

AUCTIONEERS, DEALERS AND AGENTS ORDINANCE 1973

1625

No. 61 of 1973

An Ordinance to amend the *Auctioneers Ordinance* 1935 as amended

[Assented to 11 December, 1973]

BE it ordained by the Legislative Council for the Northern Territory of Australia as follows:—

1. This Ordinance may be cited as the *Auctioneers, Dealers and Agents Ordinance* 1973. Short title
2. The *Auctioneers Ordinance* 1935 as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice published in the *Gazette*.* Commencement
4. The long title of the Principal Ordinance is amended by adding at the end thereof the words “and the Activities of certain Dealers and Agents.” The long title of the Principal Ordinance
5. Section 3 of the Principal Ordinance is amended— Definitions
 - (a) by inserting in the definition of “auctioneer” after the words “a person who” the words “or a body corporate which”;
 - (b) by inserting after the definition of “auctioneer’s licence” the following definition:
“‘body corporate’ has the same meaning as ‘corporation’ has in the *Companies Ordinance*;”;
 - (c) by inserting after the definition of “clerk’s licence” the following definition:
“‘company’s licence’ means a licence granted to a body corporate to carry on business as an auctioneer, livestock agent, real estate agent, debt collector, used car dealer or travel agent as the case may be;”.

* Date not fixed at 1 January, 1974.

Auctioneers, Dealers and Agents

- (d) by omitting from the definition of "debt collector" the words "a person (whether or not he carries on any other business) who on behalf of another person" and inserting in their stead the words "a person who or a body corporate which (whether or not he or it carries on any other business), on behalf of another person or body,";
- (e) by omitting from the definition of "livestock agent" the words "a person (whether or not he carries on any other business) who" and inserting in their stead the words "a person who or a body corporate which (whether or not he or it carries on any other business)";
- (f) by inserting after the definition of "livestock agent's licence" the following definition:—
 "'person' does not include a body corporate;"
- (g) by omitting from the definition of "real estate agent" the words "a person (whether or not he carries on any other business) who" and inserting in their stead the words "a person who or a body corporate which (whether or not he or it carries on any other business)";
- (h) by inserting after the definition of "real estate agent's licence" the following definitions:
 "'travel agent' means a person who or a body corporate which—
- (a) as agent for others, arranges, sells or offers for sale the right of travel on a conveyance; or
 - (b) prepares travel itineraries or organizes tours for sale to individuals, other travel agents or groups of travellers,
- but does not include the Northern Territory Tourist Board established by the *Tourist Board Ordinance* or any other body corporate with like functions established by a law of the Commonwealth, of a State or of another Territory of the Commonwealth;
- 'travel agent's licence' means a travel agent's licence granted under this Ordinance;" and
- (i) by omitting from the definition of "used car dealer" the words "a person (whether or not he carries on any other business) who" and inserting in their stead the words "a person who or a body corporate which (whether or not he or it carries on any other business)".

6. Section 4 of the Principal Ordinance is amended—

Auctioneer must hold licence

- (a) by omitting from paragraph (e) “or”; and
- (b) by inserting after paragraph (f) the following paragraph:
“; or (g) act for reward as a travel agent unless he holds a travel agent’s licence.”.

7. Section 5 of the Principal Ordinance is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

Application for auctioneer’s licence

“(2.) An application under this section, in addition to containing such other matters as may be prescribed shall set out—

- (a) the full name and the business address of the applicant; and
- (b) the full names, occupations and residential addresses of two persons to whom reference may be made whether the applicant is a fit and proper person to hold the licence applied for.”.

8. After section 8B of the Principal Ordinance the following sections are inserted:

“8BA. A body corporate shall not carry on business as an auctioneer, livestock agent, real estate agent, debt collector, used car dealer or travel agent unless it holds a company’s licence to carry on business as an auctioneer, livestock agent, real estate agent, debt collector, used car dealer or travel agent as the case may be.

Company’s licence

Penalty: One thousand dollars.

“8BB.—(1.) A body corporate may apply, in accordance with the prescribed form, to the Administrator for a company’s licence.

Application for company’s licence

“(2.) An application under this section shall be accompanied by—

- (a) a copy of the memorandum of association of the body corporate; and
- (b) a statement in writing setting out the names and residential addresses of the directors of the body corporate.

“8BC.—(1.) A body corporate that holds a company’s licence may, within fourteen days before the date upon which the licence expires, apply, in accordance with the prescribed form, to the Administrator for a renewal of that licence.

