



ANNO VICESIMO SEPTIMO

## ELIZABETHAE II REGINAE

A.D. 1978

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### No. 52 of 1978

An Act to amend the Business Franchise (Tobacco) Act,  
1974-1975.

[Assented to 27th July, 1978]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Business Franchise (Tobacco) Act Amendment Act, 1978". Short titles.

(2) The Business Franchise (Tobacco) Act, 1974-1975, is hereinafter referred to as "the principal Act."

(3) The principal Act, as amended by this Act, may be cited as the "Business Franchise (Tobacco) Act, 1974-1978".

2. Section 4 of the principal Act is amended—

(a) by inserting after the definition of "Deputy Commissioner of Stamps" in subsection (1) the following definition:—

"group wholesale tobacco merchant's licence" means a group wholesale tobacco merchant's licence in force under this Act;

(b) by inserting after the definition of "premises" in subsection (1) the following definition:—

"record" includes book, account, deed, writing, or document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means;

(c) by striking out the definition of "relevant period" in subsection (1) and inserting in lieu thereof the following definition:—

"relevant period" means—

(a) in relation to a retail tobacconist's licence or a renewal thereof—the period of one year that

Amendment of  
principal Act,  
s. 4—  
Interpretation.

ended on the thirtieth day of June that last preceded the thirtieth day of September that last preceded the day on and from which the licence or renewal, if granted, would be in force;

and

(b) in relation to a wholesale tobacco merchant's licence, a group wholesale tobacco merchant's licence, or a renewal thereof—the month specified in column 2 of Schedule 1 that last preceded the month—

(i) specified in column 1 of Schedule 1 opposite the firstmentioned month;

and

(ii) at the end of which the licence or renewal if granted and in force for the whole of its term, would expire;;

(d) by inserting after the definition of "vending machine" in subsection (1) the following definition:—

"voting share" has the meaning ascribed thereto in subsection (1) of section 5 of the Companies Act, 1962-1974.;

(e) by striking out from the definition of "wholesale tobacco merchant's licence" in subsection (1) the passage "means a licence" and inserting in lieu thereof the passage "means a wholesale tobacco merchant's licence";

and

(f) by striking out subsection (6) and inserting in lieu thereof the following subsection:—

(6) A reference in this Act to a holder of a group wholesale tobacco merchant's licence includes a reference to each person whose name is, in pursuance of this Act, specified in a group wholesale tobacco merchant's licence that is in force.

Enactment of  
ss. 4a to 4f  
of principal  
Act.

Membership  
of a group  
of wholesale  
tobacco  
merchants.

3. The following sections are enacted and inserted in the principal Act after section 4 thereof:—

4a. (1) For the purposes of this Act, a person is a member of a group of wholesale tobacco merchants if—

(a) that person is one of the persons who constitute a group for the purposes of this Act;

and

(b) there is not in force a determination under subsection (2) or (3) of this section by the Commissioner that that person is not a member of the group.

(2) The Commissioner may by writing under his hand determine that a person who would, but for the determination, be a member of a group for the purposes of this Act is not a member of the group of wholesale tobacco merchants if he is satisfied that that person has continuously carried on tobacco wholesaling independently of the

group and will continue to carry on tobacco wholesaling independently of the group and is not subject to control by any other member of the group.

(3) The Commissioner may by writing under his hand determine that a person who would, but for the determination, be a member of a group for the purposes of this Act, is not a member of any group for the purposes of this Act if he is satisfied that the person is not carrying on and has no intention of carrying on tobacco wholesaling.

(4) A determination made under subsection (2) or (3) of this section shall come into force on the making thereof and shall continue in force until it is revoked by the Commissioner and notice of the revocation has been served on the person in respect of whom the determination was made.

(5) Notice of a determination under subsection (2) of this section shall be given by the Commissioner to the person in respect of whom the determination was made and to all the members of the group concerned whom he considers are carrying on tobacco wholesaling.

(6) Notice of a determination under subsection (3) of this section shall be published in the *Gazette*.

(7) The Commissioner may at any time revoke a determination made under subsection (2) or (3) of this section.

(8) Notice of the revocation of a determination made under subsection (2) or (3) of this section shall be given by the Commissioner to the person in respect of whom the determination was made and all members of the group in respect of which the determination was made whom he considers to be carrying on tobacco wholesaling.

