

Queensland



**TOURISM, RACING AND FAIR
TRADING (MISCELLANEOUS
PROVISIONS) BILL 2003**

Queensland



**TOURISM, RACING AND FAIR TRADING
(MISCELLANEOUS PROVISIONS)
BILL 2003**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	8
2	Commencement	8
PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981		
3	Act amended in pt 2	8
4	Omission of ss 19–20	8
5	Insertion of new s 93A	8
	93A Chief executive may require information from financial institutions before cancelling incorporation	9
6	Amendment of s 94 (Vesting of property on cancellation)	9
7	Omission of ss 107–108	9
8	Insertion of new s 121A	9
	121A False or misleading information or documents	10
PART 3—AMENDMENT OF BUSINESS NAMES ACT 1962		
9	Act amended in pt 3	10
10	Omission of s 4A (Registrar may enter into arrangements with ASIC)	10
11	Amendment of s 12A (Provisions relating to statements etc.)	11
PART 4—AMENDMENT OF CLASSIFICATION OF COMPUTER GAMES AND IMAGES ACT 1995		
12	Act amended in pt 4	11
13	Amendment of s 7 (Production of computer game for classification or reclassification)	11

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

14	Amendment of s 8A (Calling in computer game for reclassification by board)	12
15	Amendment of s 8B (Obtaining copies for review)	12
16	Amendment of s 8C (Calling in unclassified computer game for classification)	12
17	Amendment of s 13B (Director's power to require certain advertisements to be submitted for approval)	13
18	Amendment of s 13C (Defence to prosecution under section 13B)	13
PART 5—AMENDMENT OF CLASSIFICATION OF FILMS ACT 1991		
19	Act amended in pt 5.	13
20	Amendment of s 25CA (Calling in unclassified film for classification)	14
21	Amendment of s 25CB (Calling in film for reclassification)	14
22	Amendment of s 25CC (Obtaining copies for review)	14
23	Amendment of s 25D (Director's power to require certain advertisements to be submitted for approval)	14
24	Amendment of s 25E (Defence to prosecution under section 25D)	15
PART 6—AMENDMENT OF CLASSIFICATION OF PUBLICATIONS ACT 1991		
25	Act amended in pt 6.	15
26	Amendment of s 9A (Director's power to require publisher to submit application for classification of a publication)	15
27	Amendment of s 9B (Director's power to require certain advertisements to be submitted for approval)	16
28	Amendment of s 9C (Defence to prosecution under section 9A or 9B)	16
PART 7—AMENDMENT OF COLLECTIONS ACT 1966		
29	Act amended in pt 7.	16
30	Amendment of s 8 (Delegation by Minister).	16
31	Amendment of s 8A (Delegation by chief executive).	17
PART 8—AMENDMENT OF COMMERCIAL AND CONSUMER TRIBUNAL ACT 2003		
32	Act amended in pt 8.	17
33	Amendment of s 52 (Extension of time and waiver of compliance).	17
34	Amendment of s 112 (Person must answer certain questions)	18

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

**PART 9—AMENDMENT OF CO-OPERATIVE SCHEMES
(ADMINISTRATIVE ACTIONS) ACT 2001**

35	Act amended in pt 9.	18
36	Amendment of s 4 (Co-operative schemes to which Act applies— relevant State Acts)	18

PART 10—AMENDMENT OF FAIR TRADING ACT 1989

37	Act amended in pt 10.	19
38	Amendment of s 99 (Action for damages—TPA s 82)	19
39	Amendment of s 100 (Compensation and other remedial orders—TPA s 87)	19
40	Amendment of s 103 (Jurisdiction)	20
41	Insertion of new pt 8	20

**PART 8—TRANSITIONAL PROVISION FOR TOURISM, RACING
AND FAIR TRADING (MISCELLANEOUS PROVISIONS) ACT 2003**

117	Transitional provision for actions for damages and compensation and other remedial orders—TPA, ss 82 and 87	20
-----	--	----

**PART 11—AMENDMENT OF INTRODUCTION AGENTS ACT
2001**

42	Act amended in pt 11.	21
43	Amendment of s 19 (Application for licence)	21
44	Amendment of s 22 (Disqualifying criteria—corporations)	21
45	Amendment of s 24 (Decision on application)	21
46	Amendment of s 25 (Renewal of licence)	22
47	Amendment of s 27 (Procedure for suspending, cancelling, refusing to renew or imposing conditions on a licence)	22
48	Amendment of s 30 (Replacement licence)	22
49	Insertion of new s 32A	22
	32A Display of licence	23
50	Amendment of s 33 (Register of licences)	23
51	Amendment of s 43 (Pre-contractual disclosure statement)	23
52	Amendment of s 44 (What must be included in an introduction agreement)	23
53	Amendment of s 45 (Client must be given copy of agreement)	24
54	Amendment of s 49 (Restriction on prepayments)	24
55	Amendment of s 55 (Early termination payment by client allowed)	25
56	Amendment of s 58 (Cooling-off period)	25

