

Section 4(1) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) and substituting the following paragraph:
 - (a) the person carries on, or holds himself or herself out as carrying on, a business of dealing in motor vehicles that is located in this State, or another State or a Territory, that deals in motor vehicles that are located in this State; or
- (b) by inserting in paragraph (b) “located in this State” after “vehicles”.

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Part 4 – Motor Vehicle Traders Act 2011 Amended

s. 27

27. Section 6A inserted

After section 6 of the Principal Act, the following section is inserted in Division 1:

6A. Deemed registration as a motor vehicle trader

(1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth;

participating jurisdiction has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth.

(2) A person who intends to carry on a business of dealing in motor vehicles in the State by virtue of holding deemed registration must notify the Director of the person's entitlement to hold deemed registration before carrying on the business.

Penalty: Fine not exceeding 10 penalty units.

(3) A notification under subsection (2) –

(a) must be in a manner approved by the Director; and

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Part 4 – Motor Vehicle Traders Act 2011 Amended

- (b) must be in a form approved by the Director; and
 - (c) is to contain any information that the Director considers necessary.
- (4) If there is a change in the information provided in a notification to the Director under subsection (2), the person referred to in that subsection must, as soon as is practicable, in a form approved by the Director, notify the Director of the change.

Penalty: Fine not exceeding 10 penalty units.

- (5) A person who holds a motor vehicle trader licence by virtue of holding deemed registration must not carry on work as a motor vehicle trader in this State unless the work is within the scope of the work that the person is authorised to carry on for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Director may –
 - (a) suspend or cancel the deemed registration held by the motor vehicle trader; and

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- (b) disqualify the person from holding deemed registration as a motor vehicle trader for a specified period or until the person fulfils a specified condition.

28. Section 6B inserted

Before section 7 of the Principal Act, the following section is inserted in Division 2:

6B. Application of Division

This Division does not apply to a person who holds a motor vehicle trader licence by virtue of holding deemed registration.

29. Section 8A inserted

Before section 9 of the Principal Act, the following section is inserted in Division 3:

8A. Application of Division

This Division does not apply to a person who holds a motor vehicle trader licence by virtue of holding deemed registration.

30. Section 12A inserted

Before section 13 of the Principal Act, the following section is inserted in Division 4:

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12A. Application of Division

Sections 13, 14, 18 and 19 do not apply to a person who holds a motor vehicle trader licence by virtue of holding deemed registration.

31. Section 16 substituted

Section 16 of the Principal Act is repealed and the following section is substituted:

16. Duration of motor vehicle trader licence

- (1) A motor vehicle trader licence issued and in force in accordance with section 14 has effect for the period of 3 years from the day on which it takes effect.
- (2) A motor vehicle trader licence held by virtue of holding deemed registration is valid for the period in respect of which the automatic deemed registration is in force.

32. Sections 19A and 19B inserted

Before section 20 of the Principal Act, the following sections are inserted in Division 5:

19A. Director may cancel automatic deemed registration in certain circumstances

- (1) The Director may make a determination to cancel a motor vehicle trader licence

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held by a person by virtue of holding
deemed registration, if –

- (a) the person has not attained 18
years of age; or
- (b) the person is bankrupt, has
applied to take the benefit of any
law for the relief of bankrupt or
insolvent debtors, has
compounded with creditors or
made an assignment of
remuneration or estate for the
benefit of creditors; or
- (c) the person, within the
immediately preceding 5 years
has been convicted of an offence
involving theft, fraud or other
dishonesty that is punishable by
imprisonment for a term of 3
years or more; or
- (d) the person is subject to a
restriction order under the
Sentencing Act 1997 or the
*Criminal Justice (Mental
Impairment) Act 1999* or a similar
order made under the law of
another jurisdiction in Australia
or elsewhere; or
- (e) the person –
 - (i) is a represented person
within the meaning of the

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*Guardianship and
Administration Act 1995;*
or

- (ii) is the subject of an order or other determination made under the law of another jurisdiction in Australia or elsewhere that is similar in effect to an order under section 20, 51 or 65 of the *Guardianship and Administration Act 1995*.
- (2) In addition to the matters referred to in this section, the Director may make a determination to cancel a motor vehicle trader licence, held by a person by virtue of holding deemed registration, having regard to –
 - (a) whether the person, within the immediately preceding 3 years, has –
 - (i) in Tasmania, been refused a motor vehicle trader licence or had a motor vehicle trader licence cancelled; or
 - (ii) in another jurisdiction in Australia or elsewhere, been refused a licence or

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other authority that would
authorise the person to
deal in motor vehicles, or
had such a licence or
other authority suspended
or cancelled; or

(b) whether the person, within the
immediately preceding 5 years,
has been convicted of an offence
against –

(i) this Act; or

(ii) the *Consumer Affairs Act*
1988; or

(iii) the *Fair Trading Act*
1990; or

(iv) the *Australian Consumer*
Law (Tasmania) Act
2010; or

(c) in the case of an individual,
whether the person –

(i) within the immediately
preceding 5 years, has
been declared bankrupt;
or

(ii) was a director or chief
executive officer of a
body corporate at a time,
within the immediately

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preceding 5 years, when the body corporate became subject to external administration under the Corporations Act; or

(iii) was a partner in a partnership at a time, within the immediately preceding 5 years, when in relation to the partnership business a partner assigned any of his or her remuneration or estate, or any of his or her property or the property of the partnership, for the benefit of the creditors of the partnership business; or

(d) any other matter that the Director considers relevant.

(3) If the Director makes a determination in respect of the person under this section, the Director is to notify the person of the determination.

(4) A notification under subsection (3) is to be in a form approved by the Director and is to contain the reasons why the Director made the determination to cancel the motor vehicle trader licence

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held by a person by virtue of holding
deemed registration.

