

Version No. 039
Business Licensing Authority Act 1998

No. 49 of 1998

Version incorporating amendments as at
30 June 2024

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Version No. 039
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No. 49 of 1998

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The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purpose

The main purpose of this Act is to establish and provide for the operation of the Business Licensing Authority.

2 Commencement

- (1) This Part comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 31 December 1999, it comes into operation on that day.

3 Definitions

In this Act—

Authority means the Business Licensing Authority established under Part 2;

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Part 1—Preliminary

S. 3 def. of
*business
licensing Act*
amended by
Nos 69/2006
s. 220, 75/2006
s. 192(Sch. 2
item 1),
11/2010 s. 37,
63/2010
s. 81(Sch.
item 1.1),
63/2010
s. 11(1),
16/2014 s. 9,
26/2016 s. 85,
26/2019 s. 108,
7/2022 s. 56.

business licensing Act means—

- | | | | | |
|---|------|-----|---|----|
| * | * | * | * | * |
| | (ab) | the | Conveyancers Act 2006 ; | or |
| | (ac) | the | Professional Engineers
Registration Act 2019 ; | or |
| | (b) | the | Estate Agents Act 1980 ; | or |
| * | * | * | * | * |
| | (d) | the | Motor Car Traders Act 1986 ; | or |
| | (da) | the | Owners Corporations Act 2006 ; | |
| | | | or | |
| | (db) | the | Rooming House Operators
Act 2016 ; | or |
| * | * | * | * | * |
| | (f) | the | Second-Hand Dealers and
Pawnbrokers Act 1989 ; | |
| * | * | * | * | * |

Deputy Registrar means a Deputy Registrar of the
Authority;

S. 3 def. of
Director
substituted by
No. 17/1999
s. 23,
amended by
No. 21/2012
s. 239(Sch. 6
item 7).

Director means the Director within the meaning
of the **Australian Consumer Law and Fair
Trading Act 2012**;

S. 3 def. of
*personal
information*
inserted by
No. 8/2003
s. 84,
amended by
No. 60/2014
s. 140(Sch. 3
item 4).

personal information has the same meaning as in
section 3 of the **Privacy and Data
Protection Act 2014**;

Business Licensing Authority Act 1998
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Part 1—Preliminary

Registrar means the Registrar of the Authority;

Tribunal means Victorian Civil and
Administrative Tribunal established under
the **Victorian Civil and Administrative
Tribunal Act 1998**.

Part 2—Business Licensing Authority

4 Establishment of Authority

- (1) There is established a Business Licensing Authority.
- (2) The Authority—
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) may acquire, hold and dispose of real and personal property;
 - (d) may sue and be sued in its corporate name;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The common seal of the Authority must be kept in the custody that the Authority directs and must not be used except as authorised by the Authority.
- (4) All courts must take judicial notice of the common seal of the Authority on a document and must presume that it was properly sealed.

5 Constitution of Authority

- (1) The Authority is constituted by—
 - (a) a Chairperson, and a Deputy Chairperson, appointed by the Governor in Council; and
 - (b) at least one person appointed by the Governor in Council who has qualifications and experience in the field of engineering; and
 - (c) any other person appointed by the Governor in Council as a member of the Authority.

S. 5(1)
substituted by
No. 92/2004
s. 38(1).

S. 5(1)(b)
repealed by
No. 63/2010
s. 73(1),
new s. 5(1)(b)
inserted by
No. 26/2019
s. 109.

- | | |
|---|--|
| (2) A person is not eligible for appointment as a member under subsection (1)(a) or (1)(c) unless the person is an Australian lawyer (within the meaning of the Legal Profession Act 2004) of not less than 5 years standing. | S. 5(2) amended by Nos 18/2005 s. 18(Sch. 1 item 11), 92/2004 s. 38(2), 17/2024 s. 8(1). |
| * * * * * | S. 5(3) repealed by No. 92/2004 s. 38(3). |
| (4) The Schedule applies to the members of the Authority. | |
| (5) Despite the alteration made to the constitution of the Authority by section 73 of the Consumer Affairs Legislation Amendment (Reform) Act 2010 , the Authority is taken to be the same body after the commencement of that section as it was before that commencement. | S. 5(5) inserted by No. 92/2004 s. 38(4), substituted by No. 63/2010 s. 73(2). |
| * * * * * | S. 5(6) inserted by No. 92/2004 s. 38(4), repealed by No. 63/2010 s. 73(2). |

