



Queensland

# Introduction Agents Act 2001

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# Introduction Agents Act 2001

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# Introduction Agents Act 2001

**An Act to regulate the introduction agency industry, and for other purposes**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Introduction Agents Act 2001*.

### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

### **3 Purpose**

The purpose of this Act is to provide for fair trading within the introduction agency industry by—

- (a) establishing a licensing system for introduction agents; and
- (b) establishing methods for disqualifying unsuitable people from the industry; and
- (c) setting minimum standards for carrying on the business of an introduction agent; and
- (d) improving the provision of information to consumers about introduction services and the prices for services; and
- (e) ensuring representations about introduction services include accurate details of the services provided; and

- (f) promoting sound business practices within the industry in order to protect consumers.

## 4 This Act's interaction with other laws

This Act does not limit any other law.

*Example—*

The Criminal Code, sections 12 to 14 include some of the provisions that apply the criminal law of Queensland to particular acts or omissions occurring outside Queensland.

## 4A Relationship with Fair Trading Inspectors Act 2014

- (1) The *Fair Trading Inspectors Act 2014* (the **FTI Act**) enacts common provisions for this Act and particular other Acts about fair trading.
- (2) Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector may have under this Act.
- (3) In this section—

***inspector*** means a person who holds office under the FTI Act as an inspector for this Act.

# Part 2 Interpretation

## Division 1 Definitions

### 5 Definitions

The dictionary in schedule 2 defines particular words used in this Act.



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## Division 2                      Associated persons

### 7                      **Meaning of *associated person* and *effective control***

- (1) An *associated person* of an applicant for a licence or a licensee is a person who is not an applicant for a licence or a licensee but nevertheless is, or would be if the licence were granted, in effective control of the applicant's or licensee's business.
- (2) A person who is in *effective control* of a business includes a person who—
  - (a) is regularly or usually in charge of the business; or
  - (b) regularly directs staff of the business in their duties; or
  - (c) is in a position to control or influence substantially the business.
- (3) If an applicant for a licence or a licensee is a corporation, an executive officer of the corporation is taken to be an *associated person* of the applicant or licensee.

## Division 3                      Introduction agent, business, service or agreement

### 8                      **Meaning of *introduction agent* and *carry on the business of an introduction agent***

- (1) An *introduction agent* is a person who—
  - (a) carries on a business of providing, or offering to provide, an introduction service; or
  - (b) holds himself, herself or itself out in any way as carrying on the business of an introduction agent; or
  - (c) is entitled to share in the income of the business of an introduction agent.
- (2) Subsection (1) applies—

- (a) whether the head office or principal place of business of the person is in Queensland or elsewhere; or
  - (b) even if the person does not have an established place of business in Queensland.
- (3) A person mentioned in subsection (1)(a), (b) or (c) is taken to ***carry on the business of an introduction agent***.
- (4) Despite subsections (1)(c) and (3), a person is not an introduction agent, and is not to be taken to carry on the business of an introduction agent, only because the person is entitled to share, as a shareholder, in the income of the business of an introduction agent that is a corporation.

## 9 Meaning of ***introduction service***

- (1) An ***introduction service*** is a service the purpose of which is to introduce a person to 1 or more other persons who might be interested in having a personal relationship, or in attending a social outing, with the person, by—
  - (a) giving a name or other identifying details of the other person to the person; or
  - (b) giving a document containing names or other identifying details of the other person to the person; or
  - (c) arranging for the person to attend a meeting with the other person.
- (2) For subsection (1), it does not matter whether—
  - (a) the intended introduction is direct or indirect; or
  - (b) the personal relationship is intended to be for a long or short time.

## 10 Meaning of ***introduction agreement***

An agreement is an ***introduction agreement*** if it is an agreement to provide an introduction service or part of an introduction service to a person (the ***client***) and—

- (a) the introduction service or part of the introduction service is provided, or proposed to be provided, to the client in Queensland; or
- (b) the agreement is executed in Queensland by or for a party to the agreement; or
- (c) the client ordinarily resides in Queensland.

## **Division 4                      Persons who are not introduction agents**

### **11        Persons carrying out activities with a community purpose**

- (1) A person is not an introduction agent only because the person carries on an activity that has some of the features of an introduction service if—
  - (a) the activity is carried out for a community purpose; and
  - (b) any net proceeds from the activity are solely applied, or are to be solely applied, to furthering the community purpose.
- (2) In this section—  
*community purpose* means—
  - (a) a philanthropic or benevolent purpose, including the promotion of art, culture, science, religion, education, medicine or charity; or
  - (b) a sporting or recreational purpose, including the benefiting of any sporting or recreational club or association.

### **12        Persons carrying out non-profit activities**

A person is not an introduction agent only because the person carries on an activity that has some of the features of an introduction service if the activity—

- (a) does not have a significant commercial purpose or character; and
- (b) does not primarily seek to make a profit for the person or any other person.

### **13 Publishers of advertisements**

- (1) A person is not an introduction agent only because the person—
  - (a) publishes, or makes available, details of persons who might be interested in having a personal relationship, or in attending a social outing, with 1 or more other persons—
    - (i) in a newspaper, magazine or similar publication that is readily available to members of the public; or
    - (ii) in a television, radio or similar broadcast that is readily accessible to members of the public who have the necessary equipment to access the broadcast; and
  - (b) provides a way of enabling persons seeing or hearing the details to make contact with the persons supplying the details.
- (2) Subsection (1) applies even if—
  - (a) a member of the public must pay to obtain the publication or broadcast; and
  - (b) a person using the way mentioned in subsection (1)(b) must pay a fee of not more than the amount prescribed under a regulation or, if no amount is prescribed, of not more than \$100 for using the way.

### **14 Information providers**

- (1) A person is not an introduction agent only because the person (*information provider*) operates an information service if—

- (a) a person can obtain details of persons who might be interested in having a personal relationship, or in attending a social outing, with 1 or more other persons from the information service without the need to speak to, or to otherwise communicate personally and directly with, the information provider or an employee of the information provider; and
  - (b) a person who gives information to the information provider or an employee of the information provider for the purpose of having the information given to other persons is not, by giving the information, placed under an obligation—
    - (i) to use the service again; or
    - (ii) to pay a fee of more than the amount prescribed under a regulation or, if no amount is prescribed, of more than \$100; and
  - (c) a person to whom the information is given by the information provider is not, by using the information service, placed under an obligation—
    - (i) to use the service again; or
    - (ii) to pay a fee of more than the amount prescribed under a regulation or, if no amount is prescribed, of more than \$100.
- (2) Subsection (1)(b)(ii) and (c)(ii) does not apply if the fees for giving information to, or obtaining information from, an information service are based on the length of time a person has electronic or mechanical access to the information service and the length of the time is automatically recorded by electronic or mechanical means.
- (3) In this section—
- information service*** means a service under which details of persons interested in having a personal relationship, or in attending a social outing, with 1 or more other persons are provided.

