



Western Australia

Security and Related Activities (Control) Act 1996

As at 06 Sep 2014

Version 02-e0-05
Published on www.legislation.wa.gov.au

Security and Related Activities (Control) Act 1996

Contents

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Term used: employment	5
4A.	Term used: prohibited person	5
4B.	Term used: finding of guilt	5
5.	Police officers etc. not required to be licensed etc.	6
6.	Regulations may provide for exemptions	7

Part 2 — Administration

7.	Compliance and licensing officers	8
7A.	Cards to identify compliance and licensing officers	8
8.	Secrecy	9
8A.	Disclosure of exempted matter under <i>Freedom of Information Act 1992</i>	10
9.	Protection from liability	10
9A.	Delegation by Commissioner	10
10.	Commissioner to keep register of licences	11
10A.	Information relevant to section 79A may be given to holder of agent's licence	12

Part 3 — Licensing of security activities

Division 1 — Definitions

11.	Term used: security agent	13
-----	---------------------------	----

Contents

12.	Term used: security officer	13
13.	Term used: security consultant	13
14.	Term used: security installer	14
14A.	Term used: security bodyguard	14
	Division 2 — Licensing and related requirements	
15.	Security agents to be licensed	14
16.	Security officers to be licensed	15
17.	Security consultants to be licensed	15
18.	Security installers to be licensed	15
18A.	Security bodyguards to be licensed	15
19.	Security officers to be employed by security agent	16
20.	Unlicensed person not to be employed as security officer etc.	16
21.	Advertising	17
	Division 3 — Authority to be in possession of firearms or batons	
22.	Term used: possession	17
23.	Security officers, possession of firearms	17
24.	Endorsement for escort of money etc.	18
25.	Permits for particular occasions	19
26.	Security officers, possession of batons	19
	Part 4 — Licensing of inquiry activities	
	Division 1 — Definitions	
27.	Term used: inquiry agent	21
28.	Term used: investigator	21
	Division 2 — Licensing and related requirements	
29.	Inquiry agents to be licensed	22
30.	Investigators to be licensed	22
31.	Investigators to be employed by inquiry agent	22
32.	Unlicensed person not to be employed as investigator	23
33.	Advertising	23

Part 5 — Licensing of crowd control activities		
Division 1 — Definitions		
34.	Term used: crowd control agent	24
35.	Term used: crowd controller	24
Division 2 — Licensing and related requirements		
36.	Crowd control agents to be licensed	24
37.	Crowd controllers to be licensed	25
38.	Crowd controllers to be employed by crowd control agent	25
39.	Unlicensed person not to be employed as crowd controller	25
40.	Advertising	25
Part 6 — Control of armed bodyguards		
41.	Authorisation of armed bodyguards	27
42.	Revocation etc. of authorisation	27
Part 6A — Temporary licences for interstate visitors		
42A.	Temporary licence — security activities	28
42B.	Temporary licence — agent services	28
Part 7 — Licensing procedures		
Division 1 — Who may hold licence		
43.	Natural persons only to be licensed	29
44.	Residence requirements for licences on behalf of partnership etc.	29
45.	Automatic termination of licence held on behalf of partnership etc.	29
Division 2 — Applications for issue and renewal of licences		
46.	Application for licence	30
47.	Material to support application for licence	30
48.	Taking of fingerprints and palm prints	33
49.	How and when to apply for renewal	36

Contents

50.	Material to support application for renewal	36
51.	False or misleading information	37
	Division 3 — Issue and renewal of licences	
52.	Issue of licences	37
52A.	Matters to be taken into account in deciding whether to issue licence	39
53.	Exemption from section 52(1)(g)(i)	40
55.	Refusal of renewal	40
56.	Issue and renewal of licences held on behalf of partnerships and bodies corporate	41
57.	Notice of refusal to issue or renew licence	42
58.	Form of licences	42
60.	Duration of licences	42
61.	Identity cards	43
62.	Conditions and restrictions	43
63.	Regulations may prescribe conditions and restrictions	44
64.	Breach of condition or restriction	44
65.	Licences not transferable	44
66.	Issue of duplicate licence or identity card	44
	Division 4 — Disciplinary proceedings	
66A.	Term used: licensee	45
67.	Power to revoke licence	45
67A.	Summary power to revoke and suspend licences	46
67B.	Return of revoked licence and identity card	49
68.	Cancellation of endorsement	49
68A.	Consent to release information	50
69.	Courts may revoke licence	51
70.	Returns by courts	52
	Division 5 — Review of licensing decisions	
72.	Application for review	52
74.	Suspension of licence by State Administrative Tribunal	53
	Part 8 — Further obligations of licensees	
75.	Production of licence	54
76.	Return of licence	54
77.	Change of address of licensee	54