6 Functions of Authority

The functions of the Authority are—

- (a) to administer the licensing and registration provisions of—

- (i) the **Professional Engineers Registration Act 2019**;

S. 6(a)(i) repealed by No. 11/2010 s. 38, new s. 6(a)(i) inserted by No. 26/2019 s. 110.

- (ii) the **Estate Agents Act 1980**;

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S. 6(a)(iii)
repealed by
No. 63/2010
s. 11(2).

* * * *

(iv) the **Motor Car Traders Act 1986**;
(iva) the **Owners Corporations Act 2006**;

S. 6(a)(iva)
inserted by
No. 6/2008
s. 36.

S. 6(a)(v)
amended by
No. 63/2010
s. 81(Sch.
item 1.2),
repealed by
No. 7/2022
s. 57.

* * * *

(vi) the **Second-Hand Dealers and
Pawnbrokers Act 1989**; and

S. 6(a)(vi)
amended by
No. 16/2014
s. 10(a).

S. 6(a)(vii)
repealed by
No. 16/2014
s. 10(b).

* * * *

(b) to carry out any other functions conferred on
it by this or any other Act.

7 Powers of the Authority

- (1) The Authority has power to do anything that is necessary or convenient to be done for or in connection with the carrying out of its functions.
- (2) Without limiting subsection (1), the Authority may enter into agreements or arrangements for the use of the services of any staff of a Department, statutory authority or other public body.

- (3) Without limiting subsection (1), the Authority, in carrying out its functions, may seek advice and information on any matter from any person or body or source it thinks fit.

8 Consultants

- (1) The Authority may engage persons with suitable qualifications and experience as consultants.
- (2) An engagement under subsection (1) may be on any terms and conditions the Authority considers appropriate.
- (3) The Business Licensing Authority may engage the Chief Engineer of the Office of Projects Victoria under this section to provide advice in relation to the Business Licensing Authority's functions and duties under the **Professional Engineers Registration Act 2019**.

S. 8(3)
inserted by
No. 26/2019
s. 111.

9 Role of members

Subject to any direction of the Chairperson of the Authority, the functions and powers of the Authority may be carried out or exercised by any member of the Authority.

10 Procedure of the Authority

Subject to this Act and to any business licensing Act, the procedure of the Authority is in its discretion.

11 Delegation by Authority

Subject to this Act and to any business licensing Act, the Authority may by instrument delegate to the Registrar, the Deputy Registrar, any person employed under Part 3 of the **Public Administration Act 2004** or any person referred to in section 7(2) any of its powers and functions under this Act or a business licensing Act except—

S. 11
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch 3
item 22.1).

S. 11(a)
substituted by
Nos 8/2003
s. 85, 56/2012
s. 24.

(a) a prescribed power or function; and

S. 11(b)
substituted by
No. 8/2003
s. 85.

(b) this delegation power.

12 Director to give effect to decision

The Director must take such action (if any) as is necessary to give effect to a decision of the Authority under a business licensing Act.

13 Authority may request Director to investigate matters

The Authority may request the Director to investigate a matter arising in the course of the carrying out of its functions and the Director may investigate that matter.

14 Correcting mistakes

The Authority may at any time correct a decision made by it under this Act or a business licensing Act if the decision contains—

- (a) a clerical mistake; or
- (b) an error arising from an accidental slip or omission; or
- (c) a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the decision; or
- (d) a defect of form.