Tourism, Racing and Fair Trading (Miscellaneous Provisions) Bill 2003

57	Insertion of new s 59A	25
	59A Onus on introduction agent to prove client bound	25
58	Insertion of new s 94A	25
	94A Service by fax	26
59	Amendment of sch 2 (Dictionary)	26
	PART 12—AMENDMENT OF PARTNERSHIP ACT 1891	
60	Act amended in pt 12.	26
61	Amendment of s 13 (Liability of the firm for wrongs)	26
62	Insertion of new s 49	27
	49 Transitional provision for Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2003	27
	PART 13—AMENDMENT OF PROPERTY AGENTS AND MOTOR DEALERS ACT 2000	
63	Act amended in pt 13.	27
64	Amendment of s 13 (Meaning of “beneficial interest”)	27
65	Amendment of s 37 (Eligibility for pastoral house licence)	27
66	Amendment of s 161 (Pretending to be real estate salesperson).	28
67	Amendment of s 201 (Pretending to be pastoral house salesperson)	28
68	Amendment of s 257 (Pretending to be trainee auctioneer)	28
69	Amendment of s 276 (Pretending to be property developer salesperson).	29
70	Amendment of s 335 (Pretending to be motor salesperson)	29
71	Amendment of s 355 (Pretending to be commercial subagent)	29
72	Insertion of new s 569A	30
	569A Undertaking about other matter	30
73	Amendment of sch 1 (Decisions subject to review)	30
74	Amendment of sch 2 (Dictionary)	30
	PART 14—AMENDMENT OF RACING ACT 2002	
75	Act amended in pt 14.	31
76	Amendment of s 97 (Matters relating to establishment of appeal committee)	31
77	Amendment of s 167 (Decisions that may be appealed).	31
78	Amendment of s 369 (Racing calendar)	31
79	Amendment of sch 1 (Relocated provisions)	32

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

80	Amendment of sch 3 (Dictionary)	32
	PART 15—AMENDMENT OF SECURITY PROVIDERS ACT 1993	
81	Act amended in pt 15.	32
82	Amendment of s 3 (Definitions)	32
83	Amendment of s 10 (Application for licence).	32
84	Amendment of s 14 (Decision on application)	33
85	Replacement of s 19 (Period of validity of licence)	33
	19 Term of licence	34
86	Amendment of s 20 (Renewal of licence)	34
87	Amendment of s 21 (Grounds for suspension, cancellation or refusal to renew)	34
88	Amendment of s 26 (Right to appeal to the Court)	34
	PART 16—AMENDMENT OF TRAVEL AGENTS ACT 1988	
89	Act amended in pt 16.	35
90	Amendment of s 6 (Definitions)	35
91	Amendment of s 19 (Duration of licence).	35
92	Replacement of s 44 (Delegation by commissioner).	35
	44 Delegation by commissioner	36
	44A Delegation by chief executive	36
93	Replacement of s 50 (False or misleading information)	36
	50 False or misleading information or documents	36

2003

A BILL

FOR

**An Act to amend legislation administered by the Minister for Tourism
and Racing and the Minister for Fair Trading, and for other
purposes**

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

The Parliament of Queensland enacts— 1

PART 1—PRELIMINARY 2

Clause 1 Short title 3

This Act may be cited as the *Tourism, Racing and Fair Trading
(Miscellaneous Provisions) Act 2003*. 4
5

Clause 2 Commencement 6

(1) Part 7 commences 1 month after assent. 7

(2) Sections 49 and 52 commence 3 months after assent. 8

(3) Sections 85 and 91 commence on a day to be fixed by proclamation. 9

**PART 2—AMENDMENT OF ASSOCIATIONS
INCORPORATION ACT 1981** 10
11

Clause 3 Act amended in pt 2 12

This part amends the *Associations Incorporation Act 1981*. 13

Clause 4 Omission of ss 19–20 14

Sections 19 and 20— 15

omit. 16

Clause 5 Insertion of new s 93A 17

After section 93— 18

insert— 19

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

‘93A Chief executive may require information from financial institutions before cancelling incorporation	1
	2
‘(1) This section applies if—	3
(a) the chief executive has served a notice on a relevant officer of an incorporated association under section 93(1); and	4 5
(b) the chief executive considers a financial institution may hold, or have held, an account in the name of the incorporated association.	6 7 8
‘(2) The chief executive may, by written notice, require a person who is the manager or other principal officer of the financial institution to give the chief executive, within a stated reasonable time, stated information about—	9 10 11
(a) any accounts held by the incorporated association with the financial institution; and	12 13
(b) the balance of each account held.	14
‘(3) The person must comply with the notice.	15
Maximum penalty—10 penalty units.’	16
Clause 6 Amendment of s 94 (Vesting of property on cancellation)	17
(1) Section 94(a) and (c), ‘Governor in Council’—	18
<i>omit, insert—</i>	19
‘chief executive’.	20
(2) Section 94(a) and (c), ‘regulation’—	21
<i>omit, insert—</i>	22
‘gazette notice’.	23
Clause 7 Omission of ss 107–108	24
Sections 107 and 108—	25
<i>omit.</i>	26
Clause 8 Insertion of new s 121A	27
After section 121—	28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

insert—

‘121A False or misleading information or documents

‘(1) This section applies to a statement made or document given to the chief executive.

‘(2) A person must not state anything to the chief executive the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

‘(3) A person must not give the chief executive a document the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

‘(4) Subsection (3) does not apply to a person who, when giving the document—

(a) informs the chief executive, to the best of the person’s ability, how it is false or misleading; and

(b) gives the correct information to the chief executive if the person has, or can reasonably obtain, the correct information.

‘(5) It is enough for a complaint against a person for an offence against subsection (2) or (3) to state the information or document was false or misleading to the person’s knowledge, without specifying which.’.

**PART 3—AMENDMENT OF BUSINESS NAMES
ACT 1962**

Clause 9 Act amended in pt 3

This part amends the *Business Names Act 1962*.

