

South Australia



ANNO QUINQUAGESIMO
ELIZABETHAE II REGINAE
A.D. 2001

STATUTES AMENDMENT (CONSUMER AFFAIRS) ACT 2001

No. 47 of 2001

[Assented to 11 October 2001]

An Act to amend the Building Work Contractors Act 1995, the Conveyancers Act 1994, the Land Agents Act 1994, the Plumbers, Gas Fitters and Electricians Act 1995, the Second-hand Vehicle Dealers Act 1995, the Security and Investigation Agents Act 1995 and the Travel Agents Act 1986.

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The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Statutes Amendment (Consumer Affairs) Act 2001*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF BUILDING WORK CONTRACTORS ACT 1995**

Amendment of s. 8—Application for licence

4. Section 8 of the principal Act is amended—

(a) by striking out from subsection (2) "any information" and substituting "such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information";

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

(3) A licence granted to a natural person will include a photograph of the holder of the licence; consequently, an applicant for a licence who is a natural person may be required by the Commissioner—

(a) to attend at a specified place for the purpose of having the applicant's photograph taken; or

(b) to supply the Commissioner with one or more photographs of the applicant as specified by the Commissioner.

(4) If an applicant for a licence has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

(5) The Commissioner may, by notice in writing, require an applicant for a licence, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(6) If the applicant fails to comply with the notice under subsection (5), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

Insertion of s. 10A

5. The following section is inserted after section 10 of the principal Act:

Power of Commissioner to require photograph and information

10A. The Commissioner may, by notice in writing, require a licensed building work contractor, within a time fixed by the notice (which may not be less than 28 days after service of the notice)—

- (a) at least once in every 10 years—
 - (i) to attend at a specified place for the purpose of having the contractor's photograph taken; or
 - (ii) to supply the Commissioner with one or more photographs of the contractor as specified by the Commissioner; and
- (b) not more than once in each year—to provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the contractor and information about any other specified matters.

Amendment of s. 11—Duration of licence and periodic fee and return, etc.

6. Section 11 of the principal Act is amended by inserting in subsection (3) "or to comply with a notice under section 10A," after "subsection (2),".

Amendment of s. 15—Application for registration

7. Section 15 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) An applicant for registration must provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information required by the Commissioner for the purposes of determining the application.

(3) A certificate of registration will include a photograph of the registered building work supervisor; consequently, an applicant for registration may be required by the Commissioner—

- (a) to attend at a specified place for the purpose of having the applicant's photograph taken; or
- (b) to supply the Commissioner with one or more photographs of the applicant as specified by the Commissioner.

(4) If an applicant for registration has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

(5) The Commissioner may, by notice in writing, require an applicant for registration, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(6) If the applicant fails to comply with the notice under subsection (5), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

Insertion of s. 17A

8. The following section is inserted after section 17 of the principal Act:

Power of Commissioner to require photograph and information

17A. The Commissioner may, by notice in writing, require a registered building work supervisor, within a time fixed by the notice (which may not be less than 28 days after service of the notice)—

- (a) at least once in every 10 years—
 - (i) to attend at a specified place for the purpose of having the building work supervisor's photograph taken; or
 - (ii) to supply the Commissioner with one or more photographs of the building work supervisor as specified by the Commissioner; and
- (b) not more than once in each year—to provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the building work supervisor and information about any other specified matters.

Amendment of s. 18—Duration of registration and periodic fee and return, etc.

9. Section 18 of the principal Act is amended by inserting in subsection (3) "or to comply with a notice under section 17A," after "subsection (2),".

PART 3 AMENDMENT OF CONVEYANCERS ACT 1994

Amendment of s. 6—Application for registration

10. Section 6 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) An applicant for registration must provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information required by the Commissioner for the purposes of determining the application.

(3) If an applicant for registration has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

(4) The Commissioner may, by notice in writing, require an applicant for registration, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(5) If the applicant fails to comply with the notice under subsection (4), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

PART 4
AMENDMENT OF LAND AGENTS ACT 1994

Amendment of s. 7—Application for registration

11. Section 7 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) An applicant for registration must provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information required by the Commissioner for the purposes of determining the application.

(3) If an applicant for registration has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

(4) The Commissioner may, by notice in writing, require an applicant for registration, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(5) If the applicant fails to comply with the notice under subsection (4), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

PART 5
AMENDMENT OF PLUMBERS, GAS FITTERS AND ELECTRICIANS ACT 1995

Amendment of s. 8—Application for licence

12. Section 8 of the principal Act is amended—

(a) by striking out from subsection (2) "any information" and substituting "such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information";

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

(3) A licence granted to a natural person will include a photograph of the holder of the licence; consequently, an applicant for a licence who is a natural person may be required by the Commissioner—

(a) to attend at a specified place for the purpose of having the applicant's photograph taken; or

(b) to supply the Commissioner with one or more photographs of the applicant as specified by the Commissioner.

(4) If an applicant for a licence has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

(5) The Commissioner may, by notice in writing, require an applicant for a licence, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(6) If the applicant fails to comply with the notice under subsection (5), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

Insertion of s. 10A

13. The following section is inserted after section 10 of the principal Act:

Power of Commissioner to require photograph and information

10A. The Commissioner may, by notice in writing, require a licensed contractor, within a time fixed by the notice (which may not be less than 28 days after service of the notice)—

- (a) at least once in every 10 years—
 - (i) to attend at a specified place for the purpose of having the contractor's photograph taken; or
 - (ii) to supply the Commissioner with one or more photographs of the contractor as specified by the Commissioner; and
- (b) not more than once in each year—to provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the contractor and information about any other specified matters.