15 Registrar and other staff

- (1) There shall be employed under Part 3 of the **Public Administration Act 2004**—
 - (a) a Registrar of the Authority; and
 - (b) such Deputy Registrars and other staff as are necessary for the purposes of the Authority.
- (2) A Deputy Registrar may exercise any of the powers of the Registrar under this Act or a business licensing Act but is subject to the directions of the Registrar in exercising those powers.
- (3) All courts must take judicial notice of the official signature of a person who is or has been the Registrar or Deputy Registrar and of the fact that that person is or was the Registrar or Deputy Registrar.

S. 15(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 22.1).

16 Delegation by the Registrar

Subject to this Act and to any business licensing Act and to the direction of the Authority, the Registrar may by instrument delegate to any person employed under Part 3 of the **Public Administration Act 2004** or any person whose services are used by the Authority under section 7(2) any of the Registrar's powers and functions under this Act or a business licensing Act except this power of delegation.

S. 16
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 22.1),
17/2024
s. 8(2).

17 Registers

- (1) The Registrar may correct an error or omission in any register kept by the Registrar under this Act or a business licensing Act by—
 - (a) inserting an entry; or
 - (b) amending an entry; or

S. 17(1)
amended by
Nos 7/2022
s. 23, 17/2024
s. 8(3).

(c) omitting an entry—

if the Registrar decides that the correction is necessary.

S. 17(2)
amended by
No. 7/2022
s. 23.

(2) A certificate purporting to be signed by the Registrar certifying as to any matter relating to the contents of a register kept by the Registrar under this Act or a business licensing Act is evidence of that matter.

S. 17(3)
amended by
No. 7/2022
s. 23.

(3) The Director may, at any time, free of charge, inspect a register kept by the Registrar under this Act or a business licensing Act and make a copy of, or take an extract from, that register.

S. 17A
inserted by
No. 8/2003
s. 86.

17A Restriction of personal information

S. 17A(1)
amended by
No. 7/2022
s. 24.

(1) A person whose personal information is held on any register kept by the Registrar under this Act or a business licensing Act may apply to the Authority to restrict public access to some or all of that personal information.

(2) If the Authority is satisfied that exceptional circumstances exist justifying the restriction of public access to that person's personal information, the Authority may restrict public access to some or all of that personal information.

(3) The restriction of public access under subsection (2) may be for the period and on the conditions that the Authority thinks fit.

(4) If the Authority is satisfied that it is in the public interest that restricted personal information be released to a person who applies for it, the Authority may release some or all of the information to that person on such conditions as the Authority thinks fit.

- (5) If the Authority decides to release restricted personal information, the Authority must give written notice of the decision to the person whose restricted personal information is to be released.
- (6) The Authority must not release restricted personal information for 28 days after giving written notice of the decision to release the information to the person whose restricted personal information is to be released.

17AB Register previously kept under section 24 of the Sex Work Act 1994

S. 17AB
inserted by
No. 7/2022
s. 25.

- (1) On and from the repeal of section 24 of the **Sex Work Act 1994**, the register kept under that section—
 - (a) is closed; and
 - (b) is to be kept by the Authority under this Act as a historical register.
- (2) The register may only be inspected by—
 - (a) the Director; or
 - (b) members or staff of the Authority.
- (3) The register is an exempt document within the meaning of section 5(1) of the **Freedom of Information Act 1982** to which section 38 of that Act applies.

17B Rights of review

S. 17B
inserted by
No. 8/2003
s. 86.

- (1) A person whose interests are affected by a decision of the Authority under section 17A may apply to the Tribunal for review of that decision.
- (2) An application for review under subsection (1) must be lodged with the Tribunal within 28 days after—
 - (a) notice of the decision was given; or

- (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision—the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

18 Secrecy

- (1) This section applies to every person who is or has been a member of the Authority, the Registrar, a Deputy Registrar, a member of the other staff assisting the Authority, a person whose services are used by the Authority under section 7(2) or a person engaged under section 8.

S. 18(1A)
inserted by
No. 47/2019
s. 102,
repealed by
No. 7/2022
s. 58(1).

* * * * *

- (2) A person to whom this section applies must not, either directly or indirectly, make a record of, or disclose or communicate to any person, any information concerning the affairs of any person acquired by reason of the office or employment under or for the purposes of this Act or a business licensing Act.

