

Introduction Agents Bill

EXPLANATORY MEMORANDUM

Background

A small percentage of introduction agents have caused widespread and on-going complaints well out of proportion with the size of the industry. Extensive efforts have been made to eradicate the problems by non-legislative means, including promotion of self-regulation, developing a voluntary code implemented through undertakings with individual agencies, a consumer information campaign and enforcement of existing legislation.

Each of these measures has failed to achieve an improvement in standards across the industry. In 1994, the industry was put on notice that if standards did not improve, government intervention would be considered. The regulatory regime contained within the Bill is the least restrictive means of overcoming market failure within the introduction agency industry and ensuring that consumers can make considered and informed service choices.

- Clause 1 sets out the purpose of the Act.
- Clause 2 provides for the commencement of the Act.
- Clause 3 defines certain words used in the Act.
- Clause 4 defines an introduction agent as a person who carries on a business of providing or offering to provide an introduction service.
- Clause 5 defines an introduction service.
- Clause 6 defines what it means to carry on a business for the purposes of the Act.
- Clause 7 states that if a person is exempted from the definition of an introduction agent, then nothing in the Act applies to that person.
- Clause 8 exempts from the provisions of the Act a person who provides introduction services for a community purpose. Community purpose is defined.
- Clause 9 exempts from the provisions of the Act a person who provides introduction service activities on a non-profit basis.
- Clause 10 exempts from the provisions of the Act a person who simply publishes publicly available listings of people seeking to enter relationships.

- Clause 11 exempts from the provisions of the Act a person who establishes a publicly accessible database containing details of people seeking to enter relationships. The exemption does not apply if a person must comply with particular conditions or obligations before obtaining access.
- Clause 12 exempts from the provisions of the Act a person who organises social activities which are publicly accessible and which enable people to meet.
- Clause 13 contains further exemptions from the Act.
- Clause 14 prohibits certain people and corporations from acting as introduction agents.
- Clause 15 requires a person to give notice to the Secretary before acting as an introduction agent.
- Clause 16 prohibits a person employed by an introduction agent from pretending to be available to be introduced to clients or potential clients.
- Clause 17 prohibits false advertising by an introduction agent.
- Clause 18 prohibits a person who would be disqualified from being an introduction agent under clause 14 from employment by introduction agents.
- Clause 19 governs an introduction agent's use and protection of personal information.
- Clause 20 prohibits an introduction agent from trading from any premises occupied by a prostitution service provider.
- Clause 21 prohibits an introduction agent from entering into an introduction agreement with a person under 18 years of age.
- Clause 22 requires an introduction agent or a person commissioned by an introduction agent to conduct market research, to disclose its purpose.
- Clause 23 requires an introduction agent, on request, to remove a client's name from any list used to make introductions.
- Clause 24 specifies the information which an introduction agent must disclose to a person before entering an introduction agreement.
- Clause 25 specifies the content of an introduction agreement. An agreement which does not comply is void.
- Clause 26 requires a refund to be given within 21 days in the case of an agreement which is void unless the introduction agent makes an application to the Magistrates' Court for a declaration that the agreement is not void.

- Clause 27 prohibits an introduction agent from demanding or receiving a prepayment greater than 30 percent of the contract price prior to the provision of any service.
- Clause 28 specifies that the balance of the contract price for agreements which exceed \$200, or other amount prescribed, must be paid in instalments spread evenly over the length of the contract. However, a termination payment is provided for.
- Clause 29 requires that, immediately after entering an introduction agreement, a person must be given a legible copy of the contract.
- Clause 30 prohibits any agreement which seeks to avoid the provisions of the Act.
- Clause 31 enables a person to withdraw from an introduction agreement prior to the expiration of 3 business days and sets out the procedures for this.
- Clause 32 provides that additional services can only be provided if a person enters a new introduction agreement.
- Clause 33 requires introduction agents to provide the Secretary with an annual statement as prescribed.
- Clause 34 requires an introduction agent to give the Secretary a notice that he, she or it has stopped acting as an introduction agent.
- Clause 35 makes it an offence to give the Secretary false or misleading information in any notice or statement required under the Act. The clause provides for a defence under certain circumstances.
- Clause 36 requires an introduction agent to retain certain records for 7 years.
- Clause 37 requires the Secretary to keep a Register of Introduction Agents available for inspection.
- Clause 38 enables the Secretary to certify any matter in relation to the Register.
- Clause 39 provides that the Secretary may delegate any of his or her powers except the power of delegation.
- Clause 40 enables an inspector to conduct searches of an introduction agent's premises for the purpose of ensuring compliance with the Act.
- Clause 41 enables an inspector to search premises with the consent of the occupier and seize things should he or she reasonably suspect an offence has been committed under the Act.