Clause 10 Omission of s 4A (Registrar may enter into arrangements with ASIC)

Section 4A—

omit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 11	Amendment of s 12A (Provisions relating to statements etc.)	1
	Section 12A(3)—	2
	<i>omit, insert—</i>	3
	‘(3) If—	4
	(a) a person has applied for renewal of the registration of a business name; and	5
	(b) subsection (2) applies; and	6
	(c) the registration is renewed;	7
	the renewal is taken to be effected for a further term of 1 year or 3 years, stated in the application for renewal, as from the day on which the previous registration expires.’.	8
		9
		10
		11
	 PART 4—AMENDMENT OF CLASSIFICATION OF COMPUTER GAMES AND IMAGES ACT 1995	 12 13
Clause 12	Act amended in pt 4	14
	This part amends the <i>Classification of Computer Games and Images Act 1995</i> .	15 16
Clause 13	Amendment of s 7 (Production of computer game for classification or reclassification)	17 18
	(1) Section 7(1), from ‘ask’ to ‘computer game’—	19
	<i>omit, insert—</i>	20
	‘, by written notice given to a person (the “ publisher ”) who publishes a computer game, require the publisher’.	21 22
	(2) Section 7(3) to (5)—	23
	<i>renumber</i> as section 7(4) to (6).	24
	(3) Section 7(2)—	25
	<i>omit, insert—</i>	26

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

<p>‘(2) The publisher must comply with the notice within 3 business days after receiving it.</p> <p>Maximum penalty—20 penalty units.</p> <p>‘(3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove that the defendant did not have a copy of the computer game.’</p> <p>(4) Section 7(6), as renumbered, ‘(4)’—</p> <p style="padding-left: 20px;"><i>omit, insert—</i></p> <p>‘(5)’.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p>
<p>Clause 14 Amendment of s 8A (Calling in computer game for reclassification by board)</p> <p>Section 8A(2), after ‘director’—</p> <p style="padding-left: 20px;"><i>insert—</i></p> <p>‘or the computer games classification officer’.</p>	<p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p>
<p>Clause 15 Amendment of s 8B (Obtaining copies for review)</p> <p>Section 8B(2), after ‘director’—</p> <p style="padding-left: 20px;"><i>insert—</i></p> <p>‘or the computer games classification officer’.</p>	<p>15</p> <p>16</p> <p>17</p> <p>18</p>
<p>Clause 16 Amendment of s 8C (Calling in unclassified computer game for classification)</p> <p>(1) Section 8C(1) and (2), after ‘director’—</p> <p style="padding-left: 20px;"><i>insert—</i></p> <p>‘or the computer games classification officer’.</p> <p>(2) Section 8C(3)—</p> <p style="padding-left: 20px;"><i>omit, insert—</i></p> <p>‘(3) For the requirement under subsection (2) to have effect—</p>	<p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p>

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

	(a) if the director makes the requirement—the director must cause notice of the requirement to be published in the Commonwealth gazette; or	1 2 3
	(b) if the computer games classification officer makes the requirement—the officer must cause notice of the requirement to be gazetted.’.	4 5 6
Clause 17	Amendment of s 13B (Director’s power to require certain advertisements to be submitted for approval)	7 8
	(1) Section 13B, heading, ‘ Director’s power ’— <i>omit, insert—</i>	9 10
	‘ Power ’.	11
	(2) Section 13B(1), after ‘director’— <i>insert—</i>	12 13
	‘or the computer games classification officer’.	14
Clause 18	Amendment of s 13C (Defence to prosecution under section 13B)	15
	Section 13C, after ‘director’— <i>insert—</i>	16 17
	‘or the computer games classification officer’.	18
	PART 5—AMENDMENT OF CLASSIFICATION OF FILMS ACT 1991	19 20
Clause 19	Act amended in pt 5	21
	This part amends the <i>Classification of Films Act 1991</i> .	22

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 20	Amendment of s 25CA (Calling in unclassified film for classification)	1 2
	(1) Section 25CA(1) and (2), after ‘director’—	3
	<i>insert—</i>	4
	‘or the films classification officer’.	5
	(2) Section 25CA(4)—	6
	<i>omit, insert—</i>	7
	‘(4) For the requirement under subsection (2) to have effect—	8
	(a) if the director makes the requirement—the director must cause notice of the requirement to be published in the Commonwealth gazette; or	9 10 11
	(b) if the films classification officer makes the requirement—the officer must cause notice of the requirement to be gazetted.’.	12 13
Clause 21	Amendment of s 25CB (Calling in film for reclassification)	14
	Section 25CB(2), after ‘director’—	15
	<i>insert—</i>	16
	‘or the films classification officer’.	17
Clause 22	Amendment of s 25CC (Obtaining copies for review)	18
	Section 25CC(2), after ‘director’—	19
	<i>insert—</i>	20
	‘or the films classification officer’.	21
Clause 23	Amendment of s 25D (Director’s power to require certain advertisements to be submitted for approval)	22 23
	(1) Section 25D, heading, ‘Director’s power’—	24
	<i>omit, insert—</i>	25
	‘Power’.	26
	(2) Section 25D(1), after ‘director’—	27