**19B. Director may obtain police report for
purposes of section 19A**

- (1) For the purposes of a determination under section 19A, the Director may request the person referred to in that section to authorise the Director to obtain reports from –
 - (a) the Commissioner of Police, in respect of convictions and proceedings taken against the person in this State; and
 - (b) a person holding an office in another State or a Territory that corresponds to the office of Commissioner of Police in this State, in respect of convictions and proceedings taken against the person in that other State or that Territory; and
 - (c) the Australian Federal Police, in respect of convictions and proceedings taken against the person in this State.
- (2) For the purposes of making an investigation in relation to the making of determination under section 19A, the Director may refer to the Commissioner of Police –

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- (a) the name of the person; and
 - (b) any information and documentation that the Director considers relevant to the investigation.
- (3) The Commissioner of Police must inquire into, and report to the Director on, any matters concerning the person that the Director requests.
- (4) In this section, a reference to a person includes –
 - (a) in the case of a person who is a partner in a partnership that deals, or intends to deal, in motor vehicles, a reference to each partner in the partnership; and
 - (b) in the case of a person that is a body corporate, a reference to the chief executive officer and each director of the body corporate.

33. Section 21 amended (Cancellation of motor vehicle trader licence)

Section 21(1) of the Principal Act is amended by omitting “if satisfied that the licensed motor vehicle trader is no longer a fit and proper person to hold a motor vehicle trader licence” and substituting “if the Director considers it appropriate in the circumstances”.

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34. Section 23 amended (When motor vehicle trader licence ceases to have effect)

Section 23 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “on the day on which the licence expires” and substituting “in the case of a licence issued and in force in accordance with section 14, on the day on which the licence expires”;
- (b) by omitting from paragraph (b) “if the licence is continued” and substituting “in the case of a licence issued and in force in accordance with section 14, if the licence is continued”;
- (c) by inserting the following paragraph after paragraph (b):
 - (ba) in the case of a licence held by virtue of holding deemed registration, on the day on which the entitlement is no longer in force or is sooner cancelled or surrendered; or

35. Section 25 amended (Carrying on motor dealing after licensed motor vehicle trader dies or becomes represented person)

Section 25 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (2) “For 30 days after a licensed motor vehicle trader” and substituting “Subject to subsections (8) and (9), for 30 days after a licensed motor vehicle trader”;
- (b) by inserting the following subsections after subsection (7):
 - (8) Subsections (2), (3), (4), (5), (6) and (7) do not apply to a licensed motor vehicle trader who holds a motor vehicle trader licence by virtue of holding deemed registration.
 - (9) If a motor vehicle trader who holds a motor vehicle trader licence by virtue of holding deemed registration dies –
 - (a) the person’s legal personal representative is to notify the Director of that fact; and
 - (b) no other person may undertake any activity under the motor vehicle trader licence.

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36. Section 27 amended (Register of motor vehicle trader licences)

Section 27(2) of the Principal Act is amended as follows:

- (a) by omitting “issued” first occurring;
- (b) by omitting paragraphs (a), (b), (c) and (d) and substituting the following paragraphs:
 - (a) the name and business, or other, address of the holder of the licence;
 - (b) in the case of a licence issued and in force in accordance with section 14 –
 - (i) the day on which the licence is issued; and
 - (ii) the day on which the licence would expire under section 16 if not renewed; and
 - (iii) each day on which the licence is renewed;
 - (c) in the case of a licence held by virtue of holding deemed registration, any details that the Director considers necessary in

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relation to the holder of the
licence;

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**PART 5 – MUTUAL RECOGNITION (TASMANIA) ACT
1993 AMENDED**

37. Principal Act

In this Part, the *Mutual Recognition (Tasmania) Act 1993** is referred to as the Principal Act.

38. Sections 6A and 6B inserted

After section 6 of the Principal Act, the following sections are inserted:

6A. Disclosure of information to registration authorities in participating jurisdictions

(1) In this section –

activity has the meaning it has in section 4(1) of the Commonwealth Act;

covers has the meaning it has in section 4(1) of the Commonwealth Act;

event means an event referred to in subsection (2);

occupation has the meaning it has in section 4(1) of the Commonwealth Act;

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participating jurisdiction has the meaning it has in section 5(4) of the Commonwealth Act;

registration, of an individual for an occupation, means a registration, licence, approval or other authorisation given under law that authorises the individual to carry on the occupation or undertake an activity covered by the occupation;

registration authority, for an occupation in a participating jurisdiction, means a person who gives individual registrations for the occupation in the participating jurisdiction.

- (2) This section applies if a registration authority for an occupation in this State gives a registration for the occupation to an individual and any of the following events occurs:
- (a) the individual's registration is suspended or cancelled;
 - (b) the registration authority refuses to renew the individual's registration;
 - (c) a condition is imposed on the individual's registration;

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-
- (d) an action is taken against the individual on disciplinary grounds in connection with –
 - (i) the individual's registration; or
 - (ii) carrying on the occupation or undertaking an activity covered by the occupation;
 - (e) civil or criminal proceedings are commenced against the individual that are relevant to –
 - (i) the individual's registration; or
 - (ii) carrying on the occupation or undertaking an activity covered by the occupation.
 - (3) Despite any written law relating to confidentiality, privacy or secrecy, a registration authority for the occupation in this State may give the following information to a registration authority for the occupation in another participating jurisdiction:
 - (a) the individual's name, address and any other information necessary to identify the individual;

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- (b) information about the individual's registration, including conditions imposed;
- (c) information about the event that occurred, including the outcome of the event.

6B. Protection from liability for giving information

- (1) If information is given in good faith under section 6A of this Act or sections 33, 37, 42M, 42N, 42P or 42V of the Commonwealth Act –
 - (a) no civil or criminal liability is incurred in respect of giving the information; and
 - (b) giving the information is not to be regarded as a breach of any duty of confidentiality, privacy or secrecy imposed by law; and
 - (c) giving the information is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.
- (2) This State is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).

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**PART 6 – OCCUPATIONAL LICENSING ACT 2005
AMENDED**

39. Principal Act

In this Part, the *Occupational Licensing Act 2005** is referred to as the Principal Act.

40. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of *building services licence* and substituting the following definition:

building services licence means –

- (a) a licence issued and in force in accordance with Division 3A of Part 4; or
 - (b) a licence held by a person by virtue of holding deemed registration;
- (b) by omitting “under section 21” from the definition of *contractor* and substituting “, or a person who is the holder of a contractor’s licence by virtue of holding deemed registration,”;

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- (c) by inserting the following definitions after the definition of *contractor's business*:

contractor's licence means –

- (a) a contractor's licence issued and in force in accordance with Division 2 of Part 4; or
- (b) a licence held by a person by virtue of holding deemed registration;

deemed registration means an entitlement to automatic deemed registration, within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth;

- (d) by omitting “Act;” from paragraph (c) of the definition of *licence* and substituting “Act; or”;
- (e) by inserting the following paragraphs after paragraph (c) in the definition of *licence*:
- (d) an entitlement to carry out any prescribed work by virtue of holding deemed registration; or
 - (e) a document that evidences the holding of that entitlement to hold deemed registration;

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- (f) by inserting “, including a person who is the holder of licence by virtue of holding deemed registration,” after “licence” in the definition of *practitioner*.

41. Section 21 substituted

Section 21 of the Principal Act is repealed and the following section is substituted:

21. Obligation to hold contractor’s licence

A person must not carry on business as a contractor unless –

- (a) the person holds a contractor’s licence of the occupation and class appropriate to the prescribed work, other than building services work, carried out in the course of the business; or
- (b) the person is the holder of a contractor’s licence by virtue of holding deemed registration.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 400 penalty units; or
- (b) an individual, a fine not exceeding 200 penalty units.

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42. Section 22 amended (Obligation to hold practitioner's licence)

Section 22 of the Principal Act is amended as follows:

(a) by inserting the following paragraph after paragraph (b) in subsection (1):

(ba) the person is the holder of a practitioner's licence of the relevant occupation and class by virtue of holding deemed registration; or

(b) by omitting subsection (2) and substituting the following subsection:

(2) A person must not supervise the performance of prescribed work unless he or she is the holder of a practitioner's licence –

(a) issued by the Administrator of the relevant occupation and class; or

(b) of the relevant occupation and class by virtue of holding deemed registration.

Penalty: In the case of –

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- (a) a body corporate,
a fine not
exceeding 400
penalty units; or
- (b) an individual, a
fine not exceeding
200 penalty units.

43. Section 22A amended (Obligation to hold building services licence)

Section 22A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) A person must not manage, carry out, or enter into a contract to manage or carry out, any building services work unless the person holds –
 - (a) a building services licence of the occupation and class relevant to the building services work; or
 - (b) a building services licence of the relevant occupation and class by virtue of holding deemed registration.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 400 penalty units; or

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- (b) an individual, a fine not exceeding 200 penalty units.

44. Section 27 amended (Insurance for licence holders)

Section 27 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) A person who holds a licence by virtue of holding deemed registration must, before the person proposes to carry out prescribed work in this State under the licence, provide the Administrator with notice, in an approved form, containing approved evidence in relation to the person's insurance cover.

Penalty: Fine not exceeding 10 penalty units.

- (4) A person who holds a licence by virtue of holding deemed registration must not carry out any work in this State under the licence unless the person is covered by approved insurance.

Penalty: Fine not exceeding 10 penalty units.

- (5) If a person is found guilty of an offence against subsection (3) or (4), the Administrator may –

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- (a) suspend or cancel the deemed registration held by the holder of the licence; and
 - (b) disqualify the person from holding a licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.
- (6) If there is a change to any of the information provided by a person in a notification to the Administrator under subsection (3), the person must, as soon as practicable, in a form approved by the Administrator, notify the Administrator of the change.

Penalty: Fine not exceeding 10 penalty units.

45. Section 28 amended (Insurance cover for contractors)

Section 28 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) A person who is a contractor by virtue of holding deemed registration must, before that contractor proposes to carry out any prescribed work, or allow any prescribed work to be carried out, in this State, under the contractor's licence, provide

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the Administrator with notice, in an approved form, containing approved evidence in relation to the contractor's insurance cover.

Penalty: Fine not exceeding 10 penalty units.

- (4) A person who is a contractor by virtue of holding deemed registration must not carry out any prescribed work, or allow any prescribed work to be carried out, in this State under the contractor's licence unless the person is covered by approved insurance.

Penalty: Fine not exceeding 10 penalty units.

- (5) If there is a change to any of the information provided by a person in a notification to the Administrator under subsection (3), the person must, as soon as practicable, in a form approved by the Administrator, notify the Administrator of the change.

Penalty: Fine not exceeding 10 penalty units.

46. Section 30 amended (Classes of prescribed work)

Section 30(1) of the Principal Act is amended by omitting "For the purposes of issuing licences or

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permits under this Act” and substituting “For the purposes of this Act”.

47. Section 31 substituted

Section 31 of the Principal Act is repealed and the following section is substituted:

31. Competencies and requirements

- (1) Subject to subsection (2), the Administrator is to determine, by notice published in the *Gazette*, entry competencies, continuing competencies and other requirements which an applicant for a licence relating to a particular occupation and class of prescribed work must satisfy or continue to satisfy.
- (2) The continuing competencies and other requirements published in a notice under subsection (1) apply to a person who holds a licence, relating to a particular occupation and class of prescribed work, by virtue of holding deemed registration.

48. Section 33 amended (Application for contractor’s licence)

Section 33 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “An application for” and substituting “Subject to subsection (4), an application for”;
- (b) by inserting the following subsection after subsection (3):
 - (4) A person who is entitled to hold a contractor’s licence by virtue of holding deemed registration is not required to make an application for the contractor’s licence in accordance with this Act.

49. Section 34A inserted

After section 34 of the Principal Act, the following section is inserted in Division 2:

34A. Deemed registration of contractors

- (1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth;

participating jurisdiction has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth.

