

Entertainment and Modelling Industry Agents Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purpose of the Act.

Clause 2 specifies that the Act comes into operation on a day to be proclaimed.

Clause 3 defines a number of key terms used in the Act.

Clause 4 establishes a council to be known as the Entertainment and Modelling Industry Licensing Council.

Clause 5 specifies how the Council is to be constituted. The clause provides for some specific organisations to be represented on the Council.

Clause 6 applies Schedule 1 which contains a number of membership provisions and describes some meeting procedures for the Council.

Clause 7 describes the general functions of the Council.

Clause 8 establishes the requirement to hold a licence if a performer's agent, manager or venue consultant. In addition the clause specifies a penalty of 60 penalty units for an offence under the clause.

Clause 9 specifies the requirements when applying for a licence.

Clause 10 sets out the qualifications for a person to be a licence holder.

Clause 11 authorises the Council to inquire an applicant's qualifications to hold a licence.

Clause 12 specifies how the Council determines a licence application.

Clause 13 specifies how the Council goes about refusing a licence application.

Clause 14 provides for licences to be issued with conditions.

Clause 15 authorises fees to be set for licences.

Clause 16 describes the form of licences.

Clause 17 specifies that a licence, ordinarily, continues for a year.

Clause 18 specifies the process for obtaining renewal of a licence.

Clause 19 empowers the initiation of inquiries into fitness of a licence holder to hold that licence. The clause applies Schedule 2 which sets out the procedure for an inquiry.

Clauses 20–22 specify the grounds for the Council to cancel or suspend a licence and the associated process.

Clauses 23–27 contain a number of administrative provisions concerning licences.

Clause 28 specifies the general duty of agents or managers.

Clause 29 makes it an offence to enter into a contract or agreement as a manager without a written contract.

Clauses 30–33 provide for codes of practice to be prepared to give practical guidance on compliance with the Act.

Clause 34 describes the role of a code of practice in relation to an alleged contravention of the Act. The code of practice may provide evidence of a failure to comply with the Act or its regulations but a person so charged has the defence that they complied with the Act or regulations in some other way that was described in the code of practice.

Clauses 35 and 36 specifies the conditions under which agents or venue consultants may charge fees.

Clauses 37–40 set out the procedure for determining commission rates.

Clauses 41 and 42 provide the grounds for complaint to the Council concerning the provisions of a contract and the process for hearing and ruling on the complaint.

Clauses 43–47 specify requirements concerning how money due to performers and models is to be held and recorded. Provision is made for the Council to order audits of trust accounts.

Clauses 48–49 provide for bonds which may be required to be lodged.

Clauses 50–53 provide for the review of a range of decisions made under the Act. The Administrative Appeals Tribunal is nominated as the appellate body.

Clause 54 provides for the Minister, an inspector under the Act, or a person authorised by the Minister to bring proceedings for an offence.

Clause 55 provides for inspectors under the **Industrial Relations Act 1979** to be inspectors under this Act and a number of other provisions concerning proceedings by inspectors.

Clause 56 is a general regulation-making authority.

Clauses 57–59 contains a number of minor consequential amendments to the **Employment Agents Act 1983**, an Act which is not in operation as at September 1991.

Schedule 1 contains membership provisions for the Council and certain meeting procedures.

Schedule 2 sets out the general procedure for the Council when conducting an inquiry under the Act.