

# LEGISLATIVE ASSEMBLY

Read 1° 12 October 1983

*(Brought in by Mr Jolly and Mr Cain)*

## A BILL

To amend the Business Franchise Acts with respect to  
Fees and Refunds and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by  
and with the advice and consent of the Legislative Council and  
the Legislative Assembly of Victoria in this present Parliament  
assembled and by the authority of the same as follows (that is to  
5 say):

1. This Act may be cited as the *Business Franchise Acts (Further  
Amendment) Act 1983*. Short title.

2. (1) Subject to sub-sections (2) and (3), this Act shall come into  
operation on the day on which it receives the Royal Assent. Commencement.

10 (2) Sections 3, 4 and 5 shall come into operation on 1 December  
1983.

(3) Section 7 shall be deemed to have come into operation on 23  
December 1981.

15 3. (1) In section 10 of the *Business Franchise (Tobacco) Act 1974*—  
(a) in sub-section (1), for the expression "12 per centum"  
(wherever occurring) there shall be substituted the  
expression "25 per centum"; and  
(b) in sub-section (2), for the expression  $\frac{100}{112}$  there shall be  
substituted the expression  $\frac{100}{125}$ . Amendment of  
No. 8597.  
Reprinted to Act  
No. 9301.  
Subsequently  
amended by Nos.  
9436, 9549, 9674,  
9699, 9766 and  
9885.

(2) Where a licence that commences on or after 1 December 1983 was issued under the *Business Franchise (Tobacco) Act 1974* as in force immediately before that date, the holder of the licence shall pay to the Commissioner of Business Franchises before 31 December 1983 an additional amount that is equal to the amount derived by multiplying 5  
by  $\frac{13}{12}$  the amount of the fee (not including the fixed fee) paid for the licence.

Amendment of  
No. 9272.  
Subsequently  
amended by Nos.  
9295, 9418, 9588,  
9674, 9861, 9863  
and 9885.

4. (1) In section 7 (1A) of the *Business Franchise (Petroleum Products) Act 1979*—

- (a) for the expression “5·4 per centum” (wherever occurring) 10  
there shall be substituted the expression “7·8 per centum”;  
(b) for the expression “8·6 per centum” (wherever occurring)  
there shall be substituted the expression “11 per centum”.

(2) Where a licence that commences on or after 1 December 1983 was issued under the *Business Franchise (Petroleum Products) Act 1979* 15  
as in force immediately before that date, the holder of the licence shall pay to the Commissioner of Business Franchises before 31 December 1983 an additional amount that is equal to the sum of—

- (a) the amount derived by multiplying by  $\frac{12}{27}$  that part of the  
fee paid for the licence which was the part of the prescribed 20  
amount relating to the value of motor spirit; and  
(b) the amount derived by multiplying by  $\frac{12}{43}$  that part of the  
fee paid for the licence which was the part of the prescribed  
amount relating to the value of diesel fuel.

Recovery of  
additional  
amount.

5. If an additional amount payable in respect of a licence by reason 25  
of section 3 (2) or 4 (2) is not paid before 31 December 1983—

- (a) the Commissioner may require that interest shall be payable  
on the amount from 1 January 1984 until it is paid at a rate  
not exceeding 20 per centum per annum;  
(b) the amount and interest (if any) is a debt due to Her Majesty 30  
and payable to the Commissioner and may be sued for and  
recovered at any time after 31 December 1983 as if it were  
an amount or interest due and payable under or in respect  
of an assessment; and  
(c) the licence shall be of no force or effect after 31 December 35  
1983.

Amendment of  
No. 8597.  
New s. 19C.  
Refunds.

6. After section 19B of the *Business Franchise (Tobacco) Act 1974*  
there shall be inserted the following section:

“19C. (1) Where the Commissioner finds in any case that an  
amount has been paid in excess of an amount required under the 40  
*Business Franchise Acts* to be paid, the Commissioner may refund to  
the person who paid the amount the amount found to be paid in excess.

## (2) Where—

(a) the holder of a retail tobacconist's licence notifies the Commissioner pursuant to section 7 (5) of this Act that he has ceased to carry on the business of tobacco retailing; or

5 (b) the holder of a petroleum retailer's licence notifies the Commissioner pursuant to section 7 (10) of the *Business Franchise (Petroleum Products) Act 1979* that he has ceased to carry on the business of petroleum retailing—

10 the Commissioner, on being satisfied that the holder of the licence has ceased to carry on the business, may refund to the holder the proportion of the part of the licence fee that was the fixed fee that bears the same proportion to the whole of the fixed fee as the proportion of the unexpired period of the licence bears to the total period of the licence.