- (2) A person who intends to carry out work as a contractor in the State by virtue of holding deemed registration must notify

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the Administrator of the person's entitlement to hold deemed registration and intent to carry out work in this State, before the person –

- (a) enters into a contract to carry out any prescribed work; or
- (b) employs another person to carry out any prescribed work; or
- (c) has the management or control of any other person carrying out any prescribed work.

Penalty: Fine not exceeding 10 penalty units.

(3) A notification under subsection (2) –

- (a) must be in a manner approved by the Administrator; and
- (b) must be in a form approved by the Administrator; and
- (c) is to contain any information that the Administrator considers necessary.

(4) If there is a change in the information provided by a person in a notification to the Administrator under subsection (2), the person must, as soon as is practicable, in a form approved by the Administrator, notify the Administrator of the change.

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Penalty: Fine not exceeding 10 penalty units.

- (5) A person who holds a contractor's licence by virtue of holding deemed registration must not carry on business as a contractor in the State unless the work is within the scope of the work that the person is authorised to carry out for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Administrator may –
- (a) suspend or cancel the deemed registration held by the person; and
 - (b) disqualify the person from holding a contractor's licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.
- (7) The Administrator may, at any time, request a person who holds a contractor's licence by virtue of holding deemed registration to provide the Administrator with any information that the Administrator requires in relation to the

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maintenance of the person’s skills and
any continuing professional development
undertaken by the person.

50. Section 36 amended (Application for practitioner’s licence)

Section 36 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “An” and substituting “Subject to subsection (6), an”;
- (b) by inserting the following subsection after subsection (5):
 - (6) A person who is entitled to hold a practitioner’s licence by virtue of holding deemed registration is not required to make an application for the practitioner’s licence in accordance with this Act.

51. Section 37AA inserted

After section 37 of the Principal Act, the following section is inserted in Division 3:

37AA. Deemed registration of practitioners

- (1) In this section –

occupation has the meaning it has in
section 4(1) of the *Mutual*

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Recognition Act 1992 of the
Commonwealth;

participating jurisdiction has the
meaning it has in section 4(1) of
the *Mutual Recognition Act 1992*
of the Commonwealth.

- (2) A person who intends to carry out work as a practitioner in the State by virtue of holding deemed registration must notify the Administrator of the person's entitlement to hold deemed registration, and intent to carry out any prescribed work of the relevant occupation and class in this State, before the person carries out the work.

Penalty: Fine not exceeding 10 penalty
units.

- (3) A notification under subsection (2) –
- (a) must be in a manner approved by the Administrator; and
 - (b) must be in a form approved by the Administrator; and
 - (c) is to contain any information that the Administrator considers necessary.
- (4) If there is a change in the information provided by a person in a notification to the Administrator under subsection (2),

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the person must, as soon as practicable,
in a form approved by the Administrator,
notify the Administrator of the change.

Penalty: Fine not exceeding 10 penalty
units.

- (5) A person who holds a practitioner's licence by virtue of holding deemed registration must not carry out any prescribed work of the relevant occupation and class in this State unless the work is within the scope of the work that the person is authorised to carry out for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty
units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Administrator may –
- (a) suspend or cancel the deemed registration held by the holder of the practitioner's licence; and
 - (b) disqualify the person from holding a practitioner's licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.

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- (7) The Administrator may, at any time, request a person who holds a practitioner's licence by virtue of holding deemed registration to provide the Administrator with any information that the Administrator requires in relation to the maintenance of the person's skills and any continuing professional development undertaken by the person.

52. Section 37A amended (Application for building services licence)

Section 37A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) "An" and substituting "Subject to subsection (4), an";
- (b) by inserting the following subsection after subsection (3):
 - (4) A person who is entitled to hold a building services licence by virtue of holding deemed registration is not required to make an application for the building services licence in accordance with this Act.

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53. Section 37E inserted

After section 37D of the Principal Act, the following section is inserted in Division 3A:

37E. Deemed registration of holder of building services licence

(1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth;

participating jurisdiction has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth.

(2) A person, or an organisation, that intends to carry out work as a practitioner in the State by virtue of holding deemed registration must notify the Administrator of the person's entitlement to hold deemed registration, and intent to carry out any building services work in this State, before the person carries out the work.

Penalty: Fine not exceeding 10 penalty units.

(3) A notification under subsection (2) –

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- (a) must be in a manner approved by the Administrator; and
 - (b) must be in a form approved by the Administrator; and
 - (c) is to contain any information that the Administrator considers necessary.
- (4) If there is a change in the information provided by a person in a notification to the Administrator under subsection (2), the person must, as soon as practicable, in a form approved by the Administrator, notify the Administrator of the change.

Penalty: Fine not exceeding 10 penalty units.

- (5) A person who holds a building services licence by virtue of holding deemed registration must not carry out any building services work in this State unless the work is within the scope of the work that the person is authorised to carry out for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Administrator may –

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- (a) suspend or cancel the deemed registration held by the person; and
 - (b) disqualify the person from holding a building services licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.
- (7) The Administrator may, at any time, request a person who holds a building services licence by virtue of holding deemed registration to provide the Administrator with any information that the Administrator requires in relation to the maintenance of the person's skills and any continuing professional development undertaken by the person.

54. Section 38 amended (Offences)

Section 38 of the Principal Act is amended by inserting after subsection (3) the following subsections:

- (3A) A person must not represent that the person is a contractor, holds a building services licence, or holds a practitioner's licence by virtue of the person holding deemed registration, if that is not the case.