Amendment of s. 11—Duration of licence and periodic fee and return, etc.

14. Section 11 of the principal Act is amended by inserting in subsection (3) "or to comply with a notice under section 10A," after "subsection (2),".

Amendment of s. 15—Application for registration

15. Section 15 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) An applicant for registration must provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information required by the Commissioner for the purposes of determining the application.

(3) A certificate of registration will include a photograph of the registered worker; consequently, an applicant for registration may be required by the Commissioner—

- (a) to attend at a specified place for the purpose of having the applicant's photograph taken; or
- (b) to supply the Commissioner with one or more photographs of the applicant as specified by the Commissioner.

(4) If an applicant for registration has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

(5) The Commissioner may, by notice in writing, require an applicant for registration, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(6) If the applicant fails to comply with the notice under subsection (5), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

Insertion of s. 17A

16. The following section is inserted after section 17 of the principal Act:

Power of Commissioner to require photograph and information

17A. The Commissioner may, by notice in writing, require a registered worker, within a time fixed by the notice (which may not be less than 28 days after service of the notice)—

- (a) at least once in every 10 years—
 - (i) to attend at a specified place for the purpose of having the worker's photograph taken; or
 - (ii) to supply the Commissioner with one or more photographs of the worker as specified by the Commissioner; and
- (b) not more than once in each year—to provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the worker and information about any other specified matters.

Amendment of s. 18—Duration of registration and periodic fee and return, etc.

17. Section 18 of the principal Act is amended by inserting in subsection (3) "or to comply with a notice under section 17A," after "subsection (2),".

PART 6

AMENDMENT OF SECOND-HAND VEHICLE DEALERS ACT 1995

Amendment of s. 3—Interpretation

18. Section 3 of the principal Act is amended—

- (a) by striking out from the definition of "credit contract" "as defined in the *Consumer Credit Act 1972*" and substituting "within the meaning of the *Consumer Credit (South Australia) Code*";
- (b) by striking out from the definition of "credit provider" "as defined in the *Consumer Credit Act 1972*" and substituting "within the meaning of the *Consumer Credit (South Australia) Code*".

Amendment of s. 7—Dealers to be licensed

19. Section 7 of the principal Act is amended by striking out from subsection (2)(a) "a person lawfully carrying on business as a credit provider within the meaning of the *Consumer Credit Act 1972*" and substituting "a person whose principal business is that of a credit provider".

Amendment of s. 8—Application for licence

20. Section 8 of the principal Act is amended—

(a) by striking out from subsection (2) "any information" and substituting "such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information";

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

(3) If an applicant for a licence has previously failed to pay a fee, penalty or contribution that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee, penalty or contribution (as the case may be).

(4) The Commissioner may, by notice in writing, require an applicant for a licence, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(5) If the applicant fails to comply with the notice under subsection (4), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

Amendment of s. 9—Entitlement to be licensed

21. Section 9 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (1) and substituting the following paragraph:

(b) has not—

(i) been convicted of an indictable offence of dishonesty; or

(ii) during the period of 10 years preceding the application for a licence, been convicted of a summary offence of dishonesty; and;

(b) by striking out subparagraph (i) of subsection (2)(b) and substituting the following subparagraph:

(i) has—

(A) been convicted of an indictable offence of dishonesty; or

(B) during the period of 10 years preceding the application for a licence, been convicted of a summary offence of dishonesty; or.

PART 7
AMENDMENT OF SECURITY AND INVESTIGATION AGENTS ACT 1995

Amendment of s. 8—Application for licence

22. Section 8 of the principal Act is amended—

- (a) by striking out from subsection (2) "any information" and substituting "such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information";
- (b) by inserting after subsection (2) the following subsections:

(3) A licence granted to a natural person will include a photograph of the holder of the licence; consequently, an applicant for a licence who is a natural person may be required by the Commissioner—

- (a) to attend at a specified place for the purpose of having the applicant's photograph taken; or
- (b) to supply the Commissioner with one or more photographs of the applicant as specified by the Commissioner.

(4) If an applicant for a licence has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

(5) The Commissioner may, by notice in writing, require an applicant for a licence, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(6) If the applicant fails to comply with the notice under subsection (5), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.

Insertion of s. 11A

23. The following section is inserted after section 11 of the principal Act:

Power of Commissioner to require photograph and information

11A. The Commissioner may, by notice in writing, require a licensed agent, within a time fixed by the notice (which may not be less than 28 days after service of the notice)—

- (a) at least once in every 10 years—
 - (i) to attend at a specified place for the purpose of having the agent's photograph taken; or
 - (ii) to supply the Commissioner with one or more photographs of the agent as specified by the Commissioner; and
- (b) not more than once in each year—to provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the agent and information about any other specified matters.

Amendment of s. 12—Duration of licence and annual fee and return, etc.

24. Section 12 of the principal Act is amended by inserting in subsection (3) "or to comply with a notice under section 11A," after "subsection (2),".

**PART 8
AMENDMENT OF TRAVEL AGENTS ACT 1986****Amendment of s. 8—Application for licence**

25. Section 8 of the principal Act is amended—

(a) by striking out from subsection (2) "any information" and substituting "such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information";

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

(3) If an applicant for a licence has previously failed to pay a fee, penalty, contribution or levy that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee, penalty, contribution or levy (as the case may be).

(4) The Commissioner may, by notice in writing, require an applicant for a licence, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.

(5) If the applicant fails to comply with the notice under subsection (4), the Commissioner may, without further notice, refuse the application but keep the fee that accompanied the application.