S. 18(2)
amended by
Nos 7/2022
ss 26, 58(2).

- Penalty: (a) in relation to information acquired or obtained under the **Sex Work Act 1994** before its repeal, 60 penalty units;
(b) in any other case, 5 penalty units.

(3) Despite subsection (2), a person to whom this section applies may—

(a) make a record of, or disclose or communicate any information referred to in that subsection—

- (i) in any legal proceedings under this Act or any of the business licensing Acts; or
- (ii) in the performance of a duty under or in connection with this Act or any of the business licensing Acts;

(b) divulge or communicate any information referred to in that subsection to—

- (i) the Director; or
- (ii) the Tribunal; or
- (iii) a police officer for the purposes of reporting a suspected offence or assisting in the investigation of a suspected offence; or
- (iv) a police officer who is performing a duty under or in connection with any Act; or

S. 18(3)(b)(iii)
amended by
No. 37/2014
s. 10(Sch.
item 11.1).

S. 18(3)(b)(iv)
amended by
No. 37/2014
s. 10(Sch.
item 11.1).

(v) a prescribed person who is, or a prescribed body which is, performing a duty under or in connection with any Act; or

(va) to an agency of the Commonwealth, the extent reasonably required to bring into operation the National Consumer Credit Protection Act 2009 of the Commonwealth and the National Consumer Credit Protection (Transitional and Consequential

S. 18(3)(b)(va)
inserted by
No. 11/2010
s. 39.

Provisions) Act 2009 of the
Commonwealth; or

- (vi) with the consent of the person to whom the information relates, to any other person.

S. 18(4)
inserted by
No. 37/2014
s. 10(Sch.
item 11.2).

- (4) In this section—

police officer has the same meaning as in the
Victoria Police Act 2013.

19 Immunity

- (1) A member of the Authority is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the exercise of a power or the discharge of a duty under this Act or a business licensing Act or a regulation under that Act; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act or a business licensing Act or a regulation under that Act.
- (2) Any liability resulting from an act or omission that would but for subsection (1) attach to a member of the Authority attaches instead to the Authority.

Part 3—Licence suspension

Pt 3 (Heading and ss 20–25) inserted by No. 30/2003 s. 77.

20 Definitions

S. 20 inserted by No. 30/2003 s. 77.

In this Part—

licence means—

S. 20 def. of *licence* amended by Nos 11/2010 s. 40, 63/2010 s. 81(Sch. item 1.3), 63/2010 s. 11(3), 16/2014 s. 11, 7/2022 s. 59.

(a) a licence issued or granted under—

(i) the **Estate Agents Act 1980**; or

(ii) the **Motor Car Traders Act 1986**; or

*	*	*	*	*
*	*	*	*	*

(b) a right to act as an agent's representative within the meaning of the **Estate Agents Act 1980**; or

(c) a right to participate in a customer service capacity in the business of a motor car trader within the meaning of the **Motor Car Traders Act 1986**; or

*	*	*	*	*
*	*	*	*	*
*	*	*	*	*
*	*	*	*	*

(h) a registration or endorsement of registration under the **Second-Hand Dealers and Pawnbrokers Act 1989**;

licence suspension period in relation to a licence, means the period—

- (a) commencing on the date of service of the notice in relation to the licence under section 21; and
- (b) ending on—
 - (i) the lapsing of the suspension of the licence under section 23; or
 - (ii) the date of an order referred to in section 23(2) relating to the suspension of the licence;

licensee, in relation to a licence, means the person who is the holder of the licence.

S. 21
inserted by
No. 30/2003
s. 77.

21 Authority may suspend licence

- (1) Despite anything to the contrary in a business licensing Act or any other Act or law other than this Part, the Authority may suspend a licence by notice in writing issued to the licensee.
- (2) The Authority may only suspend a licence under this section if the Authority has reasonable grounds to believe that—
 - (a) the licensee has engaged in conduct that under the relevant business licensing Act would constitute grounds for the initiation of disciplinary action against the licensee or the bringing of proceedings for an offence or for an injunction; and
 - (b) it is likely that the licensee will continue to engage in that conduct; and
 - (c) there is a danger that a person may suffer substantial harm, loss or damage as a result of that conduct unless action is taken urgently.