4b. For the purposes of this Act, corporations constitute a group if they are related to each other (within the meaning of the Companies Act, 1962-1974).

Grouping of corporations.

4c. For the purposes of this Act, if—

(a) an employee of an employer, or two or more employees of an employer, performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons;

or

(b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by that other person or those other persons, whether alone or together with another person or other persons,

Grouping where employees used in another business.

that employer and—

(c) each such other person;

or

(d) both or all of those other persons, constitute a group.

Grouping of commonly controlled businesses.

4d. (1) A reference in this section to two businesses does not include a reference to two businesses both of which are owned by the same person, not being a trustee, or by the trustee or trustees of a trust.

(2) For the purposes of this Act, where the same person has, or the same persons have together, a controlling interest, as referred to in subsection (3) of this section, in each of two businesses, the persons who carry on those businesses constitute a group.

(3) For the purposes of subsection (2) of this section, the same person has, or the same persons have together, a controlling interest in each of two businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business:—

- (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors of the corporation, are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person or of those persons acting together;
- (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together could (whether directly or indirectly) exercise, control the exercise of or substantially influence the exercise of, half or more than half of the voting power attached to voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
  - (i) owns, or own together (whether beneficially or not) half or more than half of the capital of the partnership;
  - or
  - (ii) is, or are together, entitled (whether beneficially or not) to half or more than half of the profits of the partnership;
- (d) a person has, or persons have together, a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of another trust) is the beneficiary, or those persons (whether or not as the trustees of another trust) are together the beneficiaries, in respect of half or more than half of the value of the interests in the trust firstmentioned in this paragraph;

(e) a person has a controlling interest in a business if, whether or not he is a trustee of a trust, he is the sole owner of the business, or persons, being two or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.

(4) Where a corporation has a controlling interest under subsection (3) of this section in a business, it shall be deemed to have a controlling interest in any other business in which another corporation that is related to it (within the meaning of the Companies Act, 1962-1974), has a controlling interest.

(5) Where—

(a) a person has, or persons have together, a controlling interest under subsection (3) of this section in a business;

and

(b) the person or persons who carry on that business has or have such a controlling interest in another business,

the person or persons referred to in paragraph (a) of this subsection shall be deemed to have a controlling interest in the business referred to in paragraph (b) of this subsection.

(6) Where—

(a) a person is a beneficiary under a trust;

or

(b) two or more persons together are beneficiaries under a trust, in respect of half or more than half of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (3) of this section a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purposes of subsection (3) of this section, be deemed to have a controlling interest in that business.

4e. (1) Notwithstanding any other provision of this Act (except subsection (2) of this section), where a person is, whether or not by virtue of this subsection, a member of two or more groups (each of which is in subsection (2) of this section referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Act, one group.

Smaller groups subsumed into larger groups.

(2) Except for the purpose of determining whether a group is constituted under subsection (1) of this section, a group which, but for this subsection, would be a smaller group ceases to be a group if its members are members of a group constituted under subsection (1) of this section.

4f. A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and any other person, may benefit under that trust shall be deemed, for the purposes of this Act, to be a beneficiary in respect of half or more than half of the value of the interests in that trust.

Beneficiaries under discretionary trusts.

4. The following section is enacted and inserted in the principal Act after section 5 thereof:—

Enactment of s. 5a of principal Act.

Expiry of  
certain  
licences.

5a. A wholesale tobacco merchant's licence that was in force under this Act immediately before the commencement of the Business Franchise (Tobacco) Act Amendment Act, 1978, shall expire on the thirty-first day of July, 1978.

Amendment of  
principal Act,  
s. 8—  
Power of  
Inspectors.

5. Section 8 of the principal Act is amended—

(a) by striking out paragraphs (a), (b) and (c) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(a) enter and remain in any premises at which, or at which he reasonably suspects, the business of processing, packaging, distributing, selling or purchasing tobacco is carried on or which is, or which he reasonably suspects is, being used for the storage or custody of any record relating to the processing, packaging, distribution, sale or purchase of tobacco;

(b) request any person found in or on any premises which, or which he reasonably suspects, are used for the processing, packaging, distribution, sale or purchase of tobacco or for the storage or custody of any record relating to the processing, packaging, distribution, sale or purchase of tobacco or in or on which, or in or on which he reasonably suspects, tobacco is stored for sale—

(i) to produce any record which relates to, or which the Inspector reasonably suspects relates to, the processing, packaging, distribution, sale or purchase of tobacco and which at the time of the request is in the possession or under the control of that person;