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Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 150 penalty units; or
 - (b) an individual, a fine not exceeding 75 penalty units.
- (3B) A person who is a contractor, who holds a building services licence or who holds a practitioner's licence by virtue of the person holding deemed registration must not carry out any work in this State that is not within the scope of the work that the person is authorised to carry out in the relevant participating jurisdiction.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 150 penalty units; or
 - (b) an individual, a fine not exceeding 75 penalty units.
- (3C) If a person is a contractor, holds a building services licence or holds a practitioner's licence by virtue of the person holding deemed registration, the person must comply with the requirements of the participating jurisdiction that are applicable to the

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contractor, or the holder of the building services licence or practitioner's licence, respectively.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 150 penalty units; or
 - (b) an individual, a fine not exceeding 75 penalty units.
- (3D) If a person is found guilty of an offence against subsection (3B), or fails to comply with subsection (3C), the Administrator may –
- (a) suspend or cancel the person's entitlement to be a contractor, hold a building services licence or hold a practitioner's licence by virtue of holding deemed registration; and
 - (b) disqualify the person from being a contractor, holding a building services licence or holding a practitioner's licence by virtue of the person holding deemed registration for a specified period or until the person fulfils a specified condition.

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55. Section 40 amended (Power to add, &c., conditions of licence)

Section 40 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) For the avoidance of doubt, this section applies to a person who holds a licence by virtue of holding deemed registration.

56. Section 41 amended (Certificate of identification)

Section 41 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) For the avoidance of doubt, this section applies to a person who holds a licence by virtue of holding deemed registration.

57. Section 42 substituted

Section 42 of the Principal Act is repealed and the following section is substituted:

42. Term of licence

- (1) Subject to subsection (2), a practitioner's licence, a building services licence or a contractor's licence may be granted for a period, not exceeding 3 years, specified in the licence.

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- (2) A practitioner’s licence, a building services licence or a contractor’s licence that is held by a person by virtue of holding deemed registration is valid for the period in respect of which the deemed registration is in force.

58. Section 43 amended (Renewal of licence)

Section 43 of the Principal Act is amended by inserting “, who does not hold the licence by virtue of holding deemed registration, and” after “holder”.

59. Section 45 amended (Duplicate certificate of identification)

Section 45 of the Principal Act is amended by inserting “, including a person who holds a licence by virtue of holding deemed registration,” after “holder”.

60. Section 46 amended (Cancellation of licence)

Section 46 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) In the case of a licence held by a person by virtue of holding deemed registration, the Administrator may, by notice in writing given to the person, cancel the licence if the Administrator is satisfied that the person –

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- (a) does not have sufficient material and financial resources available to enable them to comply with the requirements of this Act; or
- (b) has ceased to carry on the business to which the licence relates; or
- (c) has provided any information to the Administrator that is materially false or misleading.

61. Section 47 amended (Production of certificate of identification)

Section 47 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):
 - (1A) In the case of a licence held by a person by virtue of holding deemed registration, the licence holder must, at the request of the Administrator and within such time as the Administrator may require, produce to the Administrator any certificate of identification, or similar document, issued to that person in relation to that licence.

Penalty: In the case of –

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- (a) a body corporate,
a fine not
exceeding 50
penalty units; or
 - (b) an individual, a
fine not exceeding
20 penalty units.
 - (b) by inserting the following subsection
after subsection (2):
 - (3) A person who is carrying out,
proposes to carry out, or has
carried out, any prescribed work
must, on demand, by –
 - (a) the Administrator; or
 - (b) an authorised officer; or
 - (c) the owner or occupier of
any relevant premises; or
 - (d) a person with whom the
licence holder has
contracted or proposes to
contract to carry out the
prescribed work –

in the case of a licence held by a
person by virtue of holding
deemed registration, produce to
the person who made the demand
any certificate of identification

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issued to the licence holder in
relation to that licence.

Penalty: In the case of –

- (a) a body corporate,
a fine not
exceeding 50
penalty units; or
- (b) an individual, a
fine not exceeding
20 penalty units.

62. Section 49 amended (Registers)

Section 49 of the Principal Act is amended as
follows:

- (a) by inserting the following paragraphs
after paragraph (e) in subsection (2):
 - (ea) in the case of a licence held by a
person by virtue of holding
deemed registration, any
information that the
Administrator considers
necessary in relation to the
licence holder; and
 - (eb) any information that the
Administrator considers
necessary in relation to any
person who is entitled to hold
deemed registration; and

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- (b) by omitting subsection (3) and substituting the following subsection:

(3) The information referred to in subsection (2)(b), (c), (d), (ea), (eb) and (f) is to be available to the public by means of a website operated by, or on behalf of, the Administrator but the information referred to in subsection (2)(a) and (e) is not to be so available.

- (c) by inserting in subsection (5) “(g),” after “(d),”;

- (d) by omitting from subsection (5) “the World Wide Web” and substituting “a website operated by, or on behalf of, the Administrator”;

- (e) by inserting the following subsections after subsection (5B):

(5C) The Administrator may keep a separate register containing any information that the Administrator considers necessary in relation to –

- (a) a licence held by a person by virtue of holding deemed registration; and
- (b) any person who is entitled to hold deemed registration.

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(5D) If the Administrator considers it appropriate to do so, the information referred to in subsection (5C) is to be available to the public by means of a website operated by, or on behalf of, the Administrator.

63. Section 85 amended (Time for commencing prosecutions)

Section 85 of the Principal Act is amended by omitting “12 months” and substituting “2 years”.

64. Section 98 amended (Contractors to keep register)

Section 98 of the Principal Act is amended by inserting after subsection (4) the following subsection:

(5) For the avoidance of doubt, this section applies to a person who is a contractor by virtue of holding deemed registration.

**PART 7 – PROPERTY AGENTS AND LAND
TRANSACTIONS ACT 2016 AMENDED**

65. Principal Act

In this Part, the *Property Agents and Land Transactions Act 2016** is referred to as the Principal Act.

66. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *conveyancer*:

deemed registration means an entitlement to automatic deemed registration, within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth;

- (b) by omitting the definition of *general auctioneer licence* and substituting the following definition:

general auctioneer licence means –

- (a) a type of licence referred to in section 15(c) that is issued and in force in

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accordance with section
19(1)(a); or

- (b) a general auctioneer
licence held by a person
by virtue of holding
deemed registration;
- (c) by omitting the definition of *licence* and
substituting the following definition:

licence means –

- (a) a licence issued and in
force under this Act; and
- (b) a licence held by a person
by virtue of holding
deemed registration;
- (d) by omitting the definition of *property
manager licence* and substituting the
following definition:

property manager licence means –

- (a) a type of licence referred
to in section 15(b) that is
issued and in force in
accordance with section
19(1)(a); or
- (b) a property manager
licence held by a person
by virtue of holding
deemed registration;

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- (e) by omitting the definition of *property representative licence* and substituting the following definition:

property representative licence
means –

- (a) a type of licence referred to in section 15(d) that is issued and in force in accordance with section 19(1)(a); or
 - (b) a property representative licence held by a person by virtue of holding deemed registration;
- (f) by omitting the definition of *real estate agent licence* and substituting the following definition:

real estate agent licence means –

- (a) a type of licence referred to in section 15(a) that is issued and in force in accordance with section 19(1)(a); and
- (b) a real estate agent licence held by a person by virtue of holding deemed registration;

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67. Section 16 amended (Application for licence)

Section 16 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A person may” and substituting “Subject to subsection (3), a person may”;
- (b) by inserting the following subsection after subsection (2):
 - (3) A person who holds a licence by virtue of holding deemed registration is not required to make an application under this section for a licence.

68. Section 20 amended (Conditions of licence)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “The Board may issue a licence” and substituting “If the Board issues a licence in accordance with section 19(1)(a), the Board may issue the licence”;
- (b) by inserting in subsection (2) “in accordance with section 19(1)(a)” after “issued”;
- (c) by inserting in subsection (3) “issued in accordance with section 19(1)(a)” after “a licence”;

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- (d) by inserting in subsection (3)(a) “and to a specified standard” after “time”;
- (e) by omitting from subsection (3)(b) “the licence.” and substituting “the licence to a specified standard.”.

69. Section 20A inserted

After section 20 of the Principal Act, the following section is inserted in Division 2:

20A. Continuing professional development

- (1) A licence holder must undertake and complete, to a standard specified in writing by the Board, any courses of study, continuing professional development, further education, training or learning approved in writing by the Board for the purposes of maintaining and developing the skills required to carry out work under the licence.

Penalty: Fine not exceeding 50 penalty units.

- (2) The Board may, at any time, request a licence holder to provide the Board with any information that the Board requires in relation to any courses of study, continuing professional development, further education, training or learning undertaken by the licence holder in accordance with subsection (1).

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- (3) A licence holder must provide the Board, at any time the Board considers necessary, with any information requested by the Board in accordance with subsection (2).

Penalty: Fine not exceeding 50 penalty units.

70. Section 21 amended (Period of validity of licence)

Section 21 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

- (1) Subject to subsections (2), (3) and (4), a licence –
- (a) is valid for the period, not exceeding 12 months, determined by the Board under this Act; and
 - (b) commences on the date on which it was issued or at a later date determined by the Board.
- (2) A licence held by a person by virtue of holding deemed registration is valid for the period in respect of which the deemed registration is in force.

71. Section 22 amended (Renewal of licence)

Section 22 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “Not less than” and substituting “Subject to subsection (8), not less than”;
- (b) by inserting the following subsection after subsection (7):
 - (8) This section does not apply to a person who holds a licence by virtue of holding deemed registration.

72. Section 24 substituted

Section 24 of the Principal Act is repealed and the following section is substituted:

24. Record of suspended licences

- (1) The Board is to keep a register containing details of all property agent licences –
 - (a) issued and in force under this Act; or
 - (b) held by a person by virtue of holding deemed registration who has notified the Board under section 24B(2) of their entitlement to hold deemed registration –

that are suspended under this Act or under an Act of another State or a Territory.

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- (2) The Board is to make the register of suspended licences available for public inspection during normal business hours.

73. Sections 24A and 24B inserted

After section 24 of the Principal Act, the following sections are inserted in Division 2:

24A. Financial capacity of licence holders

- (1) If the Board is satisfied that the licence holder does not have the material or financial resources to comply with the requirements of this Act, or any other Act of another State or a Territory, the Board may cancel the licence.
- (2) The Board is to give the licence holder written notice of the cancellation of the licence under subsection (1) setting out the reasons why the licence is cancelled and the day on which the cancellation takes effect.

24B. Deemed registration of licence holders

- (1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth;

participating jurisdiction has the meaning it has in section 4(1) of

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the *Mutual Recognition Act 1992*
of the Commonwealth.

- (2) A person who intends to carry out work in accordance with a licence in the State by virtue of holding deemed registration must notify the Board of the person's entitlement to hold deemed registration before carrying out the work.

Penalty: Fine not exceeding 10 penalty units.

- (3) A notification under subsection (2) –
- (a) must be in a manner approved by the Board; and
 - (b) must be in a form approved by the Board; and
 - (c) is to contain any information that the Board considers necessary.
- (4) If there is a change in the information provided by a person in a notification to the Board under subsection (2), the person must, as soon as practicable, in a form approved by the Board, notify the Board of the change.

Penalty: Fine not exceeding 10 penalty units.

- (5) A person who is a licence holder by virtue of holding deemed registration

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must not carry out work in accordance with the licence in this State unless the work is within the scope of the work that the person is authorised to carry out for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Board may –
 - (a) suspend or cancel the deemed registration held by the person; and
 - (b) disqualify the person from holding a licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.
- (7) The Board may, at any time, request a person who is a licence holder by virtue of holding deemed registration to provide the Board with any information that the Registrar requires in relation to the maintenance of the person's skills and any continuing professional development undertaken by the person.
- (8) A person who is a licence holder by virtue of holding deemed registration

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must, before the person proposes to carry out any work in accordance with the licence in this State, provide the Board with notice, in an approved form, containing evidence that the person is covered by insurance that is approved by the Board.

Penalty: Fine not exceeding 10 penalty units.

74. Section 24C inserted

Before section 25 of the Principal Act, the following section is inserted in Division 3:

24C. Application of Division

For the avoidance of doubt, this Division does not apply to a person who holds a real estate agent licence, property manager licence, general auctioneer licence, or property representative licence, by virtue of holding deemed registration.