77A.	Licensee to give notice about offences	55
78.	Records to be kept	55
79.	Disposal of licence to another	56
79A.	Certain unlicensed persons not to be employed in agent's business	56
Part 9 — Random drug testing		
79B.	Term used: licensee	58
80.	Licensee may be directed to provide blood or urine for analysis	58
81.	License may be revoked	59
82.	Cost of test may be recovered	60
83.	Regulations relating to drug tests	60
Part 10 — Miscellaneous		
Division 1 — Records		
84.	Records to be kept by person who engages crowd controller	62
85.	Inspection of records	62
86.	Police may retain records for certain purposes	63
87.	Obstruction of police	63
Division 2 — Legal proceedings		
88.	Designated persons	63
88A.	Infringement notices	64
88B.	Withdrawal of infringement notice	65
88C.	Benefit of paying modified penalty	65
88D.	No admission implied by payment	65
88E.	Application of penalties collected	66
89.	Liability of partners and bodies corporate	66
90.	Liability of officers	67
90A.	Liability of agent for licensee	67
91.	Liability of employer of crowd controller for damages	68
92.	Evidentiary provisions	68
93.	Onus of proof	69
Division 3 — General provisions		
93A.	Licensee to provide name of agent	69
94.	Regulations	70

Contents

Notes

Compilation table

72

Defined terms

Western Australia

Security and Related Activities (Control) Act 1996

An Act to provide for the licensing of persons engaged in work relating to —

- **the protection of persons and property;**
- **investigation or surveillance; and**
- **crowd control,**

and of agents who supply the services of persons to carry out such work, to prohibit unauthorised persons from acting as armed bodyguards, and for related purposes.

[Long title amended: No. 4 of 2008 s. 4.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Security and Related Activities (Control) Act 1996*¹.

2. Commencement

The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation¹.

3. Terms used

In this Act, unless the contrary intention appears —

agent's licence means a security agent's licence, an inquiry agent's licence and a crowd control agent's licence;

approved, in relation to a form, means approved by the Commissioner;

class, in relation to a security consultant's licence or a security installer's licence, means a class prescribed in relation to that licence;

Commissioner means the person for the time being holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

compliance officer means a compliance officer appointed under section 7(1)(a);

court includes a court (however described) of a foreign jurisdiction;

crowd control agent has the meaning given by section 34;

crowd control agent's licence means a licence issued for the purposes of section 36;

crowd controller has the meaning given by section 35;

crowd controller's licence means a licence issued for the purposes of section 37;

Department means the department of the Public Service principally assisting the Minister in the administration of this Act;

disqualifying offence means an offence of a kind prescribed as being a disqualifying offence;

finding of guilt has the meaning given in section 4B;

firearm has the meaning given by section 4 of the *Firearms Act 1973*;

identity card means an identity card issued under section 61;

inquiry agent has the meaning given by section 27;

inquiry agent's licence means a licence issued for the purposes of section 29;

investigator has the meaning given by section 28;

investigator's licence means a licence issued for the purposes of section 30;

licence means a licence under this Act;

licensee means a person who holds a licence;

licensing officer means a licensing officer appointed under section 7(1)(b);

officer, in relation to a body corporate, means —

- (a) a director or secretary of the body;
- (b) a person in accordance with whose directions or instructions the directors of the body are accustomed to act; and
- (c) a person who is concerned in the management of the body, whether as an employee or in any other capacity;

police force, in sections 5(1)(b), 41(1) and 63(2)(b), means a police force of the Commonwealth, of this State or any other State, or of any Territory;

prohibited person has the meaning given in section 4A;

relevant body means —

- (a) a police force of the Commonwealth, of this State, of another State or of a Territory; or
- (b) another body established, or continued, for a public purpose and prescribed for the purpose of this definition;

relevant conduct, in relation to a person who is, or was, a member, officer or employee of a relevant body, means actual or suspected conduct in the nature of criminal or corrupt activity by the person while a member, officer or employee of the relevant body;

remuneration includes any forbearance or other valuable consideration;

security agent, **security bodyguard**, **security consultant**, **security installer** and **security officer** have the meanings given to them by Division 1 of Part 3;

security agent's licence means a licence issued for the purposes of section 15;

security bodyguard's licence means a licence issued for the purposes of section 18A;

security consultant's licence means a licence issued for the purposes of section 17;

security installer's licence means a licence issued for the purposes of section 18;

security officer's licence means a licence issued for the purposes of section 16;

supplies, in relation to services, includes —

- (a) undertaking to supply;
- (b) advertising or in any way holding out that the person is willing to supply;
- (c) supplying part-time or from time to time; or
- (d) supplying in conjunction with some other business or activity;

temporary licence means a licence referred to in section 42A or 42B.