- (3) A notice under subsection (1)—
- (a) must be served—
 - (i) personally on a licensee who is a natural person; or
 - (ii) at the registered office and the last known business address of a licensee that is a corporation; or
 - (iii) at the last known business address of a licensee that is a body corporate, other than a corporation;
 - (b) must specify the conduct which the licensee is believed to have engaged in;
 - (c) must state the rights of review open to the licensee;
 - (d) has effect, whether or not the licensee has been afforded an opportunity to be heard on the matter.
- (4) Despite subsection (3)(a)(i), if, on the application of the Authority, it appears to the Tribunal that service cannot be promptly effected on a licensee who is a natural person, the Tribunal may order that the notice be served—
- (a) by sending it by post, facsimile or other electronic transmission to the person at the person's usual or last known residential or business address; or
 - (b) by leaving it at the person's usual or last known residential or business address with a person on the premises who is apparently at least 16 years old and apparently residing or employed there.
- (5) The suspension takes effect on the service of the notice.

S. 21(4)(a)
amended by
No. 17/2024
s. 8(4).

S. 22
inserted by
No. 30/2003
s. 77.

22 Effect of suspension

- (1) This section applies despite anything to the contrary in a business licensing Act or any other Act or law other than this Part.
- (2) If a notice is issued under this Part suspending—
 - (a) an estate agent's licence under the **Estate Agents Act 1980**; or
 - (b) a motor car trader's licence under the **Motor Car Traders Act 1986**—

S. 22(2)(b)
amended by
No. 7/2022
s. 60(1).

S. 22(2)(c)
amended by
Nos 63/2010
s. 81(Sch.
item 1.4),
16/2014
s. 12(a),
repealed by
No. 7/2022
s. 60(2).

* * * * *

S. 22(2)(d)
repealed by
No. 16/2014
s. 12(b).

* * * * *

the licence is deemed to be suspended for the purposes of that Act for the licence suspension period.

- (3) If a notice is issued under this Part suspending a licensee's right to act as an agent's representative within the meaning of the **Estate Agents Act 1980**, the licensee is deemed to be ineligible to act as an agent's representative for the purposes of that Act for the licence suspension period.
- (4) If a notice is issued under this Part suspending a licensee's right to participate in a customer service capacity in the business of a motor car trader within the meaning of the **Motor Car Traders Act 1986**, the licensee is deemed, for the purposes

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Part 3—Licence suspension

of that Act, not to be permitted to be employed in a customer service capacity by a motor car trader for the licence suspension period.

*	*	*	*	*	S. 22(5) amended by No. 63/2010 s. 81(Sch. item 1.4), repealed by No. 7/2022 s. 60(2).
*	*	*	*	*	S. 22(6)(7) repealed by No. 11/2010 s. 41.
*	*	*	*	*	S. 22(8) repealed by No. 63/2010 s. 11(4).

- (9) If a notice is issued under this Part suspending the registration or endorsement of registration of a licensee under the **Second-Hand Dealers and Pawnbrokers Act 1989**, the registration or endorsement is deemed to be suspended for the purposes of that Act for the licence suspension period.

23 Lapsing or continuation of suspension

S. 23
inserted by
No. 30/2003
s. 77.

- (1) A suspension under this Part lapses if within the required period after the service of the notice—
- (a) an application is not made to the Tribunal under a business licensing Act to inquire into the conduct of the licensee that is the subject of the notice; or
 - (b) proceedings have not commenced in a court in relation to the conduct of the licensee that is the subject of the notice.

- (2) If within the required period after the service of the notice—
- (a) an application is made to the Tribunal under a business licensing Act to inquire into the conduct of the licensee that is the subject of the notice; or
 - (b) proceedings are commenced in a court in relation to the conduct of the licensee that is the subject of the notice—

the suspension continues until a further order is made by the Tribunal or the court.