75. Section 29 amended (Board to maintain Register)

Section 29(3) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “, including each real estate agent, holding a real estate agent licence by virtue of holding deemed registration, who has notified the

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Board under section 24B(2) of the real estate agent’s entitlement to hold deemed registration” after “agent”;

- (b) by inserting in paragraph (b) “, including each property manager, holding a property manager licence by virtue of holding deemed registration, who has notified the Board under section 24B(2) of the property manager’s entitlement to hold deemed registration” after “manager”;
- (c) by inserting in paragraph (c) “, including each general auctioneer, holding a general auctioneer licence by virtue of holding deemed registration, who has notified the Board under section 24B(2) of the general auctioneer’s entitlement to hold deemed registration” after “auctioneer”;
- (d) by inserting in paragraph (d) “, including each property representative, holding a property representative licence by virtue of holding deemed registration, who has notified the Board under section 24B(2) of the property representative’s entitlement to hold deemed registration” after “representative”.

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76. Section 30 amended (Part 1 of Register)

Section 30 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) For the purposes of subsection (1), a business address contained in Part 1 of the Register in relation to a real estate agent who holds a licence by virtue of holding deemed registration may be an address for the real estate agent in another State or a Territory.

77. Section 31 amended (Part 2 of Register)

Section 31 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) For the purposes of subsection (1), a business address contained in Part 2 of the Register in relation to a property manager who holds a licence by virtue of holding deemed registration may be an address for the property manager in another State or a Territory.

78. Section 32 amended (Part 3 of Register)

Section 32 of the Principal Act is amended by inserting after subsection (2) the following subsection:

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- (3) For the purposes of subsection (1), a business address contained in Part 3 of the Register in relation to a general auctioneer who holds a licence by virtue of holding deemed registration may be an address for the general auctioneer in another State or a Territory.

79. Section 33 substituted

Section 33 of the Principal Act is repealed and the following section is substituted:

33. Part 4 of Register

- (1) Part 4 of the Register is to contain the names and business addresses of all property representatives and any other information approved by the Board.
- (2) For the purposes of subsection (1), a business address contained in Part 4 of the Register in relation to a property representative who is a licence holder by virtue of holding deemed registration may be an address for the representative in another State or a Territory.

80. Section 88 amended (Time limits for complaints)

Section 88(1) of the Principal Act is amended by omitting “12 months” and substituting “2 years”.

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81. Section 110 amended (Determination by Tribunal)

Section 110(1)(c) of the Principal Act is amended by omitting “for a period not exceeding 5 years” and substituting “permanently or for a period specified by the Tribunal”.

82. Section 112 amended (Notice of action)

Section 112(2) of the Principal Act is amended as follows:

- (a) by omitting “as soon as practicable” and substituting “, within 5 days after making a determination under section 110,”;
- (b) by inserting “business or other address of the” after “Board, the”.

83. Section 134 amended (Trust account)

Section 134 of the Principal Act is amended by inserting “, maintained for the purposes of this Act in the State,” after “an account” in the definition of *trust account*.

84. Section 147 amended (Board may enter into schemes of arrangement)

Section 147(2) of the Principal Act is amended by inserting “, with a branch or head office in the State,” after “deposit-taking institution”.

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Part 8 – Security and Investigations Agents Act 2002 Amended

**PART 8 – SECURITY AND INVESTIGATIONS
AGENTS ACT 2002 AMENDED**

85. Principal Act

In this Part, the *Security and Investigations Agents Act 2002** is referred to as the Principal Act.

86. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *agent licence* and substituting the following definitions:

agent licence means –

- (a) an agent licence issued and in force under section 10(1); or
- (b) an agent licence held by a person by virtue of holding deemed registration;

application, in relation to a licence, means an application to the Director for a licence made in accordance with section 6;

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- (b) by inserting the following definition after the definition of *debtor*:

deemed registration means an entitlement to automatic deemed registration, within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth;

- (c) by omitting the definition of *employee licence* and substituting the following definition:

employee licence means –

- (a) an employee licence issued and in force under section 10(2); or
 - (b) an employee licence held by a person by virtue of holding deemed registration;
- (d) by omitting the definition of *identity card* and substituting the following definition:

identity card means –

- (a) an identity card referred to in section 10(4); or
- (b) an identity card that is similar to the identity card referred to in paragraph (a) that is issued to a

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person who holds an agent licence, or an employee licence, by virtue of holding deemed registration;

- (e) by inserting “in the State” after “premises” in the definition of *place of business*;
- (f) by inserting “in the State” after “section 28” in the definition of *trust account*.

87. Section 4 substituted

Section 4 of the Principal Act is repealed and the following section is substituted:

4. Requirement for licence

- (1) A person must not undertake any commercial agent activities, crowd control agent activities, security agent activities or inquiry agent activities unless the person is –
 - (a) the holder of an agent licence granted by the Director in accordance with this Part; or
 - (b) entitled to hold an agent licence by virtue of holding deemed registration.

Penalty: In the case of –

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-
- (a) a body corporate, 1 000 penalty units; and
 - (b) a natural person, 200 penalty units.
 - (2) A person must not undertake any commercial employee activities, crowd control employee activities or security employee activities unless the person is –
 - (a) the holder of an employee licence granted by the Director under this Part; or
 - (b) entitled to hold an employee licence by virtue of holding deemed registration.

Penalty: Fine not exceeding 100 penalty units.

88. Section 5 amended (Ineligibility to apply for licence)

Section 5 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “to apply for” and substituting “to hold”;
- (b) by omitting subsection (3) and substituting the following subsection:
 - (3) A person is ineligible, under subsection (2), to hold a licence for a period of 10 years from –

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- (a) in the case of a person who is sentenced to a term of imprisonment or a period of detention, the completion of the term of imprisonment or period of detention; or
- (b) in any other case, the day on which the person is found guilty of the relevant offence.
- (c) by omitting from subsection (4) “A person is ineligible to apply for” and substituting “A person is ineligible to hold”;
- (d) by omitting from subsection (5) “A person is ineligible to apply for” and substituting “A person is ineligible to hold”.