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

	<i>insert—</i>	1
	‘or the films classification officer’.	2
Clause 24	Amendment of s 25E (Defence to prosecution under section 25D)	3
	Section 25E, after ‘director’—	4
	<i>insert—</i>	5
	‘or the films classification officer’.	6
 PART 6—AMENDMENT OF CLASSIFICATION OF PUBLICATIONS ACT 1991		 7 8
Clause 25	Act amended in pt 6	9
	This part amends the <i>Classification of Publications Act 1991</i> .	10
Clause 26	Amendment of s 9A (Director’s power to require publisher to submit application for classification of a publication)	11
	(1) Section 9A, heading, ‘ Director’s power ’—	12
	<i>omit, insert—</i>	13
	‘ Power ’.	14
	(2) Section 9A(1), after ‘director’—	15
	<i>insert—</i>	16
	‘or the publications classification officer’.	17
	(3) Section 9A(2)—	18
	<i>omit, insert—</i>	19
	‘(2) For the requirement under subsection (1) to have effect—	20
	(a) if the director makes the requirement—the director must cause	21
	notice of the requirement to be published in the Commonwealth	22
	gazette; or	23
		24

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

(b) if the publications classification officer makes the requirement—the officer must cause notice of the requirement to be gazetted.’. 1
2
3

Clause 27 Amendment of s 9B (Director’s power to require certain advertisements to be submitted for approval) 4
5

(1) Section 9B, heading, ‘Director’s power’— 6
omit, insert— 7
‘Power’. 8

(2) Section 9B(1), after ‘director’— 9
insert— 10
‘or the publications classification officer’. 11

Clause 28 Amendment of s 9C (Defence to prosecution under section 9A or 9B) 12
13

Section 9C, after ‘director’— 14
insert— 15
‘or the publications classification officer’. 16

PART 7—AMENDMENT OF COLLECTIONS ACT 1966 17

Clause 29 Act amended in pt 7 18

This part amends the *Collections Act 1966*. 19

Clause 30 Amendment of s 8 (Delegation by Minister) 20

(1) Section 8, from ‘an’— 21
omit, insert— 22
‘the chief executive.’. 23

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

	(2) Section 8—	1
	<i>insert—</i>	2
	‘(2) The chief executive may subdelegate the delegated power to an appropriately qualified public service officer.’.	3 4
Clause 31	Amendment of s 8A (Delegation by chief executive)	5
	(1) Section 8A(2), definition “appropriately qualified”—	6
	<i>relocate</i> to section 5(1).	7
	(2) Section 8A(2), as amended—	8
	<i>omit.</i>	9
 PART 8—AMENDMENT OF COMMERCIAL AND CONSUMER TRIBUNAL ACT 2003		10 11
Clause 32	Act amended in pt 8	12
	This part amends the <i>Commercial and Consumer Tribunal Act 2003</i> .	13
Clause 33	Amendment of s 52 (Extension of time and waiver of compliance)	14
	Section 52(4), from ‘if’—	15
	<i>omit, insert—</i>	16
	‘—	17
	(a) for a proceeding relating to a matter to which the <i>Property Agents and Motor Dealers Act 2000</i> , section 472A ¹ applies; or	18 19
	(b) if to do so would cause any prejudice or detriment to a party or potential party that can not be remedied by an appropriate order for costs or damages.’.	20 21 22

1 *Property Agents and Motor Dealers Act 2000*, section 472A (Time limit for making particular claims relating to marketeering contraventions and non-investment residential property)

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 34	Amendment of s 112 (Person must answer certain questions)	1
	Section 112(1)—	2
	<i>omit, insert—</i>	3
	‘(1) This section applies if—	4
	(a) a person, at a public examination started under the <i>Property Agents and Motor Dealers Act 2000</i> , refuses to answer any question put to the person; or	5 6 7
	(b) a person, at a public examination started under any other empowering Act, refuses to answer a question about the person’s financial affairs.’.	8 9 10
PART 9—AMENDMENT OF CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) ACT 2001		11 12
Clause 35	Act amended in pt 9	13
	This part amends the <i>Co-operative Schemes (Administrative Actions) Act 2001</i> .	14 15
Clause 36	Amendment of s 4 (Co-operative schemes to which Act applies—relevant State Acts)	16 17
	(1) Section 4(1)(c) and (d)—	18
	<i>renumber</i> as section 4(1)(f) and (g).	19
	(2) Section 4(1)—	20
	<i>insert—</i>	21
	‘(c) the <i>Classification of Computer Games and Images Act 1995</i> ;	22
	(d) the <i>Classification of Films Act 1991</i> ;	23
	(e) the <i>Classification of Publications Act 1991</i> ;’.	24

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

(3) Section 4(1)(g), as renumbered, ‘or (c)’—	1
<i>omit, insert—</i>	2
‘, (c), (d), (e) or (f)’.	3

PART 10—AMENDMENT OF FAIR TRADING ACT 1989 4

Clause 37 Act amended in pt 10	5
This part amends the <i>Fair Trading Act 1989</i> .	6
Clause 38 Amendment of s 99 (Action for damages—TPA s 82)	7
(1) Section 99(2) and (3)—	8
<i>renumber</i> as section 99(3) and (4).	9
(2) Section 99—	10
<i>insert—</i>	11
‘(2) However, a person who suffers loss or damage by an act or omission	12
of another person may not recover the amount of the loss or damage by an	13
action under subsection (1) to the extent to which—	14
(a) the action would be based on an act or omission that is a	15
contravention of part 3, division 1 (other than section 39),	16
section 52 or 53 or part 3, division 2A; and	17
(b) the loss or damage is, or results from, death or personal injury.’.	18
Clause 39 Amendment of s 100 (Compensation and other remedial orders—TPA s 87)	19
(1) Section 100(2A) to (6)—	21
<i>renumber</i> as section 100(4) to (9).	22
(2) Section 100—	23
<i>insert—</i>	24