- (3) If a suspension lapses under this section after service of a notice, the Authority must not serve another notice on the licensee under this Part for a period of 6 months from the date of service of the first notice.
- (4) The power conferred by this Part is in addition to and does not limit or displace a power conferred on the Authority or any other person or body by or under a business licensing Act to suspend or cancel a licence or to take action against a licensee in respect of the conduct concerned.
- (5) In this section *required period* means—
- (a) 14 days; or
 - (b) if the Tribunal or a court makes an order under section 24 extending that period, that extended period.

S. 24
inserted by
No. 30/2003
s. 77.

24 Extension of period

- (1) The Director, at the request of the Authority, may apply to the Tribunal or the court within 14 days after the service of a notice under section 21 or if, an extension of that period has been granted under this section, before the end of the period of the extension, to extend the period within which an application must be made or proceedings

commenced for the purposes of section 23(1) and (2).

- (2) On an application under subsection (1), the Tribunal or court—
 - (a) must consider the likelihood that an application or proceedings referred to in section 23(1) and (2) will be made or commenced; and
 - (b) may make an order extending the period if in all the circumstances it considers it just and convenient to do so.
- (3) An extension may be for a period not exceeding 14 days.
- (4) The Tribunal or court may adjourn any application under this section to enable notice of the application to be given to any person.

25 Right of review

A licensee may apply to the Tribunal for a review of the decision to issue a notice under this Part.

**S. 25
inserted by
No. 30/2003
s. 77.**

Pt 4 (Heading
and s. 26)
inserted by
No. 56/2012
s. 25.

Part 4—General

Ss 25A, 25B
inserted by
No. 7/2022
s. 61,
repealed by
No. 17/2024
s. 7.

* * * * *

S. 26
inserted by
No. 56/2012
s. 25.

26 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this Act may—
 - (a) be of general or limited application;
 - (b) differ according to differences in time, place or circumstance;
 - (c) apply at all times or specified times;
 - (d) confer a discretionary authority or impose a duty on a specified person or body or specified classes of person or body.

S. 27
inserted by
No. 7/2022
s. 62.

27 Saving of regulations under the Sex Work Act 1994

Despite the repeal of the **Sex Work Act 1994** by the **Sex Work Decriminalisation Act 2022**, the Sex Work (Fees) Regulations 2014 continue in operation as if they had been made under this Act and may be amended or revoked accordingly.

Schedule

Members of Authority

1 Terms of appointment

(1) A member—

(a) holds office for the term, not exceeding 5 years, specified in the member's instrument of appointment;

Sch. cl. 1(1)(a)
amended by
No. 17/2024
s. 8(5)(a)(i).

(b) is eligible for re-appointment;

(c) is entitled to be paid the remuneration and allowances (if any) fixed in respect of the member by the Governor in Council.

Sch. cl. 1(1)(c)
amended by
No. 17/2024
s. 8(5)(a)(ii).

(2) The Governor in Council may, in the instrument of appointment of a member, specify terms and conditions of appointment.

(3) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

Sch. cl. 1(3)
substituted by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 22.2),
80/2006
s. 26(Sch.
item 7).

2 Resignation

A member may resign from office by delivering to the Governor a signed letter of resignation.

3 Termination of office

(1) The office of a member becomes vacant if the member—

Sch. cl. 3(1)
amended by
No. 17/2024
s. 8(5)(b)(i).

(a) becomes an insolvent under administration;
or

(b) is convicted of an offence punishable by imprisonment for 12 months or more; or

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Sch. cl. 3(1)(c)
amended by
No. 13/2019
s. 221(Sch. 1
item 6).

(c) becomes a represented person within the meaning of the **Guardianship and Administration Act 2019**; or

(d) is removed or resigns from office.

(2) The Governor in Council may remove a member from office—

(a) for misbehaviour; or

Sch. cl. 3(2)(b)
amended by
No. 17/2024
s. 8(5)(b)(ii).