## **15 Organisers of social activities**

A person is not an introduction agent only because the person organises a social activity with the intention of enabling persons to meet if—

- (a) the activity is publicly advertised and is open to any member of the public who is willing to pay the admission cost for the activity (even if a person can be refused admission because there is a limit on the number of persons who can attend the activity); and
- (b) the admission cost is the only cost a person attending the activity is liable to pay the organiser of the activity, other than the cost of food or drink; and
- (c) a person attending the activity is not placed under an obligation to the organiser of the activity because the person is allowed to attend the activity, other than an obligation concerning the person's conduct at the activity itself.

## **16 Persons providing neighbourhood information and welcome services**

A person is not an introduction agent only because the person provides a service that arranges for a person to meet with another person if the primary purpose of the meeting is for the other person to provide the person with information about local entertainment, sporting, recreational, cultural or business activities.

## **17 Providers of sex work**

A person is not an introduction agent only because the person provides an introduction service for the purposes of, or facilitating the provision of, sex work.

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## **Part 3                      Licences**

### **Division 1                      Applications for licence**

#### **18              Requirement to be licensed**

A person must not carry on the business of an introduction agent unless the person holds a licence.

Maximum penalty—200 penalty units.

#### **19              Application for licence**

- (1) An individual, a group of individuals or a corporation may apply to the chief executive for a licence.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) state the names, business addresses and residential addresses of all associated persons of the applicant; and
  - (c) be accompanied by—
    - (i) the application fee prescribed under a regulation; and
    - (ii) if, before or when the application is made, the chief executive requires the payment of costs under section 23A(1)—the amount of the costs required to be paid.
- (3) The applicant must state in the application whether the application is for a licence for a term of 1, 2 or 3 years.
- (4) The chief executive, by notice, may ask the applicant to give further information or documents relevant to the application.
- (5) The chief executive may reject the application if the applicant fails to comply with the request without reasonable excuse.
- (6) A requirement mentioned in subsection (2)(c)(ii) is sufficiently made of the applicant if it is made generally of

applicants in the approved form or notified on the department's web site.

## **20 Entitlement to licence**

- (1) The chief executive may grant a licence to an applicant only if the chief executive is satisfied that the applicant is a suitable person to hold the licence.
- (2) In deciding whether the applicant is a suitable person to hold a licence, the chief executive must consider whether the applicant or an associated person of the applicant has within the last 5 years—
  - (a) been convicted of an offence against this Act, the *Fair Trading Act 1989*, including the Australian Consumer Law (Queensland) forming part of that Act, or a corresponding law; or
  - (b) breached an undertaking given under this Act to the chief executive; or
  - (c) breached an undertaking given under the *Fair Trading Act 1989* to the commissioner for fair trading appointed under that Act, including an undertaking given under the Australian Consumer Law (Queensland) to that commissioner as a regulator under that law.

## **21 Disqualifying criteria—individuals**

An individual is not a suitable person to hold a licence if the person or an associated person of the person—

- (a) is under 18 years; or
- (b) is an insolvent under administration; or
- (c) has been convicted of a disqualifying offence within the last 5 years; or
- (d) has been ordered by a court not to be in any way involved in the operation of the business of an introduction agent (whether under this Act or another law) and the order is still current.



## **22 Disqualifying criteria—corporations**

A corporation is not a suitable person to hold a licence if—

- (a) it is a Chapter 5 body corporate under the Corporations Act; or
- (b) it has been ordered by a court not to be in any way involved in the operation of the business of an introduction agent (whether under this Act or another law) and the order is still current; or
- (c) it has been convicted of a disqualifying offence within the last 5 years; or
- (d) an associated person of the corporation—
  - (i) is under 18 years; or
  - (ii) is an insolvent under administration; or
  - (iii) has been convicted of a disqualifying offence within the last 5 years; or
  - (iv) has been ordered by a court not to be in any way involved in the operation of the business of an introduction agent (whether under this Act or another law) and the order is still current.

## **23 Inquiries about applicant's suitability to hold licence**

- (1) The chief executive may inquire about an applicant or an associated person of the applicant to help in deciding whether the applicant—
  - (a) is a suitable person for the grant of a licence; or
  - (b) continues to be a suitable person.
- (2) If asked by the chief executive, the commissioner must give the chief executive a report about the criminal history of the applicant or a named associated person of the applicant.
- (3) Subsection (2) applies to the criminal history—
  - (a) that is in the commissioner's possession; or

- (b) to which the commissioner ordinarily has access through arrangements with the police service of the Commonwealth or another State.
- (4) If the criminal history of the applicant or the named associated person includes a conviction recorded against the applicant or the named associated person, the commissioner's report must be written.
- (5) Information required to be supplied under this section may be used only to decide whether the applicant is a suitable person for this section or to investigate or prosecute an offence.

### **23A Costs of criminal history report**

- (1) The chief executive may require an applicant to pay the reasonable, but no more than actual, costs of obtaining a report under section 23 about the applicant or an associated person of the applicant.
- (2) The chief executive must refund to the applicant an amount paid under the requirement if—
  - (a) the chief executive refuses the application without asking for the report; or
  - (b) the applicant withdraws the application before the chief executive asks for the report.
- (3) In this section—  
*applicant* includes proposed applicant.

### **23B Confidentiality of criminal history**

- (1) A public service employee performing functions under this Act must not, directly or indirectly, disclose to anyone else a report about a person's criminal history, or information contained in the report, given under section 23.  
Maximum penalty—100 penalty units.
- (2) However, the person does not contravene subsection (1) if—

- (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under or in relation to this Act; or
  - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive must destroy a written report about a person's criminal history as soon as practicable after considering the person's suitability to hold a licence.

## **24 Decision on application**

- (1) The chief executive must consider an application for a licence and—
  - (a) grant the licence, with or without conditions; or
  - (b) refuse to grant the licence.
- (2) If the chief executive decides to grant the licence, the chief executive must—
  - (a) grant the licence for the term stated in the application for the licence; and
  - (b) promptly give the applicant the licence.
- (3) If the chief executive decides to refuse to grant the licence, the chief executive must promptly give the applicant a QCAT information notice for the decision.