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

‘(3) The court may not make an order under this section for the purpose of compensating a person for loss or damage the person suffers by an act or omission of another person to the extent to which—	1 2 3
(a) the order would be based on an act or omission that is a contravention of part 3, division 1 (other than section 39), section 52 or 53 or part 3, division 2A; and	4 5 6
(b) the loss or damage is, or results from, death or personal injury.’.	7
 Clause 40 Amendment of s 103 (Jurisdiction)	 8
Section 103(3), ‘100(5)(a)’—	9
<i>omit, insert—</i>	10
‘100(7)(a)’.	11
 Clause 41 Insertion of new pt 8	 12
After section 116—	13
<i>insert—</i>	14
‘PART 8—TRANSITIONAL PROVISION FOR TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) ACT 2003	15 16 17
 ‘117 Transitional provision for actions for damages and compensation and other remedial orders—TPA, ss 82 and 87	 18 19
‘Sections 99, 100 and 103, as in force before the commencement of this section, continue to apply to an act or omission that is a contravention of part 3, division 1 (other than section 39), section 52 or 53 or part 3, division 2A that happens before the commencement.’.	20 21 22 23

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

	PART 11—AMENDMENT OF INTRODUCTION AGENTS ACT 2001	1 2
Clause 42	Act amended in pt 11 This part amends the <i>Introduction Agents Act 2001</i> .	3 4
Clause 43	Amendment of s 19 (Application for licence) Section 19(2)(d)— <i>omit.</i>	5 6 7
Clause 44	Amendment of s 22 (Disqualifying criteria—corporations) Section 22(2), definition “externally-administered body corporate”— <i>omit, insert—</i> ‘ “externally-administered body corporate” has the meaning given by the Corporations Act, section 9. ² ’.	8 9 10 11 12
Clause 45	Amendment of s 24 (Decision on application) Section 24(3)(c), ‘date of’— <i>omit, insert—</i> ‘applicant receives’.	13 14 15 16

2 Corporations Act, section 9—

“**externally-administered body corporate**” means a body corporate—

- (a) that is being wound up; or
- (b) in respect of property of which a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting; or
- (c) that is under administration; or
- (ca) that has executed a deed of company arrangement that has not yet terminated; or
- (d) that has entered into a compromise or arrangement with another person the administration of which has not been concluded.

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 46	Amendment of s 25 (Renewal of licence)	1
	(1) Section 25(1)—	2
	<i>omit, insert—</i>	3
	‘(1) A licensee may apply to the chief executive for renewal of the licensee’s licence within the period starting 1 month before the licence ends and ending 3 months after the licence ends.’.	4 5 6
	(2) Section 25(2)(d)—	7
	<i>omit.</i>	8
Clause 47	Amendment of s 27 (Procedure for suspending, cancelling, refusing to renew or imposing conditions on a licence)	9 10
	Section 27(4)(b), ‘date of’—	11
	<i>omit, insert—</i>	12
	‘licensee receives’.	13
Clause 48	Amendment of s 30 (Replacement licence)	14
	(1) Section 30(2) to (4)—	15
	<i>renumber</i> as section 30(3) to (5).	16
	(2) Section 30—	17
	<i>insert—</i>	18
	‘(2) The application must be accompanied by the fee prescribed under a regulation.’.	19 20
	(3) Section 30(5)(c), as renumbered, ‘date of’—	21
	<i>omit, insert—</i>	22
	‘applicant receives’.	23
Clause 49	Insertion of new s 32A	24
	After section 32—	25
	<i>insert—</i>	26

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

‘32A Display of licence	1
‘(1) A licensee must conspicuously display the licensee’s licence, or a copy of the licence, at every place where the licensee deals with a person who is, or may become, a client of the licensee’s business as an introduction agent.	2 3 4 5
Maximum penalty—200 penalty units.	6
‘(2) A licensee must conspicuously show the number of the licensee’s licence in all types of communications with a person who is, or may become, a client of the licensee’s business as an introduction agent.	7 8 9
<i>Examples of types of communications—</i>	10
Brochure, internet, SMS.	11
Maximum penalty—200 penalty units.’.	12
Clause 50 Amendment of s 33 (Register of licences)	13
Section 33(2)(a), ‘at which’—	14
<i>omit, insert—</i>	15
‘where’.	16
Clause 51 Amendment of s 43 (Pre-contractual disclosure statement)	17
(1) Section 43(1), after ‘ statement ’—	18
<i>insert—</i>	19
‘and including, but not limited to, the matters in subsection (2)’.	20
(2) Section 43(2), from ‘Without’ to ‘following—’—	21
<i>omit, insert—</i>	22
‘The matters are as follows—’.	23
(3) Section 43(2), penalty—	24
<i>omit.</i>	25
Clause 52 Amendment of s 44 (What must be included in an introduction agreement)	26 27
(1) Section 44(1), ‘ensure than’—	28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