(b) if the member becomes incapable of performing the duties of the member's office.

Sch. cl. 4
substituted by
No. 92/2004
s. 39(1).

4 Acting appointments

(1) When—

(a) the office of Chairperson is vacant; or

(b) the Chairperson is absent from Victoria or is unable, for any reason, to perform the duties of the office—

the Deputy Chairperson must act as Chairperson.

Sch. cl. 4(2)
amended by
No. 17/2024
s. 8(5)(c).

(2) While the Deputy Chairperson is acting as Chairperson, the Deputy Chairperson has and may exercise all the powers, and must perform all the duties, of the Chairperson.

(3) The Minister may appoint a member of the Authority to act as Deputy Chairperson—

(a) during a vacancy in the office of Deputy Chairperson; or

(b) during any period, or during all periods, when the Deputy Chairperson is acting as Chairperson or is unable, for any reason, to perform the duties of the Deputy Chairperson.

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- (4) The Minister may appoint a person who is qualified to be a member of the Authority to act as a member (other than the Chairperson or Deputy Chairperson) of the Authority during any period, or during all periods, when a member is acting as Deputy Chairperson or is unable, for any reason, to perform the duties of office.

5 Acting members—conditions

Sch. cl. 5
(Heading)
inserted by
No. 92/2004
s. 39(2)(a).

* * * * *

Sch. cl. 5(1)
repealed by
No. 92/2004
s. 39(2)(b).

- (2) A person appointed to act for a member while so acting—

- (a) has all the powers and may perform all the duties of the member for whom the person is acting; and
- (b) is entitled to be paid the remuneration and allowances (if any) to which the member for whom the person is acting would have been entitled for performing those duties; and
- (c) is subject to the same terms and conditions of appointment as the member for whom the person is acting.

Sch. cl. 5(2)(a)
amended by
No. 17/2024
s. 8(5)(d).

Sch. cl. 5(2)(b)
amended by
No. 17/2024
s. 8(5)(d).

Sch. cl. 5(2)(c)
amended by
No. 17/2024
s. 8(5)(d).

6 Decision not invalid by reason of vacancy etc.

An act or decision of the Authority is not invalid only—

- (a) because of a vacancy in the membership of the Authority; or

Sch. cl. 6
substituted by
No. 92/2004
s. 39(3).

- (b) because of a defect or irregularity in the appointment of a member or acting member; or
- (c) because the occasion for the appointment of an acting member had ceased to exist.

7 Disclosure of interest by members

Sch. cl. 7(1)
amended by
No. 17/2024
s. 8(5)(e).

- (1) If a member of the Authority has a direct or indirect pecuniary interest in a matter which is about to be or is being considered by the Authority, the member must as soon as possible after the relevant facts come to the member's knowledge disclose the nature of the interest—
 - (a) to the Minister, in the case of the Chairperson; or
 - (b) to the Chairperson, in the case of any other member.
- (2) A member who has disclosed a pecuniary interest in a matter under subclause (1) must not consider or decide or take any further part in the consideration or decision of the matter before the Authority.
- (3) An act or decision of the Authority is not invalid merely because a member contravenes subclause (1) or (2).

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current Versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 9 April 1998

Legislative Council: 19 May 1998

The long title for the Bill for this Act was "to establish the Business Licensing Authority and for other purposes."

The **Business Licensing Authority Act 1998** was assented to on 2 June 1998 and came into operation as follows:

Part 1 (sections 1–3) on 2 June 1998: section 2(1); rest of Act on 1 July 1998: Government Gazette 18 June 1998 page 1512.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

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- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the **Business Licensing Authority Act 1998** by Acts and subordinate instruments.