Renewal of company’s licence

Auctioneers, Dealers and Agents

“(2.) An application for renewal of a company’s licence shall state whether, since the grant or last renewal of the company’s licence—

- (a) the memorandum of association of the body corporate has been changed; or
- (b) there has been a change in the directors of the body corporate,

and, if so, the application shall be accompanied by—

- (c) a copy of the memorandum of association as so changed; or
- (d) a statement of the names and addresses of the current directors of the body corporate,

as the case may be.

Administrator
may grant, refuse
to grant or renew
a company’s
licence

“8BD.—(1.) Subject to this section, the Administrator may grant, or refuse to grant, a company’s licence or the renewal of such a licence.

“(2.) The Administrator shall not grant a company’s licence to carry on business as an auctioneer, livestock agent, real estate agent, debt collector, used car dealer or travel agent as the case may be, or the renewal of such a licence—

- (a) unless he is satisfied—
 - (i) that the body corporate is, by its memorandum of association, authorized to carry on that business;
 - (ii) that at least one of the directors of the body corporate holds an auctioneer’s licence, livestock agent’s licence, real estate agent’s licence, debt collector’s licence, used car dealer’s licence or travel agent’s licence as the case may be, being a licence authorizing him to carry on that business; and
 - (iii) that the body corporate as managed by its directors will properly conduct that business; and

(b) unless the prescribed fee has been paid.

“(3) Where the Administrator refuses to grant a company’s licence or the renewal of such a licence, he shall cause a notice in writing to be sent by post, addressed to the applicant at its place of business, informing it that its application has been refused.

“(4.) Subject to this Ordinance, where a body corporate applies for the renewal of a company’s licence under this Ordinance, the company’s licence remains in force until the application is granted or refused.

“8BE.—(1.) Where the Administrator—

- (a) refuses to grant a company’s licence or the renewal of such a licence; or
- (b) for a period of twenty-eight days from and including the date of the application, fails—
 - (i) to grant the licence or renewal; or
 - (ii) to notify the applicant that its application has been refused,

Applicant may appeal against refusal or failure to grant licence

the applicant may appeal to the Local Court of Full Jurisdiction situate nearest to the place at which the applicant carries on business or, if it carries on business at more than one place, its principal place of business.

“(2.) An appeal under this section shall be instituted within twenty-eight days from and including—

- (a) the date upon which the applicant receives notice under sub-section (3.) of section 8BD; or
- (b) the date of the expiration of the period of twenty-eight days referred to in sub-section (1.),

as the case may be.

“8BF. A Local Court of Full Jurisdiction—

- (a) has jurisdiction to hear and determine an appeal under section 8BE; and
- (b) upon hearing the appeal—
 - (i) if it is satisfied as to the matters specified in sub-section (2.) of section 8BD—shall order the granting by the Administrator of the licence or renewal;
 - (ii) if it is not so satisfied—shall affirm the refusal to grant the licence or renewal; and
 - (iii) may make such order as to costs as it thinks fit.

Jurisdiction and powers on appeal of Local Court

“8BG.—(1.) Subject to section 8BC, where—

- (a) the memorandum of association of a body corporate that is the holder of a company’s licence has been changed; or
- (b) there has been a change in the directors of a body corporate that is the holder of such a licence,

Change in memorandum of association or directors of holder of company’s licence

the body corporate shall, within one month after the change, apply, in accordance with this Ordinance, to the Administrator for the grant of a new company’s licence.

“(2.) Where—

- (a) there has been such a change with respect to a body corporate that is the holder of a company’s licence; and

Auctioneers, Dealers and Agents

- (b) the body corporate fails to apply to the Administrator within one month after the change as required by sub-section (1.),

the company's licence shall thereupon be deemed to be cancelled.

“(3.) Subject to this Ordinance, where a body corporate makes an application to the Administrator as required by sub-section (1.), the company's licence held by the body corporate remains in force until the application is granted or refused under this Ordinance.”.

Fee for
auctioneer's
licence

9. Section 8C of the Principal Ordinance is amended by omitting from sub-section (1.) the word “section” and inserting in its stead the word “Ordinance”.

Return of
expired or
cancelled or
suspended
licence

10. Section 12 of the Principal Ordinance is amended by omitting the words “his licence” (wherever occurring) and inserting in their stead the words “the licence”.