<i>omit, insert—</i>	1
‘ensure that’.	2
(2) Section 44(1)(b)(ii) to (ix)—	3
<i>renumber</i> as section 44(1)(b)(iv) to (xi).	4
(3) Section 44(1)(b)(i)—	5
<i>omit, insert—</i>	6
(i) prominently at the top of the first page of the agreement, the agent’s licence number;	7 8
(ii) at the beginning of the agreement, before any other words comprising the agreement, the words ‘Important Notice’ in bold type at least 16 point font size;	9 10 11
(iii) immediately after the words ‘Important Notice’ mentioned in subparagraph (ii), the statement prescribed for this subparagraph under a regulation;’.	12 13 14
(4) Section 44(1)(d)—	15
<i>omit, insert—</i>	16
(d) is signed.’.	17
(5) Section 44(2), ‘subsection (1)(b)(v)’—	18
<i>omit, insert—</i>	19
‘subsection (1)(b)(vii).’.	20
Clause 53 Amendment of s 45 (Client must be given copy of agreement)	21
Section 45(1), ‘agreement signed by the agent and the client’—	22
<i>omit, insert—</i>	23
‘signed agreement’.	24
Clause 54 Amendment of s 49 (Restriction on prepayments)	25
Section 49(2), ‘demand of’—	26
<i>omit, insert—</i>	27
‘demand of,’.	28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 55	Amendment of s 55 (Early termination payment by client allowed)	1 2
	Section 55(2), ‘the end of 3 clear business days’—	3
	<i>omit, insert—</i>	4
	‘5 pm on the third clear business day’.	5
 Clause 56	 Amendment of s 58 (Cooling-off period)	 6
	Section 58(2)—	7
	<i>omit, insert—</i>	8
	‘(2) A client may end an introduction agreement at any time before 5 pm on the third clear business day after the client receives a copy of the signed agreement.	9 10 11
	<i>Example of when client may end an introduction agreement—</i>	12
	A client receives a copy of the signed introduction agreement at 2 pm on Monday. To end the agreement, the client must indicate to the introduction agent an intention to end the agreement by 5 pm on Thursday, assuming that Monday to Thursday are all business days.	13 14 15 16
	‘(3) The client ends the agreement by giving signed notice to the introduction agent.’.	17 18
 Clause 57	 Insertion of new s 59A	 19
	After section 59—	20
	<i>insert—</i>	21
	‘59A Onus on introduction agent to prove client bound	22
	‘The introduction agent bears the onus of proving whether or to when a client is bound by an introduction agreement if a dispute arises about the issue.’.	23 24 25
 Clause 58	 Insertion of new s 94A	 26
	Part 8, division 3, before section 95—	27
	<i>insert—</i>	28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

‘94A Service by fax	1
‘If a document is sent by fax, it is taken to be received by the person to whom it is sent if the sender’s fax machine indicates that transmission has been successful, unless the contrary is proved.’.	2 3 4
Clause 59 Amendment of sch 2 (Dictionary)	5
Schedule 2—	6
<i>insert—</i>	7
‘ “signed” , in relation to an introduction agreement, means signed by the client and by or for the introduction agent.’.	8 9
PART 12—AMENDMENT OF PARTNERSHIP ACT 1891	
Clause 60 Act amended in pt 12	11
This part amends the <i>Partnership Act 1891</i> .	12
Clause 61 Amendment of s 13 (Liability of the firm for wrongs)	13
(1) Section 13, ‘Where’—	14
<i>omit, insert—</i>	15
‘(1) Subject to subsection (2), if’.	16
(2) Section 13—	17
<i>insert—</i>	18
‘(2) For subsection (1), a partner who commits a wrongful act or omission as a director of a body corporate under the Corporations Act is not to be taken to be acting in the ordinary course of the business of the firm or with the authority of the partner’s copartners only because of any 1 or more of the following—	19 20 21 22 23
(a) the partner obtained the agreement or authority of the partner’s copartners, or some of them, to be appointed or to act as a director of the body corporate;	24 25 26

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

- (b) remuneration that the partner receives for acting as a director of the body corporate forms part of the income of the firm; 1
2
- (c) any copartner is also a director of that or any other body corporate.’. 3
4

Clause 62 Insertion of new s 49 5

After section 48— 6

insert— 7

‘49 Transitional provision for *Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2003* 8
9

Section 13, as in force before the commencement of this section, continues to apply to an act or omission that happened before the commencement.’. 10
11
12