## **25 Renewal of licence**

- (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.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) state the names, business addresses and residential addresses of all associated persons of the licensee; and
  - (c) be accompanied by—

- (i) the application fee prescribed under a regulation; and
  - (ii) if, before or when the application is made, the chief executive requires the payment of costs under section 23A(1)—the amount of the costs required to be paid.
- (3) The licensee must state in the application whether the application for renewal of the licence is for a term of 1, 2 or 3 years.
- (4) The chief executive must renew the licence for the term stated in the application unless the chief executive refuses to renew it under section 27.
- (5) If a licensee applies for renewal of the licensee's licence—
  - (a) the licence is taken to continue in force from the day it would, apart from this paragraph, have ended until the day—
    - (i) the chief executive renews or refuses to renew the licence; or
    - (ii) the licensee withdraws the application for renewal; and
  - (b) if the chief executive renews the licence, the licence is taken to have been renewed from the day it would, apart from paragraph (a), have ended.
- (6) A requirement mentioned in subsection (2)(c)(ii) is sufficiently made of the applicant if it is made generally of applicants in the approved form or notified on the department's web site.

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## **Division 2                      Suspensions, cancellations,    refusals to renew and imposing    conditions on licences**

### **26            Grounds for suspending, cancelling, refusing to renew or                  imposing conditions on a licence**

Each of the following is a ground for suspending, cancelling, refusing to renew or imposing a condition on a licence—

- (a) the licence, or a renewal of the licence, was obtained because of materially incorrect or misleading information;
- (b) the licensee has, for at least 1 month, stopped carrying on the business of an introduction agent;
- (c) the licensee has failed to comply with a condition of the licence;
- (d) the licensee or an associated person of the licensee has—
  - (i) breached an undertaking given under this Act to the chief executive; or
  - (ii) breached an undertaking given under the *Fair Trading Act 1989* to the commissioner for fair trading appointed under that Act, including an undertaking given under the Australian Consumer Law (Queensland) to that commissioner as a regulator under that law;
- (e) the licensee or an associated person of the licensee has within the last 5 years been convicted of an offence against this Act, the *Fair Trading Act 1989*, including the Australian Consumer Law (Queensland) forming part of that Act, or a corresponding law;
- (f) the licensee is no longer a suitable person to hold a licence because of section 21 or 22.

**27 Procedure for suspending, cancelling, refusing to renew or imposing conditions on a licence**

- (1) If the chief executive considers reasonable grounds exist to suspend, cancel, refuse to renew or impose a condition on a licence (the *action*), the chief executive must give the licensee a notice (the *show cause notice*) that—
  - (a) states the action proposed and—
    - (i) if the proposed action is to suspend the licence—states the proposed suspension period; and
    - (ii) if the proposed action is to impose a condition on a licence—states the proposed condition; and
  - (b) states the grounds for proposing to take the action; and
  - (c) outlines the facts and circumstances that form the basis for the chief executive's belief; and
  - (d) invites the licensee to make representations, within a stated time of not less than 28 days, why the action proposed should not be taken.
- (2) If, after considering all representations made within the stated time, the chief executive still believes grounds exist to take the action, the chief executive may—
  - (a) if the show cause notice stated the action proposed was to suspend the licence for a stated period—suspend the licence for a period not longer than the stated period; or
  - (b) if the show cause notice stated the action proposed was to cancel the licence—
    - (i) cancel the licence; or
    - (ii) suspend the licence for a period; or
  - (c) if the show cause notice stated the action proposed was not to renew the licence—
    - (i) refuse to renew the licence; or
    - (ii) refuse to renew the license for a period; or

- (d) if the show cause notice stated the action proposed was to impose a condition on a licence—impose the condition on the licence for a period.
- (3) The chief executive must give the licensee notice of the chief executive's decision.
- (4) If the chief executive's decision is to cancel, suspend, refuse to renew or impose a condition on the licence, the notice must be a QCAT information notice for the decision.
- (5) The decision takes effect on the later of the following—
  - (a) the day on which the notice is given to the licensee;
  - (b) the day stated in the notice.

## **28 Return of suspended or cancelled licence**

- (1) If the chief executive cancels or suspends a person's licence, the chief executive may give the person a notice requiring the person to return the licence to the chief executive in the way stated in the notice within a stated period of not less than 14 days.
- (2) The person must comply with the notice, unless the person has a reasonable excuse.  
Maximum penalty—20 penalty units.
- (3) If a licence returned to the chief executive after suspension is still current at the end of the suspension period, the chief executive must return the licence to the licensee.

## **Division 3 General provisions about licences**

### **29 Requirement to notify changes in information given**

- (1) This section applies if a licensee becomes aware of a change in the information given at any time by the licensee for an application for a licence or a renewal of a licence.

- (2) The licensee must, within 30 days after becoming aware of the change, give details of the change to the chief executive by signed notice.

Maximum penalty for subsection (2)—50 penalty units.

### **30 Replacement licence**

- (1) A licensee may apply to the chief executive for the replacement of a lost, stolen or destroyed licence.
- (2) The application must be accompanied by the fee prescribed under a regulation.
- (3) The chief executive must consider each application and—
  - (a) replace the licence; or
  - (b) refuse to replace the licence.
- (4) If the chief executive is satisfied the licence has been lost, stolen or destroyed, the chief executive must replace the licence.
- (5) If the chief executive decides to refuse to replace the licence, the chief executive must give the applicant a QCAT information notice for the decision.

### **31 Surrender of licence**

- (1) A licensee may surrender the licensee's licence by signed notice given to the chief executive.
- (2) The surrender of the licence takes effect on the day the notice of surrender is given to the chief executive or, if a later day of effect is stated in the notice, the later day.
- (3) The person to whom the licence was granted must return the licence to the chief executive within 14 days after the person surrenders the licence, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.



## **32 Licence not transferable**

A licence—

- (a) is personal to the licensee; and
- (b) is not transferable to another person; and
- (c) does not vest by operation of law in another person.

### **32A Display of licence**

- (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.

Maximum penalty—200 penalty units.

- (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.

*Examples of types of communications—*

brochure, internet, SMS

Maximum penalty—200 penalty units.

## **33 Register of licences**

- (1) The chief executive must keep a register of licences.
- (2) The register must contain—
  - (a) the addresses of the principal and other places where a licensee carries on the business of an introduction agent; and
  - (b) any other information prescribed under a regulation.
- (3) The register is to be kept in the form and in the way decided by the chief executive.
- (4) Any person may inspect the register—

- ## Part 4 Restrictions on the operation of introduction agencies

An employee or an associated person of an introduction agent must not, directly or indirectly—

- Authorised by the Parliamentary Counsel

Maximum penalty—540 penalty units.