(ii) to produce a statement, written in the English language, setting out the particulars contained in any such record that are not written or not written in the English language;

and

(iii) to answer any question with respect to any such record or statement or the processing, packaging, distribution, sale or purchase of any tobacco;

or

(c) inspect, or take copies of, or extracts or notes from, any record or statement referred to in this subsection.;

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) A person shall not—

(a) prevent or attempt to prevent an Inspector from exercising any power conferred on him by subsection (1) of this section;

(b) hinder or obstruct any Inspector in the exercise of any such power;

or

(c) fail to comply with a request of an Inspector under paragraph (b) of subsection (1) of this section.

Penalty: Two hundred and fifty dollars or imprisonment for three months, or both and in the case of any offence under paragraph (c) of this subsection an additional penalty not exceeding fifty dollars for every day on which the offence continues.;

(c) by striking out from subsection (5) the passage “paragraph (c) of subsection (1)” and inserting in lieu thereof the passage “paragraph (b) of subsection (1)”;

and

(d) by striking out from subsection (6) the passage “referred to in subparagraph (ii) of paragraph (c) of subsection (1)” and inserting in lieu thereof the passage “under paragraph (b) of subsection (1)”.

6. Section 9 of the principal Act is amended by inserting after the word “licence” in subsection (1) the passage “or a group wholesale tobacco merchant’s licence”.

Amendment of  
principal Act,  
s. 9—  
Tobacco  
sellers  
to be  
licensed.

7. Section 11 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (1) and inserting in lieu thereof the following paragraphs:—

Amendment of  
principal Act,  
s. 11—  
Fees.

(a) for a wholesale tobacco merchant’s licence—a fee of ten dollars together with an amount of ten per centum of the value of tobacco sold by the applicant in the course of tobacco wholesaling during the relevant period;

(ab) for a group wholesale tobacco merchant’s licence—a fee of ten dollars together with an amount of ten per centum of the value of tobacco sold by all persons who are members of the group of wholesale tobacco merchants of which the applicant for the licence or a renewal thereof is a member (whether or not the application was made by them or on their behalf and whether or not they were members of that group during the whole or any part of the relevant period) in the course of tobacco wholesaling during the relevant period;;

(b) by inserting after subsection (1) the following subsections:—

(1a) Where an applicant for a wholesale tobacco merchant’s licence or a renewal thereof was, at any time during the relevant period for the licence or renewal, a member of a group of wholesale tobacco merchants, the tobacco sold by the applicant in the course of tobacco wholesaling during that relevant period shall, for the purposes of paragraph (a) of subsection (1) of this section, be deemed to have included any

tobacco sold by the other or, if more than one, all of the other members of the group in the course of tobacco wholesaling during that period unless the applicant satisfies the Commissioner that a fee for a wholesale tobacco merchant's licence, a group wholesale tobacco merchant's licence or a renewal thereof has been paid to the Commissioner after having been assessed in respect of the sale of that tobacco during that relevant period.

(1b) Where—

(a) an application is made on behalf of all or any of the members of a group of wholesale tobacco merchants for a group wholesale tobacco merchant's licence or a renewal thereof;

and

(b) any member of the group referred to in paragraph (a) of this subsection was, at any time during the relevant period for the licence or renewal, a member of another group of wholesale tobacco merchants (any one or more of the members of which is not a member of the group referred to in paragraph (a) of this subsection),

the tobacco sold by members of the firstmentioned group in the course of tobacco wholesaling during that relevant period shall, for the purposes of paragraph (ab) of subsection (1) of this section, be deemed to have included any tobacco sold by any of the members of the other group in the course of tobacco wholesaling during that period unless the applicant satisfies the Commissioner that a fee for a wholesale tobacco merchant's licence, a group wholesale tobacco merchant's licence or a renewal thereof has been paid to the Commissioner after having been assessed in respect of the sale of that tobacco during that relevant period.

