

Queensland



Regulatory Impact Statement for SL 2002 No. 355

Introduction Agents Act 2001

INTRODUCTION AGENTS REGULATION 2002

1 Title

Introduction Agents Regulation 2002

2 Background

An introduction agency is an organisation offering a service which, for profit, places one person in contact with another person with a view to establishing personal relationships, whether short or long term. Introduction agencies offer a wide variety of services such as: introducing unattached people with a view to permanent relationships; offering a casual dating service; arranging marriages through sponsored migration; and organising social functions such as dinner parties for small groups.

Since 1995 the Office of Fair Trading (“OFT”) has received over 500 formal complaints relating to introduction agencies. Investigations by the OFT have revealed that these complaints represent only the “tip of the iceberg” in terms of failure to comply with existing regulatory legislation including the *Fair Trading Act 1989* and the *Criminal Code*. The commencement of legislation on 1 July 1998 in Victoria has also resulted in some of the more disreputable Victorian operators moving to Queensland.

The substance of complaints and the matters investigated include: unauthorised credit card deductions; failure to provide total services after payment is rendered; the provision of services materially different from those sought; inadequate disclosure; high pressure sales techniques; misleading representations; excessive pre-payments; excessive fees; and an evasive approach to consumer complaints. Complainants include some of the most vulnerable people in the community including those with

disabilities. The personal and sensitive nature of the service provided often means that they are reluctant to come forward with their complaints.

Previous attempts in three States, including Queensland, to clean up the industry through codes of conduct failed and enforcement action under legislation such as the *Fair Trading Act 1989* was severely hampered by the lack of written contracts and the inability to trace operators who work under assumed names.

The *Introduction Agents Act 2001* (“the Act”) was enacted in 2001 but is yet to commence. The objective of the Act is to eliminate unfair practices from the introduction agency industry. It specifically targets practices whereby vulnerable consumers are targeted with high pressure selling techniques and payments are extracted from them for services which are often never provided.

The key features of the Act include:

- a licensing scheme for introduction agents;
- a requirement for written contracts and pre-contractual disclosure statements;
- for more expensive contracts, a prohibition on more than 30% of the price being received before services are provided; and
- a compulsory three day “cooling off” period.

To support the Act, a regulation has been drafted to deal with such matters as the information to be provided by applicants and prescribed fees. As the prescribed fees are likely to impose an appreciable cost on part of the community, this Regulatory Impact Statement has been prepared on the prescribed fees in accordance with the *Statutory Instruments Act 1992*.

3 Stakeholders

3.1 Consumers

In 2000, the OFT conducted a consumer survey on the use of services provided by introduction agents. Data gathered from the survey suggests that more than half of the people seeking introduction services do so with a view to establishing a long-term relationship. Thirteen percent join with a view to marriage. About eighteen percent join to widen their social circle while the remainder join seeking short-term relationships.

The demand for the services of introduction agents is varied in terms of clients’ sex, age, marital status, socio-economic backgrounds, employment

status, place of residence, and sexual preferences. Generally, there is a higher demand by males than females for introduction services.

The total number of introduction agency clients is unknown. However, on the basis of the limited responses to research commissioned by the OFT, the consultants estimated that about 20,000 clients join Queensland's 70 agencies each year. It was further estimated that there were about 65,000 clients on the books of introduction agencies at the time.

It was also found that the most vulnerable people in the community including those with mental and physical disabilities, can be easily attracted to the services offered by an introduction agent.

3.2 Introduction Agents

Consultation with industry representatives was also conducted in 2000 to determine the size, structure and characteristics of the industry. Representatives of sixteen of eighty-three agencies listed in the Yellow Pages were interviewed. Results indicated that the industry is characterised by a relatively large number of small operators, although it is known there are some large players, particularly on the Gold Coast. Data suggests that there were approximately 70 agents operating in 2000, and it is estimated that most would have an average of three full time employees and one casual employee. From these figures it is estimated that there are approximately 210 fulltime employees and 70 casual employees engaged in the industry in Queensland.