15 (3) A reference in sub-section (2) to the period of a licence is a reference to the period commencing on the date from which the licence is in force and ending on the date on which, at the time of the issue of the licence, the licence would, unless sooner revoked or otherwise ceasing to have effect, cease to have effect.

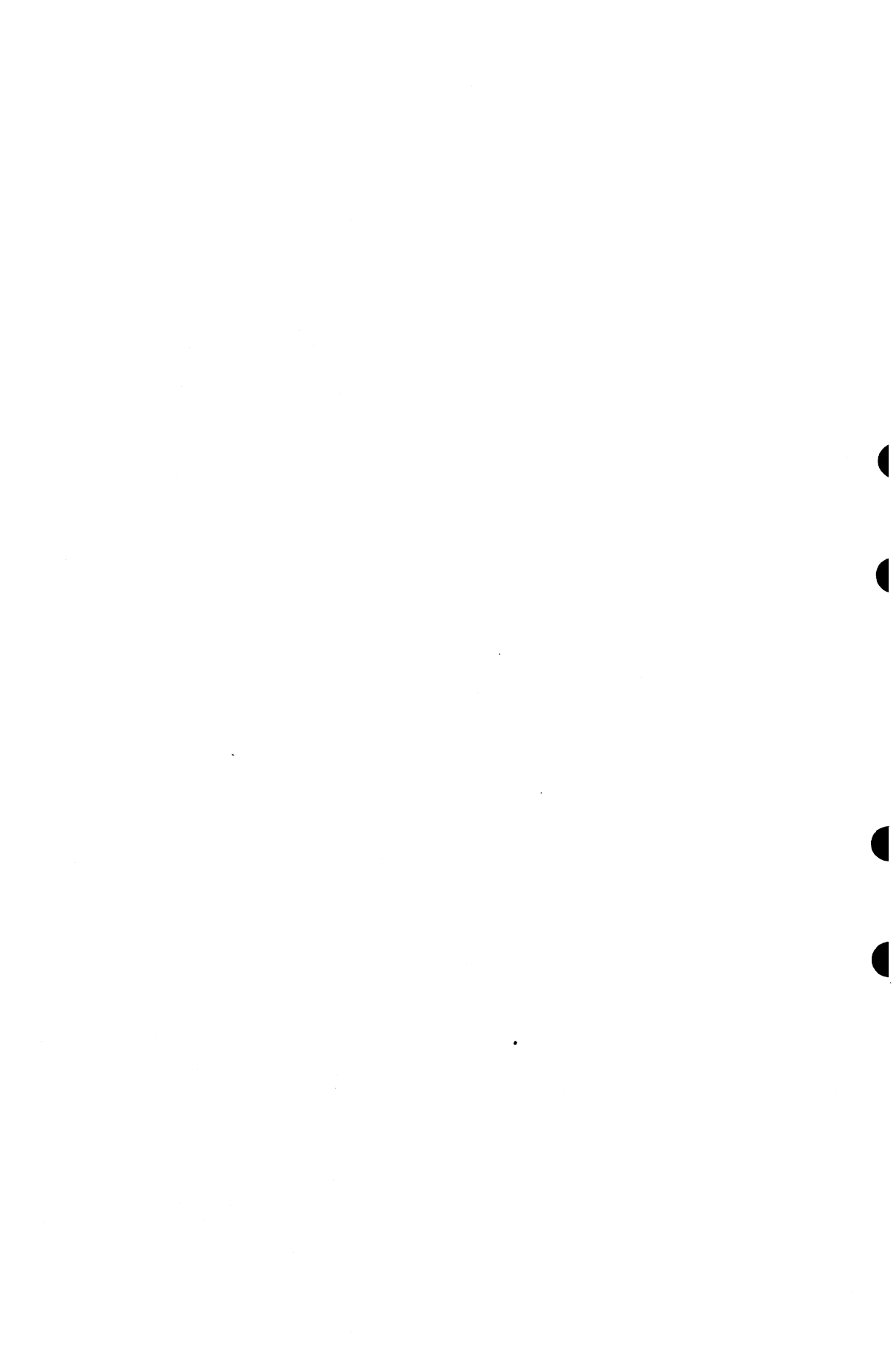
20 (4) Where, under this section the Commissioner determines to refund an amount, the amount is payable from the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.”

7. In section 19B (1) of the *Business Franchise (Tobacco) Act 1974*—

Amendment of  
No. 8597 s. 19B  
(1).

(a) for the expression “section 7A (5)” there shall be substituted the expression “section 7A (6)”; and

25 (b) for the expression “section 7A (6)” there shall be substituted the expression “section 7A (7)”.



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