(1c) For the purposes of paragraphs (a) and (ab) of subsection (1) and subsections (1a) and (1b) of this section, tobacco shall not be treated as having been sold by reason only of its having been sold to the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence.;

- (c) by inserting in paragraph (a) of subsection (2) after the passage "a wholesale tobacco merchant's licence" the passage "or a group wholesale tobacco merchant's licence";
- (d) by striking out from subsection (2) the passage "payable by the applicant" and inserting in lieu thereof the word "payable";
- (e) by striking out from subsection (2) the passage "subsection (1) of";
- (f) by inserting in paragraph (a) of subsection (3) after the passage "a wholesale tobacco merchant's licence" the passage "or a group wholesale tobacco merchant's licence"
- (g) by striking out from subsection (3) the passage "payable by the applicant" wherever it occurs and inserting in lieu thereof, in each case, the word "payable";
- (h) by striking out from subsection (3) the passage "subsection (1) of" wherever it occurs;
- (i) by inserting after subsection (3) the following subsection:—

(3a) A fee payable in respect of a licence under subsection (2) or (3) of this section is payable by the applicant for the licence.;

(j) by striking out from subsection (6) the passage "a licence" and inserting in lieu thereof the passage "a retail tobacconist's licence";

and

(k) by inserting after subsection (6) the following subsection:—

(7) In subsections (2) and (3) of this section, "applicant", in relation to a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence, includes any person whose tobacco wholesaling during the relevant period for the licence would be required to be taken into account by reason of paragraph (ab) of subsection (1), subsection (1a) or subsection (1b) of this section for the purpose of determining the fee for the licence if the fee was not required to be assessed under either subsection (2) or (3) of this section.

8. Section 13 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of  
s. 13 of  
principal Act  
and enactment  
of section in  
its place.

13. (1) In this section, a reference to dealing with tobacco includes a reference to processing, packaging, distributing, selling and purchasing tobacco.

Particulars  
of dealings  
with  
tobacco.

(2) The Commissioner may, by instrument in writing, require—

(a) a person who is carrying on, or has carried on, or is or was concerned in, a business of dealing with tobacco;

or

(b) a person who, as agent or employee of a person referred to in paragraph (a) of this subsection, has or has had duties or provides or has provided services in connection with a business so referred to,

to furnish to the Commissioner in writing, within such period as is specified in the instrument or such further period as the Commissioner may allow—

(c) a statement of such particulars with respect to the tobacco, or any of it, as are so specified, not being particulars relating to any period after the date of the requirement;

and

(d) such statutory declarations or certificates as the Commissioner thinks fit verifying the accuracy of the statement.

(3) A person shall not fail to comply with any requirement made of him under subsection (2) of this section.

Penalty: Two thousand five hundred dollars.

(4) A person is not guilty of an offence under subsection (3) of this section if the court hearing the charge is satisfied—

(a) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates;

or

(b) that the defendant complied with that requirement to the extent of his ability to do so.

Amendment of  
principal Act,  
s. 15—  
Payment of  
fees by  
instalments.

9. Section 15 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “for a licence” and inserting in lieu thereof the passage “for a retail tobacconist’s licence”;
  - (b) by striking out from subsection (1) the passage “of a licence” and inserting in lieu thereof the passage “of a retail tobacconist’s licence”;
- and
- (c) by striking out from subsection (2) the passage “the licence” and inserting in lieu thereof the passage “a retail tobacconist’s licence”.

Amendment of  
principal Act,  
s. 16—  
Licences.

10. Section 16 of the principal Act is amended—

- (a) by inserting in subparagraph (ii) of paragraph (c) of subsection (1) after the passage “where the applicant” the passage “is an applicant for a retail tobacconist’s licence and”;
- (b) by inserting after subsection (1) the following subsection:—

(1a) An application under paragraph (a) of subsection (1) of this section—

- (a) for a wholesale tobacco merchant’s licence—may be made by any person other than a person who is a member of a group of wholesale tobacco merchants;
- (b) for a group wholesale tobacco merchant’s licence—may be made on behalf of all or any of the members of a group of wholesale tobacco merchants by any member of the group;

and

- (c) for a retail tobacconist’s licence—may be made by any person.;

and

- (c) by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) A licence shall be either—

- (a) a wholesale tobacco merchant’s licence, or a group wholesale tobacco merchant’s licence, which authorizes the licensee to carry on tobacco wholesaling at the premises specified in the licence;

or

- (b) a retail tobacconist’s licence, which authorizes the licensee to carry on tobacco retailing at the premises specified in the licence.

(2a) The Commissioner shall, on the grant of a licence, cause the premises which are to be used for, or in connection with, the business in respect of which the licence is granted to be specified in the licence and shall, upon receipt at any time of a request by the holder, or if there is more than one holder, any of the holders, of the licence in a form approved by the Commissioner and payment of the prescribed fee (if any) in accordance with the request, add to, substitute for, or delete from, premises so specified, such premises as are specified in the request.

