



**TOBACCO BUSINESS FRANCHISE LICENCES AMENDMENT
ACT 1981**

No. 66 of 1981

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AN ACT to amend the Tobacco Business Franchise Licences Act 1980 for the purpose of increasing the fees payable for licences under that Act, and to make further provision with respect to other matters.

[Royal Assent 30 November 1981]

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

1—This Act may be cited as the *Tobacco Business Franchise Licences Amendment Act 1981*. Short title.

Commence-
ment.

2—(1) Subject to subsection (2), this Act shall commence on 1st December 1981, but if this Act does not receive the Royal Assent on or before that date, it shall be deemed to have commenced on that date.

(2) Where an application for a licence under the Principal Act or for the renewal of such a licence is made before 1st December 1981 and the licence, if issued, would not come into force until that date or a later date, section 20 of the Principal Act shall have effect in relation to that application as if section 4 had commenced.

Principal Act.

3—In this Act, the *Tobacco Business Franchise Licences Act* 1980* is referred to as the Principal Act.

Amendment of
section 20 of
Principal Act
(Licence fees).

4—Section 20 (1) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (a) “ \$10 ” and “ 10 per cent ” and substituting “ \$12 ” and “ 12 per cent ” respectively;

(b) by omitting from paragraph (b) “ \$10 ” and “ 10 per cent ” and substituting “ \$12 ” and “ 12 per cent ” respectively;

(c) by omitting from paragraph (c) “ 10 per cent ” and substituting “ 12 per cent ”;

(d) by omitting from paragraph (d) “ \$10 ” and substituting “ \$12 ”.

Amendment of
section 22 of
Principal Act
(Adjustment
of fee).

5—Section 22 of the Principal Act is amended by omitting subsections (2) to (10) and substituting the following subsections:—

(2) Where an applicant for a licence or the renewal of a wholesale tobacco merchant’s licence, a group wholesale tobacco merchant’s licence, or a retail tobacconist’s monthly licence has made a statement that is false or misleading in a material respect in or in relation to the application, and it appears to the Registrar that the statement resulted in the fee paid for the licence or renewal of the licence being less than the fee that should have been paid, the Registrar may, at any time, whether or not the licence is still in force, reassess the fee in respect of the licence in accordance with the principles set out in section 20.

* No. 89 of 1980.

(3) Subject to subsection (6), where on a reassessment of a fee under subsection (1) the fee is reduced, the Registrar shall, as soon as practicable thereafter, cause the amount overpaid to be refunded to the person who is or was the holder of the licence concerned or, where the licence is or was held by a group of wholesale tobacco merchants, to the persons who are or were members of the group in such proportions as appear to the Registrar to be just and equitable.

(4) Subject to subsection (7), where on a reassessment of a fee under subsection (1) or (2) the fee is increased—

(a) the Registrar shall serve on the person who is or was the holder of the licence or, where the holder of the licence is or was a group of wholesale tobacco merchants, on each person who is or was a member of the group a notice of reassessment; and

(b) the additional amount payable by virtue of the reassessment shall be due and payable—

(i) by the person on whom the notice is served; or

(ii) where notices are served on 2 or more persons, by each of those persons in such proportion as may be specified in the notice served on him,

within 14 days after the date on which the notice is served.

(5) An amount which is due and payable by a person under subsection (4) and which is unpaid may be recovered by the Registrar in a court of competent jurisdiction as a debt due to the Crown.

(6) Where an amount is required to be refunded under subsection (3) and, during the period for which the licence concerned has been or was in force, the licence has been held successively by 2 or more persons or, as the case may be, by 2 or more groups of persons, the amount to be refunded shall be refunded to those persons or groups of persons in proportion to the periods, in days, for which they respectively held the licence.

(7) Where an additional amount is payable under subsection (4) and, during the period for which the licence concerned has been or was in force, the licence has been held successively by 2 or more persons or, as the case may be, by 2 or more groups of persons, the additional amount is payable by those persons or groups of persons in proportion to the periods, in days, for which they respectively held the licence.

Amendment of section 25 of Principal Act (Transfers of licences).

6—(1) Section 25 (1) of the Principal Act is amended by omitting “request the Registrar to transfer the licence held by the licensee as” and substituting “jointly request the Registrar to enter in his records the transfer of the licence to that person”.

(2) Section 25 (2) of the Principal Act is amended by omitting “thereupon be deemed to be transferred” and substituting “be deemed to be transferred on and from the date specified in the application”.

Amendment of section 27 of Principal Act (Revocation, &c., of retail tobacconist's yearly licence).

7—Section 27 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

(1) Subject to subsection (3), where it appears to the Registrar that a person who is or was the holder of a retail tobacconist's yearly licence—

- (a) made a statement in or in relation to his application for the licence or the renewal of the licence that was false or misleading in a material respect; or
- (b) at any time purchased tobacco in contravention of an undertaking entered into as referred to in section 18 (3) (b) (ii) or section 26 (6) (b) (ii) for the purpose of obtaining a retail tobacconist's yearly licence or the renewal of such a licence,

and it appears to the Registrar that the person ought not to have been the holder of a retail tobacconist's yearly licence, he may, if the licence is still in force, revoke the licence, and may, at any time, whether or not the licence is still in force, reassess the fee for the licence as if the person had been the holder of a retail tobacconist's monthly licence for the whole of the period for which the retail tobacconist's yearly licence was in force; and the amount by which the amount reassessed

exceeds the amount paid as a fee in respect of the retail tobacconist's yearly licence shall be due and payable by that person in accordance with provisions referred to in subsection (2), as applied and modified by that subsection.

8—Section 29 is amended by omitting subsection (6).

Amendment of section 29 of Principal Act (Assessment and recovery of unpaid fee from unlicensed person).

9—Section 41 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 41 of Principal Act.

41—(1) A certificate purporting to be signed by the Registrar certifying— *Evidence.*

- (a) that a person specified in the certificate was an inspector at a time or during a period so specified;
- (b) that a person specified in the certificate was or was not the holder of a licence at a time or during a period so specified;
- (c) that any specified assessment or reassessment of a fee in respect of a licence, or any specified assessment under section 29, has been made in accordance with this Act; or
- (d) that the amount of any specified fee payable under this Act has not been paid on the date on which it was due to be paid and, where appropriate, that the fee had not been paid at the time when the certificate was issued,

is admissible in any proceedings under this Act and shall be evidence of the matters so certified.

(2) If in any proceedings for an offence against section 16 (1), (2), or (3), it is proved that the defendant sold tobacco, that person shall, for the purpose of those proceedings, be presumed to have been carrying on a business of selling tobacco unless he satisfies the court to the contrary.