Misrepresentation
as to quality,
&c., of property

11. Section 13 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1.), after the word “auctioneer” the words “or an employee of an auctioneer”;
- (b) by inserting in sub-section (2.), after the words “used car dealer”, the words “or an employee of a used car dealer”;
- (c) by inserting in sub-section (3.), after the words “real estate agent”, the words “or an employee of a real estate agent”;
- (d) by inserting in sub-section (4.), after the words “livestock agent”, the words “or an employee of a livestock agent”; and
- (e) by adding at the end thereof the following sub-section:—

“(6.) Nothing in this section affects any liability of a body corporate for the act of its agents or servants acting within the scope of their authority.”.

12. After section 14 of the Principal Ordinance the following sections are inserted:—

Accounts of
travel agents

“14A.—(1.) A travel agent shall—

- (a) give full and accurate accounts of all moneys received or held by the agent on behalf of any other person and of all payments out of those moneys by the agent;

- (b) before the end of the next business day after the day on which any such money is so received or paid, enter in his accounts particulars of the amount so received or paid and the person from whom it was so received or the persons to whom it was so paid;
- (c) keep the accounts in such a manner that they can be properly and conveniently audited; and
- (d) correctly balance the accounts at the end of each month.

“(2.) Where a travel agent receives money for or on behalf of another person, he shall immediately give to the person providing the money—

- (a) a receipt as required by this section specifying briefly the subject-matter or purpose in respect of which the money was received; or
- (b) a ticket order or voucher.

“(3.) A receipt given under this section shall be from a bound book and so arranged that a carbon duplicate of the receipt is retained in the book.

“(4.) The travel agent shall—

- (a) produce—
 - (i) the duplicate receipts contained in the appropriate books; and
 - (ii) duplicates of tickets, orders or vouchers or other evidence of the tickets issued, to an auditor appointed by the Administrator for the purpose of this section to audit the accounts of the travel agent;
- (b) deliver to the auditor who carries out the first audit after the commencement of the *Auctioneers, Dealers and Agents Ordinance 1973*, a statutory declaration stating what receipt forms the travel agent has then in his possession; and
- (c) deliver to the auditor who carries out a subsequent audit a statutory declaration stating what receipt forms and what orders and vouchers came into the possession of the travel agent since the agent made the last statutory declaration in pursuance of this sub-section.

“(5.) Sub-sections (3.) and (4.) do not apply with respect to a travel agent where—

- (a) the auditor for the time being employed by the travel agent reports to the auditor appointed by the Administrator that the auditor is satisfied

Auctioneers, Dealers and Agents

with the systems used by the travel agent for recording the receipt of money and that the receipt books are so kept and entered up as to enable the accounts to be properly and conveniently audited; and

- (b) the auditor appointed by the Administrator approves of that system.

Penalty: Five hundred dollars.

Reimbursement
of money by
travel agent

“14B. A travel agent shall reimburse any money paid to the travel agent by a client in respect of travel accommodation or services that the travel agent has arranged but the principal has failed to provide.

Penalty: Five hundred dollars.

Inspection of
books of travel
agent

“14C.—(1.) A person authorized by the Administrator for the purpose of this section may at all reasonable times during business hours enter any premises where the business of travel agent is being carried on and may demand the production of any books, accounts or other documents relating to the business of the travel agent and there inspect and take notes or copies of, or extracts from, those books, accounts or other documents.

“(2.) a person shall not—

- (a) wilfully obstruct a person so authorized in the exercise of his powers under this section;
- (b) conceal or refuse or fail to produce such a book, account or other document;
- (c) being the travel agent—
- (i) refuse or fail to answer a question relating to such a book, account or other document; or
- (ii) give an untruthful answer to such a question.

Penalty: Five hundred dollars.

Travel agent
may be required
to show cause
why his licence
should not
be cancelled

“14D A travel agent shall not—

- (a) without the consent of the principal of the agent and in a manner prejudicial to the interests of that principal, make use of information or material acquired from the principal;
- (b) fail to perform a duty owed to a principal or client of the agent or to carry out an instruction of the principal or client;
- (c) fail to exercise due skill, care or diligence in performing duties owed to a principal or client of the agent;

- (d) fail to make to a principal or client of the agent a full disclosure of all material facts and circumstances known to the agent that are relevant to the matter in which the agent is acting for the principal or client;
- (e) offer to sell or advertise an offer or sale of reservations or tickets for travel, or reservations for accommodation, that the agent is not authorized to offer or sell; or
- (f) cause to be published a statement that is false, misleading or otherwise likely to deceive.

Penalty: One hundred dollars.”.

13. Section 16 of the Principal Ordinance is amended by omitting from paragraph (a) “Sunday,”.

Auction after
sunset or before
sunrise to be
prohibited