(2b) The Commissioner shall, on the grant of a group wholesale tobacco merchant's licence, cause the name of each person who is a member of the group of wholesale tobacco merchants and on whose behalf the application for the licence was made to be specified in the licence.

11. Section 17 of the principal Act is amended—

Amendment of  
principal Act,  
s. 17—  
Renewal of  
licences.

(a) by striking out from subsection (1) the passage "A licence" and inserting in lieu thereof the passage "A retail tobacconist's licence";

(b) by inserting after subsection (1) the following subsections:—

(1a) A wholesale tobacco merchant's licence and a group wholesale tobacco merchant's licence shall be in force on and from the day specified in the licence as the date from which the licence commences until, unless it sooner ceases to have effect, the end of the month in which it commenced.

(1b) A licence referred to in subsection (1a) of this section may, from time to time, upon—

(a) application made to the Commissioner in a form approved by him;

(b) receipt by the Commissioner of the particulars, if any, required by him;

and

(c) payment of the fee assessed by the Commissioner in accordance with this Act,

be renewed for successive periods of one month.;

and

(c) by striking out from subsection (2) the passage "of a licence" and inserting in lieu thereof the passage "of a retail tobacconist's licence".

12. Section 18 of the principal Act is amended—

Amendment of  
principal Act,  
s. 18—  
Surrender and  
termination  
of licences.

(a) by striking out from subsection (1) the word "licensee" and inserting in lieu thereof the passage "holder of a retail tobacconist's licence";

(b) by inserting in paragraph (a) of subsection (2) before the passage "the applicant for the licence" the passage "it is a retail tobacconist's licence and";

and

- (c) by inserting in paragraph (b) of subsection (2) after the passage “section 19 of this Act” the passage “in respect of the licence”.

Amendment of  
principal Act,  
s. 19—  
Adjustment  
of fee.

**13. Section 19 of the principal Act is amended—**

- (a) by striking out subsection (5) and inserting in lieu thereof the following subsection:—

(5) Where on a reassessment of a fee under subsection (1) of this section the fee is increased, the additional amount payable by virtue of the reassessment shall be due and payable—

- (a) if the reassessment was made in respect of a retail tobacconist’s licence—in accordance with subsections (6) and (7) of this section;

or

- (b) if the reassessment was made in respect of a wholesale tobacco merchant’s licence or a group wholesale tobacco merchant’s licence—in accordance with subsections (6a) and (7) of this section.;

- (b) by inserting in paragraph (a) of subsection (6) after the passage “due and payable” the passage “by that person”;

- (c) by inserting after subsection (6) the following subsection:—

(6a) Where the additional amount is payable by virtue of a reassessment in respect of a wholesale tobacco merchant’s licence or a group wholesale tobacco merchant’s licence, the additional amount shall be due and payable (whether or not the licence has ceased to be in force)—

- (a) within fourteen days after notice of the reassessment is served on the person who is or was the holder of the wholesale tobacco merchant’s licence or on any one or more of the persons who are or were holders of the group wholesale tobacco merchant’s licence, as the case may be;

and

- (b) by the person or, where notice is served on more than one person, by each of the persons on whom the notice is served.;

- (d) by striking out from subsection (7) the passage “under subsection (6) of this section” and inserting in lieu thereof the passage “under subsection (6) or (6a) of this section”;

and

- (e) by striking out from subsection (9) the passage “subsection (6) or (7) of this section” and inserting in lieu thereof the passage “subsection (6), (6a) or (7) of this section”.

Repeal of  
s. 20 of  
principal Act.

**14. Section 20 of the principal Act is repealed.**

Amendment of  
principal Act,  
s. 22—  
Appeal.

**15. Section 22 of the principal Act is amended by striking out paragraph (b) of subsection (1).**

16. Section 23 of the principal Act is amended by striking out from subsection (1) the passage “paragraphs (a) or (b) of subsection (1)” and inserting in lieu thereof the passage “paragraph (a) of subsection (1)”.

Amendment of principal Act, s. 23—  
Appeals other than appeals against assessment.

17. Section 24 of the principal Act is amended by striking out from paragraph (b) of subsection (6) the passage “the application for the licence” and inserting in lieu thereof the passage “his application for a retail tobacconist’s licence in respect of which licence the appeal was instituted”.