[Section 3 amended: No. 4 of 2008 s. 5.]

4. Term used: employment

In this Act references to employment are to employment under a contract of service or apprenticeship.

4A. Term used: prohibited person

- (1) In this Act, a person is a prohibited person —
 - (a) if there has been a finding of guilt in relation to a disqualifying offence committed by the person; and
 - (b) during the disqualifying period prescribed in respect of the offence.
- (2) Subsection (1) applies to a person in respect of a finding of guilt made on, or after, 1 January 1996.
- (3) A disqualifying period may be prescribed to apply in respect of —
 - (a) all disqualifying offences; or
 - (b) a particular kind of disqualifying offence, or particular kinds of disqualifying offences; or
 - (c) disqualifying offences of a particular class or description, including offences described by reference to the type of finding of guilt that applies in relation to the offences.

[Section 4A inserted: No. 4 of 2008 s. 6.]

4B. Term used: finding of guilt

- (1) In this Act, a reference to a finding of guilt in relation to an offence committed by a person is a reference to any of the following —
 - (a) a court making a formal finding of guilt in relation to the offence;

s. 5

- (b) a court convicting the person of the offence, if there has been no formal finding of guilt before conviction;
 - (c) a court accepting a plea of guilty from the person in relation to the offence;
 - (d) a finding under *The Criminal Code* section 27 that the person is not guilty of the offence on account of unsoundness of mind or a finding under equivalent provisions of the laws of another jurisdiction.
- (2) For the purposes of this Act —
- (a) a reference to a finding of guilt does not include a finding of guilt that is subsequently quashed or set aside by a court; and
 - (b) a reference to a conviction includes a reference to a spent conviction.
- (3) For the purposes of subsection (2)(b), the conviction of a prohibited person becomes spent if, under a law in any jurisdiction, the prohibited person is permitted not to disclose the fact that a finding of guilt has been made in relation to the offence.

[Section 4B inserted: No. 4 of 2008 s. 6.]

5. Police officers etc. not required to be licensed etc.

- (1) While a person is performing official duties as —
- (a) a member of the Commonwealth Defence Forces; or
 - (b) an officer of a police force,
- he or she is not required to comply with Parts 3, 4, 5 and 6.
- (2) While a person is performing official duties as a public officer of the Commonwealth, of this State or any other State, or of any Territory he or she is not required to comply with Part 3, other than Division 3, or with Parts 4 and 5.

- (3) In subsection (2) **public officer** means a person who is employed by the Crown or by a body that is an agent of the Crown.

6. Regulations may provide for exemptions

- (1) The regulations may exempt from any provision of this Act —
- (a) any specified class of persons;
 - (b) persons carrying out specified duties; or
 - (c) persons carrying out duties at any specified place, event or function or specified class of place, event or function.
- (2) The regulations may provide —
- (a) for circumstances in which, and conditions subject to which, an exemption is to apply; and
 - (b) that an exemption is of no effect at any time when any condition to which it is subject is not being observed.

Part 2 — Administration

7. Compliance and licensing officers

- (1) The Commissioner is to appoint from officers of the Department such number of —
 - (a) compliance officers; and
 - (b) licensing officers,as are required for the purposes of this Act.
- (2) In any proceedings for an offence against this Act, proof is not required of any appointment under subsection (1) or the terms of an appointment.
- (3) Anything done by a compliance officer or a licensing officer for the purposes of this Act is to be taken to be within his or her authority unless the contrary is shown.

[Section 7 amended: No. 4 of 2008 s. 7.]

7A. Cards to identify compliance and licensing officers

- (1) The Commissioner is to issue a card to each compliance officer and each licensing officer for the purpose of identifying the officer.
- (2) A card referred to in subsection (1) must —
 - (a) include a statement to the effect that the person identified by the card is a compliance officer or a licensing officer, as is relevant, under this Act; and
 - (b) include a photograph of the person identified by the card.
- (3) If a person to whom a card is issued under this section ceases to be a compliance officer or a licensing officer, the person must immediately return the card to the Commissioner.

Penalty: a fine of \$2 000.