### **35 False representations by introduction agents**

- (1) An introduction agent must not, directly or indirectly—
- (a) represent herself or himself as being available to be introduced to persons entering into introduction agreements with the agent; or
  - (b) falsely represent that a particular person, whether identified by name, likeness or otherwise, is available to be introduced to persons entering into introduction agreements with the agent; or
  - (c) falsely represent that a database of a specified size or composition is available to persons entering into introduction agreements with the agent; or
  - (d) represent that a person having specified characteristics is available to be introduced to persons entering into introduction agreements with the agent, if the person mentioned in the representation is not available to be introduced to persons entering into introduction agreements with the agent.

Maximum penalty—540 penalty units.

- (2) In a prosecution against an introduction agent for an offence against subsection (1)(b) or (c), the agent bears the onus of proving that the relevant representation is not false if there is evidence of the falsity of the relevant representation.
- (3) In a prosecution against an introduction agent for an offence against subsection (1)(d), the agent bears the onus of proving that the person mentioned in the representation was available at the relevant time to be introduced to persons entering into introduction agreements with the agent if there is evidence of the falsity of the relevant representation.

### **36 Use and protection of client information**

- (1) An introduction agent must restrict access to personal information given to the agent by a client, or a person who may become a client, to the following persons—
  - (a) the introduction agent;
  - (b) an employee of the introduction agent;
  - (c) a person authorised under this Act or another Act to have access to the information;
  - (d) a person entitled to have access to the information under a relevant introduction agreement.

Maximum penalty—200 penalty units.

- (2) An introduction agent, an employee of an introduction agent or any other person having access to personal information given to the agent by a client, or a person who may become a client of the agent, must not use the information for any purpose other than—
  - (a) to provide an introduction service under an agreement between the agent and the client; or
  - (b) a purpose that the person giving the information has agreed to in writing; or
  - (c) a purpose related to the administration or enforcement of this Act.

Maximum penalty—200 penalty units.

- (3) However, if the ownership of an introduction agent's business changes, the agent may transfer personal information held by the agent to the new owner of the business without the written consent of the person who gave the personal information, unless the person otherwise directs.
- (4) If personal information is transferred on the change of ownership of an introduction agent's business, the information is taken, for this section, to have been given to the new owner by the person to whom the information relates.
- (5) In this section—

***personal information*** means information a person gives about herself or himself.

***use*** information includes disclose, give or sell the information to another person.

### **37 Introduction agent not to use premises used for sex work**

- (1) An introduction agent must not carry on the business of an introduction agent from the same premises where a person is engaged in sex work.

Maximum penalty—200 penalty units.

- (2) For subsection (1), persons carry on business from the same premises if the persons wholly or partly use or share the same office or work space.

### **38 Employees must be over 18**

A person must not employ another person under 18 years in the business of an introduction agent if the other person—

- (a) is involved directly or indirectly in negotiating, or entering into, introduction agreements for the introduction agent; or
- (b) provides introduction services for the introduction agent.

Maximum penalty—200 penalty units.

### **39 Clients must be over 18**

An introduction agent must not enter into an introduction agreement with a person under 18 years.

Maximum penalty—200 penalty units.

#### **40 Purpose of market research must be disclosed**

- (1) This section applies if an introduction agent collects information to enable the compilation of a list of persons who may become clients of the agent.
- (2) The agent, an employee of the agent or an entity collecting the information for the agent must, before seeking the information, tell the person from whom the information is sought—
  - (a) the reason the information is being sought; and
  - (b) that the information is being sought for an introduction agent.

Maximum penalty—200 penalty units.

- (3) The agent must ensure, to the maximum extent practicable, that an employee or an entity collecting the information, and any person acting on the entity's behalf—
  - (a) tells the person from whom information is sought the reason the information is being sought; and
  - (b) does so before seeking the information.

Maximum penalty—200 penalty units.

#### **41 Client's name must be removed from active lists**

- (1) This section applies if a client asks an introduction agent in writing to stop providing an introduction service to the client.
- (2) The agent must—
  - (a) immediately remove the client's name from any list held by the agent of persons available for introduction; and
  - (b) within 2 business days after receiving the request, do everything else that it is practicable for the agent to do to comply with the request.

Maximum penalty—100 penalty units.

- (3) This section does not prevent an introduction agent from bringing a civil action against the client in relation to the client's request.
- (4) This section does not authorise the destruction of a document an introduction agent is required to keep under this Act.

## **42 Records must be kept for 7 years**

- (1) An introduction agent must keep a copy of a document required to be made under this Act for 7 years after—
  - (a) if the document is required to be signed—the document is signed; or
  - (b) if the document is not required to be signed—the document is given to a person.

*Examples of documents—*

introduction agreements, pre-contractual disclosure statements

Maximum penalty—100 penalty units.

- (2) If the ownership of an introduction agent's business changes, the agent must transfer records held by the agent to the new licensee carrying on the business.

Maximum penalty—100 penalty units.

- (3) If subsection (2) applies, the new licensee must comply with subsection (1) for the transferred records.

# **Part 5 Introduction agreements**

## **43 Pre-contractual disclosure statement**

- (1) Before entering into an introduction agreement with a person, an introduction agent must give the person a detailed, easily legible and clearly expressed written statement describing the introduction service to be provided under the agreement (a

***pre-contractual disclosure statement***) and including, but not limited to, the matters in subsection (2).

Maximum penalty—200 penalty units.

(2) The matters are as follows—

- (a) the name of the agent;
- (b) the type and levels of service provided by the agent;
- (c) the price of each level of service and the method of payment;
- (d) the criteria to be used for introductions;

*Example of criterion for paragraph (d)—*

whether preferences specified by the person will be strictly adhered to by the agent, or will be used only as a guide

- (e) the methods used to introduce clients;

*Examples of methods of introduction for paragraph (e)—*

personal introduction, circulation of membership list

- (f) the agent's refund policies, including the time within which refunds will be given;
  - (g) the agent's complaint procedures;
  - (h) whether the person will be liable to pay an amount for ending the agreement early and, if so, the amount the person will be liable to pay;
  - (i) any other obligations of the person;
  - (j) anything else prescribed under a regulation.
- (3) An introduction agent must not enter into an introduction agreement with a person unless the agent has obtained a written acknowledgement from the person that the person has received a pre-contractual disclosure statement.

Maximum penalty—200 penalty units.

- (4) If an introduction agent gives a person written information in a language other than English to accompany the pre-contractual disclosure statement, the agent must ensure



that the information is substantially consistent with the information provided in English.

Maximum penalty—200 penalty units.