Amendment of principal Act, s. 24—  
Objection to and appeal against assessment or reassessment.

18. The following sections are enacted and inserted in the principal Act after section 27 thereof:—

Enactment of ss. 27a, 27b and 27c of principal Act.

27a. (1) Where an applicant for a licence has made a false statement in or in relation to his application and the Commissioner believes that the false statement resulted in the fee paid for the licence being less than the fee that should have been paid, the Commissioner may make an assessment of the additional amount that, in his judgement, should have been paid.

Additional assessment.

(2) Where a person is assessed to pay an additional amount under subsection (1) of this section he shall pay the amount so assessed to the Commissioner within thirty days of the receipt of the assessment.

(3) The Commissioner may recover in any court of competent jurisdiction any amount payable under an assessment made in subsection (1) of this section as a debt due to the Crown.

27b. (1) Where a person was required by this Act to hold a licence in respect of any period, but did not do so, the person shall pay to the Commissioner an amount equal to the fee which would have been payable for the licence had he applied for or held the licence.

Recovery of unpaid fees from unlicensed persons.

(2) The Commissioner may, at any time after the commencement of this section, assess the amount of the fee as if the person had applied for the licence, notwithstanding that the Commissioner might, before that commencement, have made or purported to have made such an assessment.

(3) Notice of the assessment under this section shall be served by the Commissioner on the person.

(4) The person may, within one month after service of the assessment, object to the Commissioner against the assessment of the fee on the ground that the fee was excessive by reason that it was incorrectly assessed by the Commissioner and on no other ground.

(5) The Commissioner shall, as soon as practicable, determine the objection and serve the person with notice of his determination.

(6) If the person is not satisfied with the determination of the Commissioner on his objection or if within one month after the objection was lodged the Commissioner has not given a determination with respect to the objection, the person may appeal to the Tribunal against the assessment of the fee on the ground referred to in subsection (4) of this section.

(7) The provisions of section 22 of this Act apply to and in respect of an appeal under this section, and so apply as if a reference to the licensee were a reference to the person appealing under this section.

(8) The Commissioner on an objection, or the Tribunal on an appeal, may vary the assessment.

(9) Any amount which is assessed under this section and which is unpaid may be recovered by the Commissioner, as a debt, in any court of competent jurisdiction unless the person satisfies the court that he was not required to hold the licence referred to in subsection (1) of this section.

(10) Proceedings may not be commenced for the purpose of recovering the amount referred to in subsection (9) of this section until—

(a) if the person does not object to the assessment under this section—the expiration of one month after service of notice of the assessment under subsection (3) of this section;

(b) if the person objects to the assessment but does not appeal against the assessment under this section—the expiration of the period during which an appeal could have been made;

or

(c) if the person appeals against the assessment under this section—the appeal is determined.

(11) A certificate purporting to be signed by the Commissioner and stating that a specified amount is the amount assessed under this section in respect of a specified person is admissible in the proceedings and shall be *prima facie* evidence of the matters so certified.

Invoices  
to be  
endorsed.

27c. (1) A holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence shall endorse or cause to be endorsed on every invoice issued by him for or in relation to the sale of tobacco the words "SOLD BY LICENSED WHOLESALER—LICENCE No." followed by the number of his licence.

Penalty: Five hundred dollars.

(2) A person shall not issue an invoice which bears—

(a) the words "SOLD BY LICENSED WHOLESALER" (or words of like import) unless he is the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence;

or

(b) the matter "LICENCE No. " (or matter of like import) followed by a number, unless he is the holder of a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence bearing that number.

Penalty: One thousand dollars.

Amendment of  
principal Act,  
s. 29—  
Summary  
procedure.

19. Section 29 of the principal Act is amended by inserting after the present contents (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Proceedings for an offence against this Act may be commenced at any time within two years after the day on which the offence is alleged to have been committed.

20. The following schedule is enacted and inserted at the end of the principal Act:—

Enactment of  
schedule of  
principal Act.

**SCHEDULE 1**

**RELEVANT PERIODS FOR WHOLESALE TOBACCO MERCHANTS' LICENCES**

Column 1	Column 2
July	May
August	June
September	July
October	August
November	September
December	October
January	November
February	December
March	January
April	February
May	March
June	April

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

**K. D. SEAMAN, Governor**