3.3 Government

The Act will be administered by the Department of Tourism, Racing and Fair Trading.

4 Authorising Law

Introduction Agents Act 2001

4.1 The authorising law for the prescribed fees is:

- s19(2)(c) of the Act (fee for application for a licence);
- s25(2)(c) of the Act (fee for application for licence renewal);

- s33(5) of the Act (fee to accompany application for certificate to certify as to any matter relating to the contents of the register of licences); and
- s99(2)(a) of the Act (a regulation may be made about fees).

5 Policy Objective

The policy objective is to reduce unfair practices in the introduction agency industry and in particular, to specifically address unfair practices whereby vulnerable consumers are targeted with high pressure selling techniques and payments are extracted from them for services which are often never provided.

6 Legislative Intent

The intent of the Act is to reduce unfair practices in the introduction agency industry by introducing a licensing scheme and prescribing standards of behaviour including how introduction agents deal with clients. The Act also gives clients specific protection from high pressure sales tactics and other undesirable behaviour.

The prescribed fees in the regulation are required to support the licensing scheme in the Act.

7 Consistency with Authorising Law

The regulation is consistent with the authorising law.

8 Consistency with Other Legislation

The regulation is consistent with other legislation.

9 Options and Alternatives

This RIS evaluates two possible alternatives. The first considers the costs/benefits of not charging licensing fees for introduction agents. The second considers the situation where licensing fees are imposed by regulation.

9.1 Option 1 - No licensing fees

The costs/benefits to the three stakeholders groups are discussed below.

9.1.1 Industry

The Act establishes a licensing regime. If licensing fees were not introduced, industry participants would still be regulated but the financial burden would be lower. Ideally, this would mean that industry would not have to pass any fees on to consumers in the form of higher service costs and this would enable more competitive arrangements for industry and consumers.

9.1.2 Consumers

Licensing will address consumer concerns about the integrity of the agency operator and in identifying with whom the consumer may be intending to contract. If licensing fees are not introduced, this may benefit consumers, who may have otherwise been faced with a slight increase in service costs if industry passed on licensing fees.

Without a licensing regime it would be easier for unethical operators to set up business and enforcement of Government policies would be more difficult. This could result in less confidence for consumers in the service provided.

Consumers will not be charged any fees to inspect the register of introduction agencies held by the OFT to encourage potential clients to check whether agencies are appropriately licensed.

The effect of the no fees option will be that consumers will not contribute to the overall consumer protection regime.

9.1.3 Government

Under this option, Government would have to absorb all of the costs of administering the Act. It is estimated that the net cost would be \$184,400 in 2002-03, \$159,200 in 2003-04 and \$71,750 in 2004-05. Details of costs are set out in the table below.

	2002-03	2003-04	2004-05
Education Campaign	75,000	75,000	0
Implementation of Policies, Processes, Systems	0	0	0
Regulatory Licensing and Renewal	31,050	7,650	7,650
Compliance Monitoring	3,750	1,950	1,950

Complaint Investigations	65,450	65,450	53,000
Enforcement and Prosecution	9,150	9,150	9,150
Net Cost to government	184,400	159,200	71,750

9.1.4 Summary

The no licensing fees option would provide benefits for industry by reducing the financial burden which in turn may have been passed onto consumers in the form of higher service costs. However, under this option all costs involved with the regulatory regime would be borne by Government.

9.2 Option 2 - Introducing licensing fees

The proposed regulation prescribes the following fees:

- Application for a licence for a term of:
 - 1 year \$ 470.00
 - 2 years \$ 840.00
 - 3 years \$1270.00
- Application for renewal of a licence for a term of:
 - 1 year \$ 470.00
 - 2 years \$ 840.00
 - 3 years \$ 1270.00
- Replacement licence \$ 47.00
- Notice of change in information under s29 of the Act \$ 47.00
- Certificate relating to the contents of the register \$ 20.80

The costs/benefits to the three stakeholders groups are as follows.

