

# INQUIRY AGENTS LICENSING.

3° Elizabeth II., No. XI.

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No. 11 of 1954.

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**AN ACT to provide for the Licensing of Inquiry Agents and for other purposes.**

*[Assented to 8th September, 1954.]*

**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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Inquiry Agents Licensing Act, 1954.* Short title.

2. In this Act unless the context requires otherwise— Interpre-

“Commissioner of Police” means the person appointed to, or for the time being acting in or discharging the duties of, the office of Commissioner of Police under the Police Act, 1892;

“Court” means a Court of Petty Sessions constituted by a Stipendiary, Police, or Resident Magistrate;

“evidence” means evidence for the purpose of proceedings under the Matrimonial and Personal Status Code, 1948, or the Married Women’s Protection Act, 1922 and includes information for the purpose of providing evidence for the purpose of proceedings under either of those Acts;

“license” means a valid and current license granted under this Act.

Inquiry agents must be licensed. Cf. S.A., No. 16 of 1945, S. 4

3. (1) After the expiration of three months after the commencement of this Act no person, whether as a principal, or as an employee,

- (a) shall for, or in expectation of gain, fee, or reward, obtain or undertake to obtain evidence;
- (b) shall hold himself out as willing or able, for, or in expectation of gain, fee or reward, to obtain evidence;
- (c) shall charge, demand, sue for or recover, a fee or reward for obtaining, undertaking to obtain, or attempting to obtain evidence; or
- (d) shall advertise to the effect that his services are available to obtain evidence;

unless he is the holder of a license, or is excepted from the operation of this subsection by subsection (2) of this section.

Penalty: Fifty pounds.

(2) Subsection (1) of this section does not apply to—

- (a) members of the Police Force of the State while carrying out their duties as such;
- (b) persons employed in any capacity in those branches of the public service to which the Public Service Act, 1904, applies, while carrying out their duties as such;
- (c) practitioners holding valid and current practise certificates under the Legal Practitioners Act, 1893, while practising their profession as such; or

- (d) medical practitioners registered under the Medical Act, 1894, in carrying out medical examinations for the purpose of obtaining evidence.

(3) The holder of a license may advertise he is the holder of a license under this Act and his name and the place where and times when he may be consulted, but shall not include any other information in any advertisement.

Penalty: Fifty pounds.

4. (1) A license in the first instance may be granted by a Court of Petty Sessions—

Licenses,  
renewals and  
cancellations.

- (a) to a person who has attained the age of twenty-one years, who, in the opinion of the Court, is of good character and in all other respects a fit and proper person to be the holder of a license, and who has complied with the requirements of the regulations;
- (b) for a maximum period of a year expiring on the thirtieth day of June in any year.

(2) (a) A license granted under this Act is personal to the grantee and is not transferable, and does not pass by transmission.

(b) Where two or more persons, not being persons excepted from the operation of section three of this Act, are associated after the appointed day whether as partners or in the capacity of employer and employee, for the purpose of obtaining evidence for gain, fee, or reward, each of them shall be the holder of a license.

(c) A body, whether incorporated or not, is not entitled, as such or through a representative, or otherwise, to hold a license.

(3) A license current for any period expiring on the thirtieth day of June in any year may be renewed by a Court of Petty Sessions—

- (a) to the holder if in the opinion of the Court he has continued to be of good character and in all other respects a fit and proper person to be the holder of a license, and has, not later than the fifteenth day of May next preceding that thirtieth day of June,

made application for renewal of the license and has complied with the requirements of the regulations;

- (b) for the year expiring on the next following thirtieth day of June;

but where the holder of a current license applies for a renewal of the license before the thirtieth day of June in any year, and the hearing of the application is not finalised by that thirtieth day of June, or there is an appeal pending in respect of the application for renewal, or in respect of cancellation of the license, and the hearing of the appeal is not finalised by that thirtieth day of June, he is deemed to be the holder of a license until the hearing of the application or appeal is finalised.

(4) A license may be cancelled by a Court of Petty Sessions if in the opinion of the Court the holder has since the granting or renewal of the license ceased to be, or was not at or prior to the granting or renewal of the license, a person of good character and in all other respects a fit and proper person to be the holder of a license.

Applications  
for license  
in first  
instance,  
renewal and  
cancellation.

5. (1) A person who desires to obtain—  
(a) a license in the first instance; or  
(b) the renewal of a license;

shall make application in the form and manner prescribed by the regulations, accompanied by testimonials, signed by not less than three reputable persons, as to the good character of the applicant, and pay the fees prescribed by the regulations, to the Clerk of the Court of Petty Sessions in the district in which the applicant resides; and cause notice of the application in the first instance to be advertised in accordance with the regulations, but an application for the renewal of a license is not required to be so advertised or accompanied by testimonials.

(2) The Clerk of the Court shall in accordance with the regulations appoint a time for the hearing of the application and cause a copy of the application to be served on the Commissioner of Police, who shall cause inquiries to be made into the suitability of the applicant to be, or to continue to be, the holder of a license under this Act.

(3) The Commissioner of Police or a person authorised for the time being by him to do so, or any other person, may in accordance with the regulations,

- (a) make objection to the granting of a license in the first instance, or to the renewal of a license; and
- (b) make application for the cancellation of a license.