**PART 13—AMENDMENT OF PROPERTY AGENTS AND
MOTOR DEALERS ACT 2000** 13
14

Clause 63 Act amended in pt 13 15

This part amends the *Property Agents and Motor Dealers Act 2000*. 16

Clause 64 Amendment of s 13 (Meaning of “beneficial interest”) 17

Section 13(1) and (2), ‘or sale’— 18

omit. 19

Clause 65 Amendment of s 37 (Eligibility for pastoral house licence) 20

Section 37(a)(iii), ‘*Financial Corporations Act 1974*’— 21

omit, insert— 22

‘*Financial Sector (Collection of Data) Act 2001*’. 23

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 66	Amendment of s 161 (Pretending to be real estate salesperson)	1
	(1) Section 161(1), ‘hold out that the person is’—	2
	<i>omit, insert—</i>	3
	‘act as’.	4
	(2) Section 161—	5
	<i>insert—</i>	6
	‘(3) In this section—	7
	“ act as a real estate salesperson ”, for a person, includes hold out that the person is a real estate salesperson.’.	8 9
 Clause 67	 Amendment of s 201 (Pretending to be pastoral house salesperson)	 10 11
	(1) Section 201, ‘hold out that the person is’—	12
	<i>omit, insert—</i>	13
	‘act as’.	14
	(2) Section 201—	15
	<i>insert—</i>	16
	‘(2) In this section—	17
	“ act as a pastoral house salesperson ”, for a person, includes hold out that the person is a pastoral house salesperson.’.	18 19
 Clause 68	 Amendment of s 257 (Pretending to be trainee auctioneer)	 20
	(1) Section 257, ‘hold out that the person is’—	21
	<i>omit, insert—</i>	22
	‘act as’.	23
	(2) Section 257—	24
	<i>insert—</i>	25
	‘(2) In this section—	26
	“ act as a trainee auctioneer ”, for a person, includes hold out that the person is a trainee auctioneer.’.	27 28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 69	Amendment of s 276 (Pretending to be property developer salesperson)	1 2
	(1) Section 276, ‘hold out that the person is’—	3
	<i>omit, insert—</i>	4
	‘act as’.	5
	(2) Section 276—	6
	<i>insert—</i>	7
	‘(2) In this section—	8
	“ act as a property developer salesperson ”, for a person, includes hold out that the person is a property developer salesperson.’.	9 10
 Clause 70	 Amendment of s 335 (Pretending to be motor salesperson)	 11
	(1) Section 335, ‘hold out that the person is’—	12
	<i>omit, insert—</i>	13
	‘act as’.	14
	(2) Section 335—	15
	<i>insert—</i>	16
	‘(2) In this section—	17
	“ act as a motor salesperson ”, for a person, includes hold out that the person is a motor salesperson.’.	18 19
 Clause 71	 Amendment of s 355 (Pretending to be commercial subagent)	 20
	(1) Section 355(1), ‘hold out that the person is’—	21
	<i>omit, insert—</i>	22
	‘act as’.	23
	(2) Section 355—	24
	<i>insert—</i>	25
	‘(3) In this section—	26
	“ act as a commercial subagent ”, for a person, includes hold out that the person is a commercial subagent.’.	27 28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 72	Insertion of new s 569A	1
	After section 569—	2
	<i>insert—</i>	3
	‘569A Undertaking about other matter	4
	‘Without limiting section 569, the chief executive may accept an undertaking given by a person for this section about anything for which the chief executive or an inspector has a function or power.	5 6 7
	<i>Example of type of undertaking for this section—</i>	8
	An undertaking to publish corrective advertising.’.	9
 Clause 73	 Amendment of sch 1 (Decisions subject to review)	 10
	Schedule 1, entry for section 481(1)—	11
	<i>omit.</i>	12
 Clause 74	 Amendment of sch 2 (Dictionary)	 13
	(1) Schedule 2—	14
	<i>insert—</i>	15
	“used imported vehicle” means a motor vehicle that—	16
	(a) has been imported into Australia under the <i>Motor Vehicle Standards Act 1989</i> (Cwlth); and	17 18
	(b) is intended to be used in transport in Australia within the meaning of that Act;	19 20
	but does not include a motor vehicle that has been supplied to the market in full volume in Australia within the meaning of that Act and the <i>Motor Vehicle Standards Regulations 1989</i> (Cwlth).’.	21 22 23
	(2) Schedule 2, definition “used motor vehicle”, paragraph (a)—	24
	<i>omit, insert—</i>	25
	‘(a) generally, means—	26

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

- | | |
|--|-------------|
| (i) a motor vehicle that has, at any time, been licensed or registered, whether under a law of this State or of any other State or Territory; or | 1
2
3 |
| (ii) a used imported vehicle; and’. | 4 |

PART 14—AMENDMENT OF RACING ACT 2002 5

- | | |
|--|----------|
| Clause 75 Act amended in pt 14 | 6 |
| This part amends the <i>Racing Act 2002</i> . | 7 |
| Clause 76 Amendment of s 97 (Matters relating to establishment of appeal committee) | 8
9 |
| (1) Section 97(4)— | 10 |
| <i>renumber</i> as section 97(5). | 11 |
| (2) Section 97— | 12 |
| <i>insert—</i> | 13 |
| ‘(4) Despite subsection (3)(b) and (c), a member of a committee of a licensed club may be a member of an appeal committee.’. | 14
15 |
| Clause 77 Amendment of s 167 (Decisions that may be appealed) | 16 |
| Section 167(1)(c), after ‘no’— | 17 |
| <i>insert—</i> | 18 |
| ‘right of’. | 19 |
| Clause 78 Amendment of s 369 (Racing calendar) | 20 |
| Section 369(2), ‘relates.’— | 21 |
| <i>omit, insert—</i> | 22 |
| ‘relates,’. | 23 |

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

Clause 79	Amendment of sch 1 (Relocated provisions)	1
	Schedule 1, section 12G(4), example, ‘teleconferencing’—	2
	<i>omit, insert—</i>	3
	‘technology’.	4
Clause 80	Amendment of sch 3 (Dictionary)	5
	Schedule 3, definition “sporting contingency”, paragraph (a), ‘race; or’—	6
	<i>omit, insert—</i>	7
	‘race;’.	8
		9
 PART 15—AMENDMENT OF SECURITY PROVIDERS ACT 1993		 10 11
Clause 81	Act amended in pt 15	12
	This part amends the <i>Security Providers Act 1993</i> .	13
Clause 82	Amendment of s 3 (Definitions)	14
	Section 3, definition “disqualifying offence”, paragraph (c)—	15
	<i>omit, insert—</i>	16
	(c) against a provision of the Criminal Code mentioned in the schedule; or	17 18
	(d) against the <i>Police Service Administration Act 1990</i> , section 10.19(b), (c), (d), (e) or (f).’.	19 20
Clause 83	Amendment of s 10 (Application for licence)	21
	(1) Section 10(2) to (4)—	22
	<i>renumber</i> as section 10(4) to (6).	23