- (4) A compliance officer or a licensing officer is to produce the card issued to the officer under this section for inspection if requested to do so by —
- (a) a police officer; or
 - (b) a person in respect of whom a power under section 61, 75, 85 or 86 is being exercised by the compliance officer or licensing officer.

[Section 7A inserted: No. 4 of 2008 s. 8.]

8. Secrecy

- (1) Except as provided in this section, a person must not record, use or divulge any information obtained by reason of any function that person has, or at any time had, in the administration of this Act or an Act repealed by section 95(1).
Penalty: a fine of \$15 000.
- (2) Subsection (1) does not apply to the recording, use or divulging of information —
- (a) in the course of duty;
 - (b) under this Act or another law;
 - (c) for the purposes of the investigation of any suspected offence or the conduct of proceedings against any person for an offence; or
 - (d) with the consent of the person to whom the information relates, or each of them if there is more than one.
- (3) Subsection (1) does not apply to the recording, use or divulging of statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.

[Section 8 amended: No. 4 of 2008 s. 80(2).]

s. 8A

8A. Disclosure of exempted matter under *Freedom of Information Act 1992*

A person who has exercised, or intends to exercise, a power under this Act affecting another person is not required under any enactment or other law to give to that person notice of the grounds on which, or the reasons for which, the power is, or will be, exercised if giving that notice would involve the disclosure of information that is exempt matter under the *Freedom of Information Act 1992* Schedule 1 clause 5.

[Section 8A inserted: No. 4 of 2008 s. 9.]

9. Protection from liability

The Commissioner, a member of the police force or an officer of the Department is not liable in civil proceedings for anything done or omitted to be done, in good faith, in the performance or purported performance of a function under this Act.

9A. Delegation by Commissioner

- (1) The Commissioner may delegate any of the following powers or duties of the Commissioner —
 - (a) to approve a form under section 46 or 49; or
 - (b) a power or duty under section 10A, 47(1)(b), 58, 63(2)(a) or 80,as is specified in the delegation, to —
 - (c) an officer of the Department; or
 - (d) a police officer who is specified, or is of a rank specified, in the delegation.
- (2) The Commissioner may delegate any power or duty of the Commissioner under section 67, 67A or 81 as is specified in the delegation, to an officer of the Department.
- (3) The delegation must be in writing signed by the Commissioner.

- (4) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (5) A person exercising or performing a power or duty that has been delegated to the person under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section limits the ability of the Commissioner to perform a function through an officer or agent.

[Section 9A inserted: No. 4 of 2008 s. 10.]

10. Commissioner to keep register of licences

- (1) The Commissioner is to cause to be kept, in a form determined by the Commissioner, a register of the following information in relation to each licence issued —
 - (a) the type and, where relevant, the class, of licence;
 - (b) the name and business address of the licensee and where the licence is held on behalf of a partnership or body corporate, the name (including, where relevant, the business name) and address of the partnership or body corporate;
 - (c) the expiry date of the licence;
 - (d) any condition, restriction or endorsement that applies to the licence; and
 - (e) such other particulars as may be prescribed.
- (2) A licensing officer is to allow any person to inspect the register on payment of the prescribed fee (if any).
- (3) On application being made to the Commissioner in respect of a licence, and payment of the prescribed fee, a licensing officer shall issue a certified copy of an entry in the register relating to that licence.

[Section 10 amended: No. 4 of 2008 s. 11.]

s. 10A

10A. Information relevant to section 79A may be given to holder of agent's licence

The Commissioner may, by notice in writing given to a person who holds an agent's licence, inform that person that section 79A(2) applies in respect of an employee of that person.

[Section 10A inserted: No. 4 of 2008 s. 12.]

Part 3 — Licensing of security activities

Division 1 — Definitions

11. Term used: security agent

A security agent is a person who supplies the services of —

- (a) security officers; or
- (b) security consultants; or
- (c) security installers; or
- (d) security bodyguards.

[Section 11 amended: No. 4 of 2008 s. 13.]

12. Term used: security officer

- (1) A security officer is a person who for remuneration watches, guards or protects any property.
- (2) A person employed by one employer only, who is not a security agent, to watch, guard or protect the property of that employer is not within the definition in subsection (1) unless the person is in possession of a firearm or baton while carrying out his or her duties.

13. Term used: security consultant

A security consultant is a person who carries out all, or any, of the following activities —

- (a) for remuneration investigates or advises on matters relating to the watching, guarding or protection of property;
- (b) goes from place to place seeking out persons who may be prepared to enter into contracts for the supply of any of the goods mentioned in section 14.