#### **44 What must be included in an introduction agreement**

- (1) An introduction agent must ensure that an introduction agreement—
- (a) is in writing, easily legible and clearly expressed; and
  - (b) states the following—
    - (i) prominently at the top of the first page of the agreement, the agent's licence number;
    - (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;
    - (iii) immediately after the words 'Important Notice' mentioned in subparagraph (ii), the statement prescribed for this subparagraph under a regulation;
    - (iv) the names, addresses and telephone numbers of the parties to the agreement;
    - (v) a full description of the service to be provided by the agent under the agreement and the terms on which the service is offered;
    - (vi) the price of the service and the method of payment;
    - (vii) prominently in bold type that this Act forbids the payment of an amount more than a stated percentage that is the prepayment limit, before any part of the service is provided;
    - (viii) the term of the agreement;
    - (ix) the conditions under which refunds will be made;
    - (x) all terms of the agreement in full;

- (xi) the date on which the client signed the agreement;  
and
- (c) complies with any other requirements prescribed under a regulation; and
- (d) is signed.

Maximum penalty—200 penalty units.

- (2) An introduction agreement need not contain the statement mentioned in subsection (1)(b)(vii) if section 49 does not apply to the agreement.
- (3) An introduction agent must ensure an introduction agreement is not dated earlier than the date on which the client signs the agreement.

Maximum penalty for subsection (3)—200 penalty units.

#### **45 Client must be given copy of agreement**

- (1) Immediately after entering into an introduction agreement, an introduction agent must give the client a readily legible copy of the signed agreement.

Maximum penalty—200 penalty units.

- (2) If the copy of the agreement given to the client is a photocopy, it is sufficient compliance with subsection (1) that the photocopy has a copy of the signatures of the agent and the client.

#### **46 When introduction agreement is voidable**

- (1) This section applies if—
  - (a) an introduction agent does not give a person (a *client*) a pre-contractual disclosure statement before entering into an introduction agreement with the client; or
  - (b) an introduction agent gives a person (also a *client*) a pre-contractual statement that does not comply with section 43; or

- (c) an introduction agreement entered into by a client does not comply with section 44; or
  - (d) an introduction agent does not give a client a copy of the introduction agreement in accordance with section 45.
- (2) The client may end the agreement at any time before it is completed by notice given to the introduction agent.

#### **47 Client entitled to refund if agreement voidable**

- (1) If a client gives an introduction agent a notice under section 46, the introduction agent must refund to the client any amount that has been paid under the agreement within 21 days after receiving the notice.

Maximum penalty—200 penalty units.

- (2) If the introduction agent does not refund the amount to the client, the client may recover the amount from the agent as a debt due to the client.
- (3) Subsections (1) and (2) are subject to section 48.
- (4) Subsections (1) and (2) do not apply if, under section 53—
- (a) the introduction agent and the client agree in writing on an amount to be refunded to the client; and
  - (b) the agent refunds the amount to the client.

#### **48 When introduction agent entitled to compensation**

- (1) This section applies if a client gives an introduction agent a notice under section 46.
- (2) This section does not apply if, under section 53—
- (a) the introduction agent and the client agree in writing on an amount to be refunded to the client; and
  - (b) the agent refunds the amount to the client.
- (3) The introduction agent may, within 28 days after receiving the notice, apply to a Magistrates Court for an order that the agent is entitled to an amount from the client for things done by the

agent under the introduction agreement before the agent received the notice.

- (4) The introduction agent may make the application even though the agent has refunded an amount under section 47.
- (5) An introduction agent need not refund an amount under, and does not contravene, section 47(1) if the agent—
  - (a) within 21 days after receiving the notice, applies to a Magistrates Court for an order that the agent is entitled to an amount from the client for things done by the agent under the introduction agreement before the agent received the notice; and
  - (b) pays into the court an amount equivalent to the amount that has been paid under the agreement.
- (6) A court to which an application is made under subsection (3) or (5) may order the client to pay an amount to the introduction agent if the court considers that—
  - (a) the defect that caused the agreement to be voidable was of a relatively minor nature; and
  - (b) allowing the agent to recover the amount would not be unfair to the client having regard to—
    - (i) any services provided or work performed under the agreement; and
    - (ii) whether the agent or any one else used unfair pressure, undue influence or unfair tactics on the client at any time in relation to the agreement and, if so, the nature and extent of the unfair pressure, undue influence or unfair tactics.
- (7) The court may also make any incidental order, including an order for costs, it considers appropriate.

## **49 Restriction on prepayments**

- (1) This section applies to an introduction agreement only if—

- (a) the contract price for the agreement is at least the amount prescribed under a regulation or, if no amount is prescribed, at least \$500; or
  - (b) the total of the contract price for the agreement and all other amounts that the person entering into the agreement with the introduction agent paid, or became liable to pay, the agent for any other introduction agreements—
    - (i) in the 30 days immediately before the date the agreement was signed—is at least the amount prescribed under a regulation or, if no amount is prescribed, at least \$500; or
    - (ii) in the 12 months immediately before the date the agreement was signed—is at least the amount prescribed under a regulation or, if no amount is prescribed, at least \$2,500.
- (2) An introduction agent must not, before any part of an introduction service is provided under the agreement, demand of, or receive from, a client or someone else on the client's behalf, an amount that is more than the prepayment limit for the agreement.

Maximum penalty—200 penalty units.

- (3) An associated person of an introduction agent must not, before any part of an introduction service is provided under the agreement, demand of, or receive from, a client or someone else on the client's behalf, an amount that is more than the prepayment limit for the agreement.

Maximum penalty—200 penalty units.

## **50 Introduction agreement voidable if restriction on prepayments not complied with**

- (1) This section applies if—
- (a) an introduction agent does not comply with section 49(2); or

- (b) an associated person of an introduction agent does not comply with section 49(3).
- (2) The client may end the agreement at any time before it is completed by notice given to the introduction agent.

## **51 Client entitled to full refund**

- (1) If a client gives an introduction agent a notice under section 50, the introduction agent must refund to the client the whole of the amount that has been paid under the agreement within 21 days after receiving the notice.

Maximum penalty—200 penalty units.

- (2) If the introduction agent does not refund the amount to the client, the client may recover the amount from the agent as a debt due to the client.
- (3) Subsections (1) and (2) do not apply if, under section 53—
  - (a) the introduction agent and the client agree in writing on the amount to be refunded to the client; and
  - (b) the agent refunds the amount to the client.