(4) Production by a person of what purports to be the authority of the Commissioner of Police for him to make an objection or application is *prima facie* evidence that the authority is valid and subsisting.

6. (1) The provisions of the Justices Act, 1902, including those relating to appeal by way of order to review, apply *mutatis mutandis* in respect of an application made under this Act as if the application was a complaint of a matter, and as if the applicant was the complainant and the other party, if any, to the application was the defendant.

Magistrate shall hear and determine applications under the provisions of Justices Act, 1902.

(2) If on the hearing of an application for a license in the first instance the Court is satisfied that the applicant has attained the age of twenty-one years, is a person of good character and is in all other respects a fit and proper person to be the holder of a license, the Court may order the Clerk of the Court to issue the license to the applicant on payment by the applicant of the prescribed license fee, and on the deposit of a fidelity bond in the sum of five hundred pounds, in the form prescribed, from an insurance company which has deposited with the Treasurer in accordance with the provisions of the Insurance Companies Act, 1918-1931, or some other approved surety or sureties, and the Clerk shall give effect to the order and issue the license in the form prescribed by the regulations, but where the license is granted for the unexpired portion of a year, only so much of the license fee is payable, as bears to the whole fee the ratio which the number of days in the unexpired portion of the year bears to the number of days in the whole year, the result being calculated to the nearest whole shilling.

(3) If on the hearing of an application for the renewal of a license the Court is satisfied that the applicant is a person of good character and is in all other respects a fit and proper person to continue to hold a license, the Court may order the Clerk of the Court to issue the renewal of the license on payment of the prescribed renewal fee by the applicant, and on the deposit by the applicant of a fidelity bond as in the last preceding subsection mentioned and the Clerk shall give effect to the order, and issue the renewal in the form prescribed by the regulations.

(4) If on the hearing of an application for the cancellation of a license the Court is satisfied that the holder of the license is not a person of good character or in other respects is not a suitable person to continue to hold the license, whether because of acts or omissions occurring before the issue of the license or occurring after the issue of it, the Court may cancel the license.

(5) (a) The sum of five hundred pounds named in a fidelity bond under this section shall not be deemed to be a penalty, but shall be recoverable in full as a debt due by the obligor company or surety to Her Majesty, unless the company or surety proves performance of every condition upon which the bond is defeasible.

(b) Every sum so recovered shall be paid into the consolidated revenue and the balance thereof, after the deduction of costs and other expenses, may with the approval of the Treasurer and without further appropriation than this Act, be held for a period of six calendar months and be applied—

- (i) in compensating, at the expiration of such period, any person who makes application during such period and proves to the satisfaction of the Treasurer that such person has sustained loss by reason of any breach of any condition of the bond;
- (ii) in refunding to the company or surety at the expiration of such period any balance left after payment of such compensation.

(c) If at any time during the currency of a license issued under this Act the bond deposited by the holder of the license ceases to be of full force and effect, such holder shall, until a bond of full force and effect is deposited by him, be deemed to be unlicensed.

(d) A fidelity bond deposited under this Act may, if so provided therein, enure not only during the term of the license in respect of which it was originally deposited, but during the term of any license to the same person issued in renewal of a license under this Act.

(e) If a fidelity bond is so deposited as to enure in respect of the renewal or further renewal of a license, it shall be lawful for the surety or sureties by notice in writing addressed to the Clerk of the Court of Petty Sessions at any time to determine his or their liability under the bond in respect of any Act or default that may be done or made after the thirtieth day of June next following the date of such notice, and in any such case the court shall not issue a license in renewal until another approved bond has been deposited by the applicant.

7. (1) The Clerk of the Court shall notify the Under Treasurer of—

**Inquiry  
Agents  
Register, and  
evidence.**

- the issue of licenses;
- the renewal of licenses; and
- the cancellation of licenses;

within ten days of the issue, renewal, or cancellation of the license, as the case may be.

(2) The Under Treasurer shall cause to be opened and maintained at the Treasury at Perth, a register to be called the Inquiry Agents Register, and cause to be recorded in the register particulars of the issue, renewal and cancellation of licenses under this Act.

(3) On payment of the prescribed fee any person may search and make a copy of any particulars recorded in the Inquiry Agents Register, and obtain from the Under Treasurer a certificate as to any of the particulars so recorded.

(4) Production of a certificate purporting to have been signed by the Under Treasurer and certifying—

that a person was on a specified day the holder of a license under this Act;

that a person was not on a specified day the holder of a license under this Act; or

as to any other matter recorded in the Inquiry Agents Register;

is *prima facie* evidence of the fact certified.

(5) An averment in the complaint of an offence against this Act that a person was not at a specified time the holder of a license under this Act, is presumed proved in absence of proof to the contrary.

**Rectification  
of defects and  
extension of  
time.**

8. If through any accidental or unavoidable impediment or omission anything required by this Act or the regulations to be done in respect of an application is omitted to be done or is not done within the time fixed, the Court of Petty Sessions before which the application would, but for the defect, be returnable, may take such measures as the Court thinks fit to remove the impediment or rectify the omission or extend the time.

**Regulations.**

9. The Governor may make regulations prescribing forms, fees, and other matters and things which by this Act, are contemplated, required, or permitted to be prescribed or which appear to be necessary or convenient for the purpose of effectually carrying out the provisions of this Act, or for better effecting the objects and purposes of this Act.

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