[Section 13 amended: No. 4 of 2008 s. 14.]

14. Term used: security installer

- (1) A security installer is a person who for remuneration installs, maintains or repairs all, or any, of the following —
 - (a) safes;
 - (b) vaults;
 - (c) security alarms;
 - (d) locks of a prescribed kind;
 - (e) security doors of a prescribed kind;
 - (f) closed circuit television equipment for security purposes;
 - (g) any other prescribed equipment or device.
- (2) The definition in subsection (1) does not include a person who installs, maintains or repairs any equipment or device in a vehicle, vessel, aircraft or other means of conveyance.
- (3) Regulations made for the purpose of subsection (1) may adopt by reference any Australian Standard with or without variations and either as in force at a particular time or as amended from time to time.

[Section 14 amended: No. 4 of 2008 s. 15.]

14A. Term used: security bodyguard

A security bodyguard is a person who for remuneration escorts another person as a guard or protector.

[Section 14A inserted: No. 4 of 2008 s. 16.]

Division 2 — Licensing and related requirements

15. Security agents to be licensed

A person must not act as a security agent except under the authority of a security agent's licence.

Penalty: a fine of \$15 000.

[Section 15 amended: No. 4 of 2008 s. 80(2).]

16. Security officers to be licensed

A person must not act as a security officer except under the authority of a security officer's licence.

Penalty: a fine of \$15 000.

[Section 16 amended: No. 4 of 2008 s. 80(2).]

17. Security consultants to be licensed

(1) A person must not act as a security consultant except under the authority of a security consultant's licence.

(2) A person must not carry out such activities of a security consultant that a person holding a particular class of security consultant's licence is authorised to carry out except under the authority of a security consultant's licence of that class.

Penalty: a fine of \$15 000.

[Section 17 amended: No. 4 of 2008 s. 17.]

18. Security installers to be licensed

(1) A person must not act as a security installer except under the authority of a security installer's licence.

(2) A person must not carry out such activities of a security installer that a person holding a particular class of security installer's licence is authorised to carry out except under the authority of a security installer's licence of that class.

Penalty: a fine of \$15 000.

[Section 18 amended: No. 4 of 2008 s. 18.]

18A. Security bodyguards to be licensed

A person must not act as a security bodyguard except under the authority of a security bodyguard's licence.

Penalty: a fine of \$15 000.

[Section 18A inserted: No. 4 of 2008 s. 19.]

19. Security officers to be employed by security agent

- (1) A person who is licensed as a —
- (a) security officer; or
 - (b) security consultant; or
 - (c) security installer; or
 - (d) security bodyguard,

must not act as such unless he or she does so as an employee of a security agent.

Penalty: a fine of \$15 000.

- (2) Subsection (1) does not apply to a licensed security agent who is acting under the authority of a licence referred to in section 16, 17, 18 or 18A, as is relevant.
- (3) Where a security agent's licence is held by a natural person on behalf of a partnership or a body corporate, references in subsection (1) to a security agent include references to the partnership or the body corporate.

[Section 19 amended: No. 4 of 2008 s. 20 and 80(2).]

20. Unlicensed person not to be employed as security officer etc.

- (1) A person must not employ as a —
- (a) security officer a person who does not hold a security officer's licence; or
 - (b) security consultant a person who does not hold a security consultant's licence; or
 - (c) security installer a person who does not hold a security installer's licence; or
 - (d) security bodyguard a person who does not hold a security bodyguard's licence.
- (2) A person must not employ a person to carry out any activity as a security officer, security consultant, security installer or security bodyguard unless the person holds a licence authorising the

person to carry out the activities the person is employed to carry out.

Penalty: a fine of \$15 000.

[Section 20 inserted: No. 4 of 2008 s. 21.]

21. Advertising

(1) A person must not advertise or in any way hold out that he or she is willing to supply the services of —

- (a) security officers; or
- (b) security consultants; or
- (c) security installers; or
- (d) security bodyguards,

unless the person holds a security agent's licence.

Penalty: a fine of \$15 000.

(2) For the purposes of subsection (1) a person is to be treated as holding a security agent's licence if such a licence is held on the person's behalf under section 43(2).

[Section 21 amended: No. 4 of 2008 s. 22 and 80(2).]

**Division 3 — Authority to be in possession of
firearms or batons**

22. Term used: possession

In this Division —

possession means actual possession.