## **52 When introduction agent entitled to compensation**

- (1) This section applies if—
  - (a) an introduction agent is given a notice under section 50; and
  - (b) under section 51(1), the agent refunds to the client the whole of the amount that has been paid under the introduction agreement by the client.
- (2) This section does not apply if, under section 53—
  - (a) the agent and the client agree in writing on an amount to be paid to the agent; and
  - (b) the amount is paid to the agent.
- (3) The introduction agent may, within 28 days after receiving the notice, apply to a Magistrates Court for an order that the agent

is entitled to an amount from the client for things done by the agent under the introduction agreement before the agent received the notice.

- (4) The court may order the client to pay an amount to the introduction agent if the court considers that—
  - (a) the amount, received by the introduction agent before any part of the introduction service is provided, that is more than the prepayment limit for the agreement is only a small amount compared to the contract price for the agreement; and
  - (b) it would be unfair in all the circumstances of the case for the agent not to recover an amount having regard to—
    - (i) the extent of the agent's compliance with this Act as a whole in relation to the agreement; and
    - (ii) the extent to which the agent or anyone else used unfair pressure, undue influence or unfair tactics on the client at any time in relation to the agreement and, if so, the nature and extent of the unfair pressure, undue influence or unfair tactics.
- (5) The court may also make any incidental order, including an order for costs, it considers appropriate.

## **53 Introduction agent and client can agree on refund or compensation**

An introduction agent and a client may, within 21 days after the introduction agent receives a notice ending an introduction agreement under section 46 or 50, agree in writing on an amount to be refunded to the client under section 47 or 51.

## **54 Balance of contract price to be paid at end of agreement or in equal instalments**

- (1) This section applies to an introduction agreement only if—

- (a) the contract price for the agreement is at least the amount prescribed under a regulation or, if no amount is prescribed, at least \$500; or
  - (b) the total of the contract price for the agreement and all other amounts that the person entering into the agreement with the introduction agent paid, or became liable to pay, the agent for any other introduction agreements—
    - (i) in the 30 days immediately before the date the agreement was signed, is at least the amount prescribed under a regulation or, if no amount is prescribed, at least \$500; or
    - (ii) in the 12 months immediately before the date the agreement was signed, is at least the amount prescribed under a regulation or, if no amount is prescribed, at least \$2,500.
- (2) An introduction agreement must provide that, apart from the first payment made under the agreement, the balance of the contract price for the agreement is to be paid—
  - (a) at the end of the agreement; or
  - (b) in equal instalments spread equally over the term of the agreement as the term is set out in the agreement.
- (3) Despite subsection (2)—
  - (a) the first payment under the agreement may be for an amount that is more than the amount of each of the subsequent instalments to be paid under the agreement, but must not be for an amount that is more than the prepayment limit for the agreement; and
  - (b) the agreement may require the last instalment to be paid before the end of the agreement.
- (4) An introduction agent must not—
  - (a) enter into an introduction agreement that does not comply with subsection (2) as qualified by subsection (3); or



- (b) in relation to an introduction agreement, demand of, or receive from, a client or someone else on the client's behalf an amount in contravention of this section.

Maximum penalty—200 penalty units.

- (5) An associated person of an introduction agent must not, in relation to an introduction agreement, demand of, or receive from, a client or someone else on the client's behalf an amount in contravention of this section.

Maximum penalty—200 penalty units.

- (6) Any amount that the client has paid to the agent under the agreement that is more than the amount permitted to be paid under this section is immediately recoverable by the client from the agent as a debt due to the client.

## **55 Early termination payment by client allowed**

- (1) This section does not apply if a client has ended an introduction agreement under section 46 or 50.
- (2) Despite section 54(2), an introduction agreement may require a client to pay an amount for ending the agreement before a stated date (not earlier than 5pm on the third clear business day after the client receives a copy of the signed introduction agreement).
- (3) The amount must be stated in the agreement and must not be more than the difference between—
  - (a) the contract price for the agreement; and
  - (b) the amount that the client has paid under the agreement up to the time it is ended.

## **56 Agreement with opt out clause**

- (1) This section applies if—
  - (a) an introduction agreement has an opt out clause; and
  - (b) the client does not end the agreement on the opt out date.

- (2) For sections 49 to 55, the client is taken to have entered into a new introduction agreement with the introduction agent on the opt out date for the balance of the term of the original agreement.

## **57 Provisions of this Act not to be avoided**

- (1) An introduction agent must not enter into an introduction agreement or other instrument that contains a term that purports to vary or exclude the operation of a provision of this Act, unless the variation or exclusion is expressly allowed by this Act.

Maximum penalty—200 penalty units.

- (2) Unless expressly allowed by this Act, a term in an introduction agreement or other instrument that purports to vary or exclude the operation of a provision of this Act is void.
- (3) This section does not prevent the parties to an introduction agreement from including terms in the agreement that vary or exclude the operation of this Act by imposing greater or more onerous obligations on an introduction agent than are imposed by this Act.

## **58 Cooling-off period**

- (1) This section does not limit section 46.
- (2) A client may end an introduction agreement at any time before 5pm on the third clear business day after the client receives a copy of the signed agreement.

*Example of when client may end an introduction agreement—*

A client receives a copy of the signed introduction agreement at 2pm on Monday. To end the agreement, the client must indicate to the introduction agent an intention to end the agreement by 5pm on Thursday, assuming that Monday to Thursday are all business days.

- (3) The client ends the agreement by giving signed notice to the introduction agent.

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**59 Consequences of exercising rights in cooling-off period**

- (1) If a client ends an introduction agreement under section 58—
  - (a) the introduction agent is entitled to the lesser of the following amounts—
    - (i) the amount prescribed under a regulation or, if no amount is prescribed, \$50;
    - (ii) an amount equal to 10% of the contract price for the agreement; and
  - (b) the agent must refund to the client the whole of the amount that the client has paid to the agent under the agreement, other than an amount the agent is entitled to under paragraph (a); and
  - (c) the client is not liable to the agent in any way for ending the agreement, despite anything to the contrary in the agreement.
- (2) The introduction agent must refund the amount mentioned in subsection (1)(b) within 7 days after receiving the client's notice.  
Maximum penalty—200 penalty units.
- (3) If the introduction agent does not refund the amount mentioned in subsection (1)(b) to the client, the client may recover the amount from the agent as a debt due to the client.

**59A Onus on introduction agent to prove client bound**

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.

**60 Additional services may only be provided under a new agreement**

- (1) If a client wishes to obtain a different level of introduction service from the level stated in an introduction agreement, the

introduction agent must not demand or receive any amount for providing the different level of service.

Maximum penalty—200 penalty units.

- (2) Subsection (1) does not apply if the introduction agent receives an amount for providing the different level of service under a new introduction agreement.