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

(2) Section 10—	1
<i>insert—</i>	2
‘(2) The application must be accompanied by the fee prescribed under a regulation.	3 4
‘(3) The applicant must state in the application the term of the licence being applied for.’.	5 6
Clause 84 Amendment of s 14 (Decision on application)	7
(1) Section 14(2) and (3)—	8
<i>renumber</i> as section 14(3) and (4).	9
(2) Section 14—	10
<i>insert—</i>	11
‘(2) Despite subsection (1), if the applicant or another person required to be an appropriate person for the grant of the licence has been charged with a disqualifying offence, the chief executive may defer making a decision to grant or to refuse to grant the licence until the end of the proceeding for the charge.’.	12 13 14 15 16
(3) Section 14—	17
<i>insert—</i>	18
‘(5) If the chief executive decides to defer making a decision to grant or to refuse to grant the licence, the chief executive must promptly give the applicant a written notice stating—	19 20 21
(a) the decision; and	22
(b) the reasons for the decision; and	23
(c) that the applicant may appeal against the decision within 28 days to a Magistrates Court.’.	24 25
Clause 85 Replacement of s 19 (Period of validity of licence)	26
Section 19—	27
<i>omit, insert—</i>	28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

'19 Term of licence	1
'A licence may be issued for a 1 year or 3 year term.'	2
Clause 86 Amendment of s 20 (Renewal of licence)	3
Section 20(4), 'period, of not longer than 1 year'—	4
<i>omit, insert—</i>	5
'term, of 1 year or 3 years'.	6
Clause 87 Amendment of s 21 (Grounds for suspension, cancellation or refusal to renew)	7
(1) Section 21(1)(d)—	9
<i>renumber</i> as section 21(1)(f).	10
(2) Section 21(1)—	11
<i>insert—</i>	12
(d) the licensee has been convicted of an offence against the	13
<i>Industrial Relations Act 1999</i> , section 666(1) ³ relating to the	14
under payment of award wages;	15
(e) the licensee has contravened an order of the industrial	16
commission or of the Industrial Magistrates Court to pay wages.'	17
Clause 88 Amendment of s 26 (Right to appeal to the Court)	18
Section 26(1)—	19
<i>omit, insert—</i>	20
'(1) An applicant for a licence may appeal against a decision of the chief	21
executive—	22
(a) to refuse to grant the licence; or	23
(b) to defer making a decision to grant or to refuse to grant the	24
licence.'	25

3 *Industrial Relations Act 1999*, section 666 (Non-payment of wages)

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

**PART 16—AMENDMENT OF TRAVEL AGENTS
ACT 1988**

		1
	ACT 1988	2
Clause 89	Act amended in pt 16	3
	This part amends the <i>Travel Agents Act 1988</i> .	4
Clause 90	Amendment of s 6 (Definitions)	5
	Section 6—	6
	<i>insert—</i>	7
	‘ “appropriately qualified” includes having the qualifications, experience or standing appropriate to exercise the power.	8 9
	<i>Example of standing—</i>	10
	A person’s classification level in the public service.’.	11
Clause 91	Amendment of s 19 (Duration of licence)	12
	(1) Section 19(2)—	13
	<i>omit, insert—</i>	14
	‘(2) A licensee must, not later than the day prescribed under a regulation for this section—	15 16
	(a) pay to the commissioner the annual licence fee prescribed under a regulation and lodge with the commissioner an annual return in the approved form; or	17 18 19
	(b) pay to the commissioner the triennial licence fee prescribed under a regulation and lodge with the commissioner a triennial return in the approved form.’.	20 21 22
	(2) Section 19(3), from ‘fails’ to ‘return’—	23
	<i>omit, insert—</i>	24
	‘fails to pay the licence fee or lodge the return’.	25
Clause 92	Replacement of s 44 (Delegation by commissioner)	26
	Section 44—	27

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

omit, insert—

1

‘44 Delegation by commissioner

2

‘The commissioner may delegate the commissioner’s powers under this Act to an appropriately qualified public service officer.

3

4

‘44A Delegation by chief executive

5

‘(1) The chief executive may delegate the chief executive’s powers under this Act to the commissioner.

6

7

‘(2) The commissioner may subdelegate the delegated power to an appropriately qualified public service officer.’

8

9

Clause 93 Replacement of s 50 (False or misleading information)

10

Section 50—

11

omit, insert—

12

‘50 False or misleading information or documents

13

‘(1) This section applies to a statement made or document given to the commissioner or an inspector.

14

15

‘(2) A person must not state anything to the commissioner or an inspector the person knows is false or misleading in a material particular.

16

17

Maximum penalty—20 penalty units.

18

‘(3) A person must not give the commissioner or an inspector a document the person knows is false or misleading in a material particular.

19

20

Maximum penalty—20 penalty units.

21

‘(4) Subsection (3) does not apply to a person who, when giving the document—

22

23

(a) informs the commissioner or the inspector, to the best of the person’s ability, how it is false or misleading; and

24

25

(b) gives the correct information to the commissioner or the inspector if the person has, or can reasonably obtain, the correct information.

26

27

28

*Tourism, Racing and Fair Trading (Miscellaneous
Provisions) Bill 2003*

‘(5) It is enough for a complaint against a person for an offence against subsection (2) or (3) to state the information or document was false or misleading to the person’s knowledge, without specifying which.’

1
2
3
4