23. Security officers, possession of firearms

A licensed security officer must not be in possession of a firearm while engaged in activities authorised by the licence unless —

- (a) his or her licence is endorsed under section 24 to authorise such possession; and

- (b) he or she complies with —
 - (i) the terms of the endorsement and any permit held by the officer under section 25; and
 - (ii) any condition or restriction to which the endorsement or permit is subject.

Penalty: a fine of \$15 000.

[Section 23 amended: No. 4 of 2008 s. 23 and 80(2).]

24. Endorsement for escort of money etc.

- (1) A security officer's licence may be endorsed by a licensing officer to authorise the security officer to be in possession of a firearm while engaged in one or more of the following —
 - (a) the escort of money or articles of value;
 - (b) any other prescribed activity,but not otherwise.
- (2) An endorsement under subsection (1) may be made on the issue of a security officer's licence or on an application under regulations referred to in subsection (5).
- (3) Without limiting section 62 a licensing officer may make an endorsement under subsection (1) subject to any condition or restriction, including any condition or restriction relating to the type of vehicle that may be used in connection with an escort of money or articles of value where a security officer involved in the escort is in possession of a firearm.
- (4) The requirements of this section are in addition to the requirements of the *Firearms Act 1973*.
- (5) Regulations made under section 94(1) may —
 - (a) make provision for and in respect of applications for an endorsement under this section; and

- (b) require a security officer whose licence is endorsed under this section to undergo prescribed medical examinations in prescribed circumstances or at prescribed times.

[Section 24 amended: No. 4 of 2008 s. 24.]

25. Permits for particular occasions

- (1) A licensing officer may on application issue a permit to a security officer authorising that officer to be in possession of a firearm for a specified period at a specified place while guarding or protecting money or articles of value otherwise than during an escort.
- (1a) A permit under this section may be issued only to a security officer whose licence is endorsed under section 24.
- (2) A permit under this section may only be issued for a particular display or other special occasion.
- (3) Such a permit is to specify —
 - (a) the period during which it is in force;
 - (b) the place to which it applies; and
 - (c) the conditions and restrictions to which it is subject.
- (4) The requirements of this section are in addition to the requirements of the *Firearms Act 1973*.
- (5) Regulations made under section 94(1) may make provision for and in respect of applications for permits under this section.

[Section 25 amended: No. 4 of 2008 s. 25.]

26. Security officers, possession of batons

- (1) Except as provided in this section, a security officer's licence does not authorise the holder to be in possession of a baton while engaged in activities authorised by the licence.

Security and Related Activities (Control) Act 1996

Part 3 Licensing of security activities

Division 3 Authority to be in possession of firearms or batons

s. 26

- (2) The holder of a security officer's licence may, subject to this section, be in possession of a baton while engaged in activities authorised by the licence if —
 - (a) his or her licence is endorsed under subsection (3) to permit such possession; and
 - (b) the baton is of a type approved by the Commissioner by order published in the *Gazette*.
- (3) A security officer's licence may be endorsed by a licensing officer to permit the security officer to be in possession of a baton while engaged in activities authorised by the licence.
- (4) An endorsement under subsection (3) may be made on the issue of a security officer's licence or on an application under regulations referred to in subsection (6).
- (5) Without limiting section 62 a licensing officer may make an endorsement under subsection (3) subject to any condition or restriction.
- (6) Regulations made under section 94 may make provision for and in respect of applications for an endorsement under this section.

Part 4 — Licensing of inquiry activities

Division 1 — Definitions

27. Term used: inquiry agent

An inquiry agent is a person who supplies the services of investigators.

28. Term used: investigator

- (1) An investigator is a person who for remuneration conducts —
- (a) investigations into the conduct of individuals or bodies corporate or the character of individuals;
 - (b) surveillance work in relation to the matters referred to in paragraph (a); or
 - (c) investigations concerning missing persons.
- (2) Investigations carried out by the following persons are not within paragraph (a) of the definition in subsection (1) —
- (a) any Australian legal practitioner (within the meaning of that term in the *Legal Profession Act 2008* section 3) while acting in the ordinary course of his or her profession as such;
 - (b) any clerk of such a practitioner acting in the ordinary course of the practitioner's profession;
 - (c) any body corporate authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business, while acting in the ordinary course of that business;
 - (d) any employee of a body corporate referred to in paragraph (c) while acting in the ordinary course of his or her employer's insurance business; or

- (e) any other prescribed person, or person belonging to a prescribed class of persons, while acting in any prescribed circumstances.

[Section 28 amended: No. 65 of 2003 s. 65; No. 21 of 2008 s. 703.]