89. Section 5A inserted

After section 5 of the Principal Act, the following section is inserted in Part 2:

5A. Deemed registration of licence holders

- (1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual*

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Recognition Act 1992 of the
Commonwealth;

participating jurisdiction has the
meaning it has in section 4(1) of
the *Mutual Recognition Act 1992*
of the Commonwealth.

- (2) A person who intends to undertake any commercial agent activities, crowd control agent activities, security agent activities, inquiry agent activities, commercial employee activities, crowd control employee activities or security employee activities in the State, in accordance with a licence held by the person by virtue of holding deemed registration, must notify the Director of the person's entitlement to hold deemed registration before undertaking the activities.

Penalty: Fine not exceeding 10 penalty units.

- (3) A notification under subsection (2) –
- (a) must be in a manner approved by the Director; and
 - (b) must be in a form approved by the Director; and
 - (c) is to contain any information that the Director considers necessary.

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- (4) If there is a change in the information provided by a person in a notification to the Director under subsection (2), the person must, as soon as practicable, in a form approved by the Director, notify the Director of the change.

Penalty: Fine not exceeding 10 penalty units.

- (5) A person who holds a licence by virtue of holding deemed registration must not undertake any commercial agent activities, crowd control agent activities, security agent activities, inquiry agent activities, commercial employee activities, crowd control employee activities or security employee activities in the State unless the work is within the scope of the work that the person is authorised to carry out for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Director may –
- (a) suspend or cancel the deemed registration held by the holder of the licence; and

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- (b) disqualify the person from holding a licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.

90. Section 6 amended (Application)

Section 6 of the Principal Act is amended as follows:

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

- (1) Subject to subsection (3), a person who is eligible to hold a licence may make an application to the Director for a licence.

- (b) by inserting the following subsection after subsection (2):

- (3) A person who is entitled to hold a licence by virtue of holding deemed registration is not required to make an application for the licence in accordance with this Act.

91. Section 8 amended (Grant or refusal of application)

Section 8 of the Principal Act is amended as follows:

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(a) by omitting subsection (1) and substituting the following subsection:

(1) After receiving a character report from the Commissioner of Police under section 7(3) in respect of an application for a licence, the Director may –

(a) grant the application subject to any conditions that the Director determines; or

(b) refuse to grant the application.

(b) by inserting the following subsection after subsection (5):

(5A) The Director must be satisfied in relation to the matters set out in this section, other than as set out in subsections (1) and (2)(a)(i), in respect of a person who is entitled to hold a licence by virtue of holding deemed registration, despite the person not making an application for a licence under this Act.

92. Section 10 amended (Issue of licence)

Section 10 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (3) “issued in accordance with subsection (1) or (2)” after “A licence”;
 - (b) by inserting in subsection (5) “, other than an identity card that is issued to a person who holds an agent licence, or an employee licence, by virtue of holding deemed registration,” after “card”;
 - (c) by inserting the following subsection after subsection (5):
 - (6) This section does not apply to a person who holds a licence by virtue of holding deemed registration.

93. Section 13 amended (Conditions)

Section 13 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “issued by the Director in accordance with section 10” after “A licence”;
- (b) by inserting in subsection (2) “issued by the Director in accordance with section 10” after “a licence”;
- (c) by inserting in subsection (3) “issued by the Director in accordance with section 10” after “a licence”.

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94. Section 14 substituted

Section 14 of the Principal Act is repealed and the following section is substituted:

14. Duration of licence

- (1) A licence issued by the Director under section 10 is in force for the period specified in the licence unless sooner cancelled.
- (2) A licence held by a person by virtue of holding deemed registration is valid for the period in respect of which the deemed registration is in force.

95. Section 18 amended (Death of licensee)

Section 18 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “issued by the Director in accordance with section 10” after “a licence”;
- (b) by inserting the following subsection after subsection (3):
 - (4) If a person who holds a licence by virtue of holding deemed registration dies –
 - (a) the person’s legal personal representative is

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to notify the Director of
that fact; and

- (b) no other person may
undertake any activity
under the licence.

96. Section 19 substituted

Section 19 of the Principal Act is repealed and
the following section is substituted:

19. Duplicate licences and identity cards

- (1) The Director may issue a duplicate licence or identity card on request and on payment of a prescribed fee if satisfied that the licence or identity card has been lost, destroyed or mutilated.
- (2) This section does not apply to a licence held by a person by virtue of holding deemed registration.

97. Section 20 amended (Register of licences)

Section 20(2) of the Principal Act is amended by
inserting after paragraph (f) the following
paragraph:

- (fa) any information that the Director
considers appropriate in relation to a
licence held by a person by virtue of
holding deemed registration;

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98. Section 32 amended (Records)

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “The holder” and substituting “Other than a person referred to in subsection (3), the holder”;
- (b) by inserting the following subsections after subsection (2):
 - (3) The holder of an agent licence in respect of the operation of a commercial agency who holds that licence by virtue of holding deemed registration, and who does not have a place of business in this State, must keep the following records in an approved manner for an approved period:
 - (a) a record of any transaction entered into in the course of undertaking activities under that licence;
 - (b) a record in relation to any person employed by the holder for the purpose of the operation of the commercial agency.

Penalty: In the case of –

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- (a) a body corporate,
500 penalty units;
and
 - (b) a natural person,
100 penalty units.
- (4) A person must not falsify or mutilate any records referred to in subsection (3).

Penalty: In the case of –

- (a) a body corporate,
500 penalty units;
and
- (b) a natural person,
200 penalty units.

99. Section 34 amended (Place of business)

Section 34 of the Principal Act is amended by inserting “issued by the Director in accordance with section 10” after “agent licence”.

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Part 9 – Repeal of Act

PART 9 – REPEAL OF ACT

100. Repeal of Act

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.