- Clause 42 requires an occupier who consents to the search of his or her premises to be given a copy of the signed consent immediately.
- Clause 43 provides that in the case of a suspected offence under the Act, an inspector may apply for a search warrant and a magistrate may issue such a warrant.
- Clause 44 requires an inspector to announce that she or he is authorised by warrant to enter the premises unless this announcement would frustrate the execution of the warrant or jeopardise the safety of any person.
- Clause 45 requires an inspector to identify him or herself and give the occupier of the premises a copy of the warrant.
- Clause 46 requires an inspector to provide a receipt for anything which is seized.
- Clause 47 requires an inspector to provide a copy of any seized document or thing which can be copied to the owner or custodian of that document or thing.
- Clause 48 allows an inspector to bring to or use on a premises any equipment necessary to examine or process things found.
- Clause 49 sets out procedures for the use, copying and seizure of electronic or computer equipment found on premises.
- Clause 50 requires the Secretary, in certain circumstances, to pay compensation for damage caused during inspections.
- Clause 51 provides for the return of seized items.
- Clause 52 enables the Magistrates' Court to extend the retention period for seized items.
- Clause 53 contains the inspector's power to require the provision of information or documents.
- Clause 54 provides a protection against self-incrimination.
- Clause 55 prohibits, except in set circumstances, an inspector from disclosing information obtained while exercising his or her powers under the Act.
- Clause 56 enables authorised officers to issue infringement notices.
- Clause 57 provides for the form of the infringement notice.
- Clause 58 provides for late payment of an infringement notice.
- Clause 59 enables the Secretary to withdraw an infringement notice and refund any money paid.

- Clause 60 sets out conditions concerning the payment of an infringement notice penalty and those relating to proceedings where a person is found guilty of an offence.
- Clause 61 enables the Secretary to enter into an undertaking with an introduction agent where it appears the agent has engaged in unfair conduct or has breached the Act.
- Clause 62 enables the Magistrates' Court, upon application of the Secretary, to stop a person from acting as an introduction agent where the Court is satisfied the agent would be disqualified under clause 14, has breached any other provision of the Act or has breached an undertaking given under clause 61.
- Clause 63 provides that where an introduction agent has been found guilty of an offence, in addition to any penalty, the court may disqualify the introduction agent and require a refund to be made.
- Clause 64 provides a time limit of 2 years for the initiation of criminal proceedings for specified offences.
- Clause 65 prohibits an introduction agent who has been found guilty of an offence from taking civil proceedings against a client.
- Clause 66 provides that for the purposes of the Act, a corporation has the knowledge of its officers.
- Clause 67 provides that certain offences by corporations may also be offences by officers.
- Clause 68 provides for offences committed by persons in partnerships.
- Clause 69 provides for offences committed by an introduction agent's employees or agents.
- Clause 70 provides for simplified procedures concerning proof that a person is in the business of offering introduction services.
- Clause 71 contains the regulation-making powers under the Act.
- Clause 72 defines "commencement day" and "compliance day".
- Clause 73 provides a transitional provision for existing introduction agents who have 3 months to give notice as required by the Secretary.
- Clause 74 provides that a person who would be disqualified from trading as an introduction agent under clause 14 can only remain employed by an agent until the compliance day.