Division 2 — Licensing and related requirements

29. Inquiry agents to be licensed

A person must not act as an inquiry agent except under the authority of an inquiry agent's licence.

Penalty: a fine of \$15 000.

[Section 29 amended: No. 4 of 2008 s. 80(2).]

30. Investigators to be licensed

A person must not act as an investigator except under the authority of an investigator's licence.

Penalty: a fine of \$15 000.

[Section 30 amended: No. 4 of 2008 s. 80(2).]

31. Investigators to be employed by inquiry agent

- (1) A person who is licensed as an investigator must not act as such unless he or she does so as an employee of an inquiry agent.

Penalty: a fine of \$15 000.

- (2) Subsection (1) does not apply to a licensed inquiry agent who also holds an investigator's licence.

- (3) Where an inquiry agent's licence is held by a natural person on behalf of a partnership or a body corporate, references in subsection (1) to an inquiry agent include references to the partnership or the body corporate.

[Section 31 amended: No. 4 of 2008 s. 26 and 80(2).]

32. Unlicensed person not to be employed as investigator

A person must not employ as an investigator a person who does not hold an investigator's licence.

Penalty: a fine of \$15 000.

[Section 32 amended: No. 4 of 2008 s. 80(2).]

33. Advertising

- (1) A person must not advertise or in any way hold out that he or she is willing to supply the services of investigators unless the person holds an inquiry agent's licence.

Penalty: a fine of \$15 000.

- (2) For the purposes of subsection (1) a person is to be treated as holding an inquiry agent's licence if such a licence is held on the person's behalf under section 43(2).

[Section 33 amended: No. 4 of 2008 s. 80(2).]

Part 5 — Licensing of crowd control activities

Division 1 — Definitions

34. Term used: crowd control agent

A crowd control agent is a person who supplies the services of crowd controllers.

35. Term used: crowd controller

- (1) A crowd controller is a person who in respect of any licensed premises, place of entertainment, or public or private event or function, as part of his or her regular duties, performs for remuneration any function of —

- (a) controlling or monitoring the behaviour of persons;
- (b) screening persons seeking entry; or
- (c) removing persons for behavioural reasons,

or any other prescribed function.

- (2) In subsection (1) *licensed premises* has the meaning given by section 3(1) of the *Liquor Control Act 1988*.

[Section 35 amended: No. 73 of 2006 s. 114.]

Division 2 — Licensing and related requirements

36. Crowd control agents to be licensed

A person must not act as crowd control agent except under the authority of a crowd control agent's licence.

Penalty: a fine of \$15 000.

[Section 36 amended: No. 4 of 2008 s. 80(2).]

37. Crowd controllers to be licensed

A person must not act as a crowd controller except under the authority of a crowd controller's licence.

Penalty: a fine of \$15 000.

[Section 37 amended: No. 4 of 2008 s. 80(2).]

38. Crowd controllers to be employed by crowd control agent

- (1) A person who is licensed as a crowd controller must not act as such unless he or she does so as an employee of a crowd control agent.

Penalty: a fine of \$15 000.

- (2) Subsection (1) does not apply to a licensed crowd control agent who also holds a crowd controller's licence.

- (3) Where a crowd control agent's licence is held by a natural person on behalf of a partnership or a body corporate, references in subsection (1) to a crowd control agent include references to the partnership or the body corporate.

[Section 38 amended: No. 4 of 2008 s. 27 and 80(2).]

39. Unlicensed person not to be employed as crowd controller

A person must not employ as a crowd controller a person who does not hold a crowd controller's licence.

Penalty a fine of \$15 000.

[Section 39 amended: No. 4 of 2008 s. 80(2).]

40. Advertising

- (1) A person must not advertise or in any way hold out that he or she is willing to supply the services of crowd controllers unless the person holds a crowd control agent's licence.

Penalty: a fine of \$15 000.

Security and Related Activities (Control) Act 1996

Part 5 Licensing of crowd control activities

Division 2 Licensing and related requirements

s. 40

- (2) For the purposes of subsection (1) a person is to be treated as holding a crowd control agent's licence if such a licence is held on the person's behalf under section 43(2).

[Section 40 amended: No. 4 of 2008 s. 80(2).]

Part 6 — Control of armed bodyguards

41. Authorisation of armed bodyguards

- (1) A person, not being an officer of a police force, must not act as an armed security bodyguard except —
- (a) under and in accordance with a written authority given by the Commissioner with the approval of the Minister; or
 - (b) as authorised by or under a written law of the Commonwealth.

Penalty: a fine of \$15 000.