9.2.1 Industry

Previous attempts to regulate the industry through Codes of Conduct and the *Fair Trading Act 1989* have failed resulting in ongoing problems with poor service delivery standards. As a consequence, given the nature of the services offered, unethical operators may set up business and then close to avoid having to meet contractual commitments. Research has indicated that the industry is constantly changing and without a licensing regime, this instability is likely to continue. These changes contribute to a poor industry image, which may deter some potential consumers from purchasing introduction services. These problems create concerns for consumers and enforcement costs for Government.

The National Competition Policy (NCP) Report on the regulatory regime suggested that the introduction of a licensing system may result in the closure of some businesses. However, such closures may not be solely due to the fees but to the criteria for obtaining a licence. It is considered unlikely that the level of fees would be the primary reason for closure of any of the existing businesses. Having regard to the estimated number of consumers using the services of introduction agencies, any charges passed on to consumers would likely be minimal and as a consequence, the proposed level of fees should not be a major impact on individual agencies.

Victoria is the only other jurisdiction with industry specific legislation. Although the prescribed fee in Victoria is \$190, the Victorian legislation is based on a registration system not a licensing system. The Queensland Act establishes a system of granting licences to suitable persons, partnerships and corporations and the renewal of a licence is not automatic. All new applications and renewals will be assessed to establish if they satisfy the legislative requirements under the Act. These requirements add to the overall costs of maintaining a licensing and compliance regime over the industry.

Research conducted into the industry in association with the NCP review found that it was continually changing. This created difficulties for both consumers and Government in identifying and locating people working in the industry. It is considered that the charging of fees combined with licensing requirements could result in a more stable situation with more permanent players entering into the marketplace. This in turn would improve consumer confidence impacting positively on the industry in the long term.

The NCP Issues Paper released in conjunction with the Draft Consultation Bill suggested that the licensing fee would be about \$450.00 per annum. A small number of submissions indicated that the proposed fees were too high. Another submission suggested that the proposed fee was too low.

The proposed model provides for eventual cost recovery through licensing fees set at a level comparable to fees imposed under similar occupational licensing regimes administered by the OFT.

One effect of the new legislation and the proposed new fees may be that some introduction agents may close down or leave the State and this may have an impact on employment. There is a lack of reliable data available on the number of agents operating or the number of people employed in the industry. This is due to the current lack of regulation, as well as the practice of less reputable agents repeatedly closing their businesses and re-opening

them under new names. Data available suggests that there are approximately 70 agents operating, and it is estimated that most would have an average of three full-time employees and one casual employee. It is therefore estimated that there are approximately 210 full-time employees and 70 casual workers in this industry throughout Queensland.

It is considered that the new legislation will not reduce the operation of genuine introduction agency services. It is anticipated that the exploitative sector of the industry will recede in the face of the new legislation which will make it more difficult for agencies to take money without providing the agreed service. Ultimately, mainstream agencies should be able to attract more interest from potential clients who may be suspicious of the industry's current image which will improve in the face of the new legislation. In this respect, it is anticipated that employment levels will remain stable.

If there is any negative effect on employment it will be because the new legislation has eliminated criminal and unethical operators from the industry. It is considered that the achievement of this aim, and the consequent benefits to consumers, would amply justify those adverse effects.

9.2.2 Consumers

Licensing of industry participants will have a positive effect for consumers in allaying integrity concerns and in identifying persons with whom they are dealing. However, the introduction of fees for industry may have a negative impact particularly if the costs are passed on in the form of increased service charges or result in service providers ceasing operation or ceasing to provide particular elements of their service. To address this potential concern, the Government aims to minimise the negative impacts by adopting a fee structure which is consistent with the fees of other occupational licences administered by the OFT.