## Part 7 External review

### 82 Definition for pt 7

In this part—

*reviewable decision* means—

- (a) for an applicant for a licence—
- (i) a decision of the chief executive to impose a condition on a licence under section 24(1)(a); or
  - (ii) a decision of the chief executive under section 24(1)(b); or
- (b) for a licensee—a decision of the chief executive under section 27(2) or 30(3)(b).

### 83 Application for review by QCAT

An applicant for a licence or a licensee may apply, as provided under the QCAT Act, to QCAT for a review of a reviewable decision.

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## Part 8                      Miscellaneous

### Division 1                  Undertakings

#### **88            Undertakings about contravention of Act**

- (1) This section applies if the chief executive reasonably believes an introduction agent has contravened this Act.
- (2) The chief executive may, by notice given to the agent—
  - (a) state the act or omission the chief executive reasonably believes is the contravention; and
  - (b) ask the agent to give the chief executive a written undertaking that the agent will not continue or repeat the act or omission.
- (3) Subsection (4) applies if—
  - (a) the agent gives the undertaking; and
  - (b) the contravention is conduct consisting of an act or omission, or a series of acts or omissions; and
  - (c) the agent stops the conduct; and
  - (d) the chief executive accepts the undertaking.
- (4) The chief executive can not start a proceeding for an offence against the agent for the contravention, unless the chief executive withdraws the undertaking under section 89.

#### **89            Variation and withdrawal of undertakings**

- (1) An undertaking given by an introduction agent and accepted by the chief executive may be varied or withdrawn at any time by—
  - (a) the agent who gave it, but only if the chief executive agrees to the variation or withdrawal; or
  - (b) the chief executive, if the chief executive reasonably believes that before it was accepted—

- (i) the agent who gave it contravened this Act in a way unknown to the chief executive; and
  - (ii) had the chief executive known about the contravention, the chief executive would not have accepted the undertaking, or would not have accepted it unless its terms were changed.
- (2) The chief executive may also withdraw the undertaking if the chief executive reasonably believes it is no longer necessary.
- (3) If the chief executive varies or withdraws the undertaking, the chief executive must give the agent who gave it notice of its variation or withdrawal.
- (4) A court may not hear or decide any charge brought against the agent in relation to the act or omission identified in the undertaking unless the agent has contravened the undertaking, or the undertaking has been withdrawn.
- (5) This section does not prevent a person from bringing a civil action against the agent in relation to the act or omission.

## **89A Enforcement of undertakings**

- (1) If the chief executive believes, on reasonable grounds, a person has contravened a term of an undertaking given under section 88, the chief executive may apply to the District Court for an order under this section.
- (2) If the court is satisfied that the person has contravened the term, the court may make 1 or more of the following orders—
  - (a) an order directing the person to comply with the term;
  - (b) an order directing the person to pay to the State an amount not more than the direct or indirect financial benefit obtained by the person from, and reasonably attributable to, the contravention;
  - (c) an order directing the person to pay compensation to someone else who has suffered loss or damage because of the contravention;

- (d) an order directing the person to give a security bond to the State for a stated period;
  - (e) another order the court considers appropriate.
- (3) The District Court may order the forfeiture to the State of all or part of a security bond given by a person under subsection (2)(d) if—
- (a) the chief executive applies to the court for the order; and
  - (b) the court is satisfied that the person contravened the undertaking during the period for which the bond was given.

## **89B Register of undertakings**

- (1) The chief executive must keep a register of each undertaking given under section 88.
- (2) The register must contain a copy of the undertaking.
- (3) The register may be kept in any way that the chief executive considers appropriate.
- (4) A person may, on payment of any fee that may be prescribed under a regulation, inspect, or get a copy of details in, the register—
  - (a) at a place or places decided by the chief executive; or
  - (b) by using a computer.
- (5) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.

## **Division 2 General provisions about offences**

### **90 Proceeding for offence**

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) A proceeding may be started within—

- (a) 1 year after the offence is committed; or
- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

## **91 Evidence**

- (1) This section applies to a proceeding under this Act.
- (2) A signature purporting to be the signature of the chief executive is evidence of the signature it purports to be.
- (3) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
  - (a) that a specified document is a licence or copy of a licence granted under this Act;
  - (b) that on a specified day, or during a specified period, a specified person was or was not a licensee;
  - (c) that a licence—
    - (i) was or was not granted for a specified term; or
    - (ii) was or was not in force on a specified day or during a specified period; or
    - (iii) was or was not subject to conditions or a specified condition;
  - (d) that a document is a copy of a record kept under this Act.

## **92 Additional powers of court**

- (1) This section applies if a court finds a person guilty of an offence against this Act.
- (2) The court may make any of the following orders—
  - (a) an order that the chief executive suspend or cancel the person's licence;



- (b) an order that the person not be in any way involved in the operation of the business of any introduction agent;
  - (c) an order that the person refund within 28 days an amount, or part of an amount, paid to the person by a client or someone else.
- (3) Subsection (2) is in addition to any other order the court may make.

### **93 Corporation taken to have knowledge of its officers**

For this Act, a corporation has the knowledge and intent of any of its officers who is acting, or purporting to act, in the course of his or her duties with the corporation.

## **Division 3 Other general provisions**

### **94A Service by fax**

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.

### **95 Confidentiality of information**

- (1) A person must not disclose information gained by the person in the administration of this Act.
- Maximum penalty—50 penalty units.
- (2) Subsection (1) does not apply to a disclosure of information—
- (a) with the consent of the person from whom the information was obtained; or
  - (b) in the administration of this Act; or
  - (c) to the commissioner; or

- (d) with the approval of the chief executive, to a person administering a corresponding law; or
  - (e) in a proceeding under this Act or a report of the proceeding; or
  - (f) in a proceeding before a court in which the information is relevant to the issue before the court.
- (3) This section does not limit the *Right to Information Act 2009*.

## **96 Protecting officials from liability**

- (1) An official is not civilly liable for any disclosure or publication made in the public interest by the official about the commercial or business reputation of any person involved in providing an introduction service.
- (2) Without limiting subsection (1), an official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (4) In this section—  
*official* means—
  - (a) the Minister; or
  - (b) the chief executive; or
  - (c) the commissioner of fair trading; or
  - (d) a public service employee.

## **97 Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service employee.
- (2) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate to the exercise of the power.

*Example—*

a person's classification level in the public service

## **98 Approved forms**

The chief executive may approve forms for use under this Act.

## **99 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about any of the following matters—
  - (a) fees, including the refunding of fees;
  - (b) the keeping of records by introduction agents;
  - (c) the form and content of advertisements used by introduction agents.
- (3) A regulation may provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.