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Fair Trading (Inspectors Powers and Other Amendments) Act 1999, No. 17/1999

Assent Date: 18.5.99
Commencement Date: S. 23 on 1.9.99: Government Gazette 19.8.99 p. 1901
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Business Licensing Legislation (Amendment) Act 2003, No. 8/2003

Assent Date: 6.5.03
Commencement Date: Ss 84–86 on 1.11.03: Government Gazette 30.10.03 p. 2744
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Fair Trading (Amendment) Act 2003, No. 30/2003

Assent Date: 27.5.03
Commencement Date: S. 77 on 9.10.03: Government Gazette 9.10.03 p. 2589
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Act 2004, No. 92/2004

Assent Date: 7.12.04
Commencement Date: Ss 38, 39 on 1.6.06: s. 2(3)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 22) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

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Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 11) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Owners Corporations Act 2006, No. 69/2006

Assent Date: 19.9.06
Commencement Date: S. 220 on 31.12.07: s. 2(2)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Conveyancers Act 2006, No. 75/2006

Assent Date: 10.10.06
Commencement Date: S. 192(Sch. 2 item 1) on 1.7.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 7) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Consumer Credit (Victoria) and Other Acts Amendment Act 2008, No. 6/2008

Assent Date: 18.3.08
Commencement Date: S. 36 on 19.3.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Credit (Commonwealth Powers) Act 2010, No. 11/2010

Assent Date: 30.3.10
Commencement Date: S. 39 on 1.4.10: Special Gazette (No. 114) 31.3.10 p. 1; ss 37, 38, 40, 41 on 1.7.10: Government Gazette 24.6.10 p. 1273
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Consumer Affairs Legislation Amendment (Reform) Act 2010, No. 63/2010

Assent Date: 28.9.10
Commencement Date: S. 81(Sch. item 1) on 1.11.10: s. 2(2); s. 73 on 1.4.11: Special Gazette (No. 63) 1.3.11 p. 1; s. 11 on 1.7.11: Special Gazette (No. 154) 24.5.11 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

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Australian Consumer Law and Fair Trading Act 2012, No. 21/2012

Assent Date: 8.5.12
Commencement Date: S. 239(Sch. 6 item 7) on 1.7.12: Special Gazette (No. 214) 28.6.12 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Residential Tenancies and Other Consumer Acts Amendment Act 2012, No. 56/2012

Assent Date: 18.9.12
Commencement Date: Ss 24, 25 on 18.3.13: Special Gazette (No. 86) 13.3.13 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Travel Agents Repeal Act 2014, No. 16/2014

Assent Date: 18.3.14
Commencement Date: Ss 9–12 on 1.7.14: Special Gazette (No. 170) 3.6.14 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 11) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Privacy and Data Protection Act 2014, No. 60/2014

Assent Date: 2.9.14
Commencement Date: S. 140(Sch. 3 item 4) on 17.9.14: Special Gazette (No. 317) 16.9.14 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Rooming House Operators Act 2016, No. 26/2016

Assent Date: 10.5.16
Commencement Date: S. 85 on 26.4.17: Special Gazette (No. 57) 7.3.17 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

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Guardianship and Administration Act 2019, No. 13/2019

Assent Date: 4.6.19
Commencement Date: S. 221(Sch. 1 item 6) on 1.3.20: s. 2(2)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Professional Engineers Registration Act 2019, No. 26/2019

Assent Date: 3.9.19
Commencement Date: Ss 108–111 on 10.11.20: Special Gazette (No. 575) 10.11.20 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Consumer Legislation Amendment Act 2019, No. 47/2019

Assent Date: 3.12.19
Commencement Date: S. 102 on 18.12.19: Special Gazette (No. 537) 17.12.19 p. 1
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Sex Work Decriminalisation Act 2022, No. 7/2022

Assent Date: 1.3.22
Commencement Date: Ss 23–26 on 10.5.22: s. 2(2); ss 56–62 on 1.12.23: s. 2(3)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

Estate Agents, Residential Tenancies and Other Acts Amendment (Funding) Act 2024, No. 17/2024

Assent Date: 21.5.24
Commencement Date: Ss 7, 8 on 30.6.24: s. 2(2)
Current State: This information relates only to the provision/s amending the **Business Licensing Authority Act 1998**

3 Explanatory details

No entries at date of publication.