Additionally, there will be no charges applied for checking the database held by the OFT for licensed introduction agents. This is designed to encourage interested parties to make checks on whether a business is appropriately licensed as an introduction agency before engaging their services.

The benefits to consumers of improved and fairer trading practices by the industry are expected to significantly outweigh any additional costs which may flow on to consumers in increased service costs.

9.2.3 Government

Government will bear a significant portion of the costs of administering the Act at least in the first year of operation. However, after the implementation period, it is expected that administrative costs will move towards eventual full cost recovery through licensing fees.

To achieve effective operation of the legislation and to ensure that only those industry participants who comply with the regulatory scheme operate, it will be important to encourage consumers to check whether a given business is licensed to provide introductory services before entering into contracts or agreements with them. Consumers as clients of introduction agencies have been identified as extremely vulnerable to unfair practices including high pressure selling techniques and having payments extracted from them for services which are often never provided. Therefore, they are in need of basic consumer protection to safeguard their interests and emotional well being. No fees will be imposed to check the licence of a given business and although this may present a cost to Government the benefit of the community service and effective operation of the legislation will easily outweigh those costs.

The OFT has actively carried out, and continues to actively carry out, enforcement activities in relation to this industry. These activities are seriously impeded by difficulties in obtaining evidence against agencies which operate without written contracts or other documentation and which continually open and close businesses under different names to avoid detection. The new legislation will address these issues and it is expected that licensing fees will assist in achieving greater stability in the industry. In addition, the costs to Government of compliance and enforcement of the legislation will be able to be offset against the licensing fees.

The following is an estimate of the costs and revenue involved in establishment and enforcement of the new legislation over the first three financial years of its operation.

	2002-03	2003-04	2004-05
Education Campaign	75,000	75,000	0
Implementation of Policies, Processes, Systems	0	0	0
Regulatory Licensing and Renewal	31,050	7,650	7,650
Compliance Monitoring	3,750	1,950	1,950
Complaint Investigations	65,450	65,450	53,000
Enforcement and Prosecution	9,150	9,150	9,150

Subtotal	184,400	159,200	71,750
Revenue	70,500	70,500	70,500
Net cost	113,900	88,700	1,250

9.2.4 Summary

The licensing fees option would spread the costs across industry, consumers and Government. Initially Government would bear the major costs but over time, this option would provide for effective cost recovery.

9.3 Assessment of Options

The failure to introduce comprehensive standards of behaviour for the introduction agency industry would have resulted in industry standards remaining poor and compliance with fair trading practices remaining low. This would not have supported the Government's social justice objectives and priority outcomes of protecting vulnerable consumers in the marketplace.

The preferred option is to introduce licensing fees for introduction agents. Unless licensing fees are charged, the financial burden for the regulatory regime will fall directly on Government. The proposed charges will spread the burden across stakeholders. In the longer term it is expected that the scheme will be administered through licensing fees. In return, the licensing system will provide consumer protection and will give a greater credibility to the industry.

10 Consistency with Fundamental Legislative Principles

The regulation is consistent with fundamental legislative principles.

11 National Competition Policy

The NCP review of the proposal to regulate the introduction agency industry was conducted from November 1999 to October 2000 by an independent NCP Review Committee. Independent consultants conducted a public benefit test on the proposed regulation of the industry.

The NCP Report assessed the costs and benefits of implementing the regulatory framework. This involved assessing alternative options such as no regulation, once-off registration, renewable registration, and negative

licensing. Further, regulatory options such as a Mandatory Code of Conduct, a Government-based Insurance Scheme and modifications to specific provisions within the legislation were considered in the NCP Report. The conclusion reached was that a licensing system would most appropriately meet the government's policy objectives by providing up front protection to consumers.

The Regulation seeks to establish the regulatory regime in a cost effective manner.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Office of Fair Trading.