*Note—*

For further provisions about the power to make regulations, see the *Statutory Instruments Act 1992*, part 4. Under that Act, section 22(2) and (3), subsection (1) of this section is not limited by subsection (2).

## **Part 9                      Transitional provisions**

### **Division 1                      Transitional provisions for Act No. 59 of 2001**

#### **100      Requirement to be licensed**

- (1) This section applies if, immediately before the commencement of this section, a person carries on the business of an introduction agent.
- (2) Part 3 does not apply to the person until the end of 6 months after the commencement of this section.

#### **101      Existing introduction agreements**

- (1) Section 39 and part 5 do not apply to an introduction agreement entered into before the commencement of this section.
- (2) However, part 5 applies to an agreement entered into on or after the commencement of this section that purports to extend an introduction agreement entered into before the commencement of this section.

#### **102      Existing employees under 18**

Section 38 does not apply to an employee of an introduction agent if the employee's employment with the agent started before the commencement of this section.

## **Division 2**

## **Transitional provision for Justice and Other Legislation Amendment Act 2020**

### **103 Existing applications**

- (1) This section applies in relation to the following applications made, but not decided, before the commencement—
  - (a) an application for a licence made under section 19;
  - (b) an application for the renewal of a licence made under section 25.
- (2) The chief executive must decide the application under part 3 as in force from the commencement.

## **Schedule 1      Disqualifying offence provisions under the Criminal Code**

schedule 2, definition *disqualifying offence*, paragraph (e)

### **Part 1                      Existing provisions**

- 1 Chapter 16 (Offences relating to the administration of justice)
- 2 Chapter 20 (Miscellaneous offences against public authority)
- 3 Chapter 22 (Offences against morality)
- 4 Chapter 28 (Homicide—suicide—concealment of birth)
- 5 Chapter 28A (Unlawful striking causing death)
- 6 Chapter 29 (Offences endangering life or health)
- 7 Chapter 30 (Assaults)
- 8 Chapter 32 (Rape and sexual assaults)
- 9 Chapter 33 (Offences against liberty)
- 10 Chapter 33A (Unlawful stalking, intimidation, harassment or abuse)
- 11 Chapter 36 (Stealing)
- 12 Chapter 37 (Offences analogous to stealing)
- 13 Chapter 38 (Stealing with violence—extortion by threats)
- 14 Chapter 39 (Burglary—housebreaking—and like offences)
- 15 Chapter 40 (Other fraudulent practices)
- 16 Chapter 41 (Receiving property stolen or fraudulently obtained and like offences)
- 17 Chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)
- 18 Chapter 42A (Secret commissions)

- 19 Chapter 49 (Punishment of forgery and like offences)
- 20 Chapter 52 (Personation)
- 21 Chapter 56 (Conspiracy)
- 22 Section 408C (Fraud)

## **Part 2                      Repealed provisions**

- 1 Section 343A (Assaults occasioning bodily harm)
- 2 Section 344 (Aggravated assaults)
- 3 Section 427 (Obtaining goods or credit by false pretence or wilfully false promise)

*Note—*

The headings shown in this schedule for the provisions are the headings for the provisions that are current as at 31 March 2001.

## Schedule 2 Dictionary

### section 5

***approved form*** see section 98.

***associated person*** see section 7(1).

***carry on the business of an introduction agent*** see section 8(3).

***client*** means a person who is a party to an introduction agreement, other than an introduction agent.

***commissioner*** means the commissioner of the police service.

***contract price***, for an introduction agreement, means the total amount payable under the agreement inclusive of GST.

***conviction*** means a finding of guilt, or the acceptance of a plea of guilty, by a court, but does not include a finding of guilt, or the acceptance of a plea of guilty, by a court if no conviction is recorded by the court.

***corresponding law*** means a law of another State that provides for the same matter as this Act or the *Fair Trading Act 1989*, or a provision of this Act or the *Fair Trading Act 1989*.

*Note—*

The Australian Consumer Law (Queensland) forms part of the *Fair Trading Act 1989*.

***criminal history***, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than convictions for which the rehabilitation period has expired, and not been revived, under that Act.

***disqualifying offence*** means an offence—

- (a) against the *Drugs Misuse Act 1986* that is punishable by imprisonment for 1 year or more, even if a fine may be imposed in addition or as an alternative; or



- (b) involving fraud or dishonesty that is punishable by imprisonment for 3 months or more; or
- (c) against a provision of the Criminal Code mentioned in schedule 1; or
- (d) against a provision of a law of another State or of the Commonwealth corresponding to a law mentioned in paragraphs (a) to (c).

***effective control*** see section 7(2).

***employ*** includes engage on a contract for services or commission and use the services of, whether or not for reward.

***executive officer***, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

***insolvent under administration*** means a person—

- (a) who is an undischarged bankrupt; or
- (b) for whom a debt agreement has been made under the *Bankruptcy Act 1966* (Cwlth), part X or the corresponding provisions of the law of another jurisdiction, if the debt agreement has not ended or has not been terminated; or
- (c) who has executed a deed of arrangement under the *Bankruptcy Act 1966* (Cwlth), part X or the corresponding provisions of the law of another jurisdiction, if the terms of the deed have not been fully complied with; or
- (d) whose creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X or the corresponding provisions of the law of another jurisdiction, if a final payment has not been made under the composition.

***introduction agent*** see section 8(1).

***introduction agreement*** see section 10.

***introduction service*** see section 9(1).

***licence*** means a licence to carry on the business of an introduction agent.

***notice*** means written notice.

***opt out clause***, in an introduction agreement, means a clause that gives the client the option of ending the agreement on an opt out date.

***opt out date***, for an introduction agreement, means the date on or before which the client may end the agreement without paying any further amounts due under the agreement.

***pre-contractual disclosure statement*** see section 43(1).

***prepayment limit*** means—

- (a) for an introduction agreement that has an opt out clause—an amount that is equal to the percentage prescribed under a regulation of the total amount payable under the agreement until the opt out date or, if no percentage is prescribed, 30%; or
- (b) for an introduction agreement that does not have an opt out clause—an amount that is equal to the percentage prescribed under a regulation of the contract price for the agreement or, if no percentage is prescribed, 30%.

***QCAT information notice*** means a notice complying with the QCAT Act, section 157(2).

***reviewable decision***, for part 7, see section 82.

***sex work***—

- (a) means the provision by a person of the following services for payment or reward—
  - (i) services involving the person participating in a sexual activity with another person;
  - (ii) services involving the use or display of the person's body for the sexual arousal or gratification of another person; but
- (b) does not include adult entertainment under the *Liquor Act 1992*, section 4.

*signed*, in relation to an introduction agreement, means signed by the client and by or for the introduction agent.