- (2) For the purposes of subsection (1), a person is an armed security bodyguard if the person while in actual possession of a firearm escorts another person as a guard or protector, and whether or not he or she does so in any other capacity.
- (3) An authority under subsection (1)(a), may be given subject to any condition or restriction.

[Section 41 amended: No. 4 of 2008 s. 28 and 80(2).]

42. Revocation etc. of authorisation

- (1) An authority under section 41(1)(a) —
- (a) may be amended or revoked by the Commissioner with the approval of the Minister at any time by written notice given to the holder of the authority; or
 - (b) may be suspended for 7 days by oral notice given to the holder of the authority by a police officer.
- (2) A police officer may give oral notice under subsection (1)(b) only if he or she is satisfied that there is a significant risk to the safety of any person if the authority continues in force.
- (3) Unless it is sooner revoked under subsection (1)(a), an authority that is suspended under subsection (1)(b) has effect again on the expiration of the period of suspension.

Part 6A — Temporary licences for interstate visitors

[Heading inserted: No. 4 of 2008 s. 29.]

42A. Temporary licence — security activities

- (1) A person who ordinarily resides in another State or Territory may apply, in accordance with section 46, for a licence (a **temporary licence**) to carry out in Western Australia any activity, or activities, as a crowd controller, investigator, security bodyguard, security consultant, security officer or security installer that may be authorised under this Act.
- (2) A temporary licence —
 - (a) is to be granted for such period of time of not more than one year as is specified in the licence; and
 - (b) is not renewable.
- (3) The holder of a temporary licence under this section does not commit an offence under this Act while acting under and in accordance with that licence.

[Section 42A inserted: No. 4 of 2008 s. 29.]

42B. Temporary licence — agent services

- (1) A person who ordinarily resides in another State or Territory may apply, in accordance with section 46, for a licence (a **temporary licence**) to supply in Western Australia any service, or services, as a security agent, inquiry agent or crowd control agent that may be authorised under this Act.
- (2) A temporary licence —
 - (a) is to be granted for such period of time of not more than one year as is specified in the licence; and
 - (b) is not renewable.
- (3) The holder of a temporary licence under this section does not commit an offence under this Act while acting under and in accordance with that licence.

[Section 42B inserted: No. 4 of 2008 s. 29.]

Part 7 — Licensing procedures

Division 1 — Who may hold licence

43. Natural persons only to be licensed

- (1) A licence can only be issued to a natural person.
- (2) A natural person may hold an agent's licence on behalf of —
 - (a) a partnership if the natural person is one of the partners;
or
 - (b) a body corporate if the natural person is an officer of the
body,

and any business under that licence may be transacted in the name of the partnership or body.

44. Residence requirements for licences on behalf of partnership etc.

- (1) Subject to subsection (2), a natural person who holds an agent's licence on behalf of a partnership or a body corporate must be a resident of the State.
- (2) A licensing officer may in writing exempt a partnership or body corporate from compliance with subsection (1), and may at any time revoke an exemption by notice in writing to the partnership or body corporate.

45. Automatic termination of licence held on behalf of partnership etc.

- (1) An agent's licence held by a person on behalf of a partnership terminates automatically if the person ceases to be one of the partners.
- (2) An agent's licence held by a person on behalf of a body corporate terminates automatically if the person ceases to be an officer of the body corporate.

Division 2 — Applications for issue and renewal of licences

46. Application for licence

- (1) An application for the issue of a licence is to be —
 - (a) made in the approved form; and
 - (b) lodged in the prescribed manner; and
 - (c) accompanied by the fee prescribed in respect of the licence.
- (2) A form approved under subsection (1) may include a requirement that the applicant's signature be witnessed by a person of a class specified in the form.

[Section 46 amended: No. 4 of 2008 s. 30.]

47. Material to support application for licence

- (1) An application for the issue of a licence, other than a temporary licence, is to be accompanied by —
 - (a) such evidence as is prescribed of the age and identity of the applicant;
 - (b) photographs of the applicant in such number and form as the Commissioner may determine;
 - (c) testimonials as to the applicant's character from 2 persons who have known the applicant for the whole of the 5 year period before the application was made;
 - (d) in the case of an application for a security officer's licence with an endorsement under section 24 or 26, evidence that the applicant has passed any prescribed medical examination;
 - (e) in the case of an application for an agent's licence, evidence that the applicant has sufficient financial resources to meet his or her financial obligations;

- (f) evidence that the person has —
 - (i) except where section 53 applies, satisfactorily completed any course of training prescribed in respect of the licence; and
 - (ii) passed any test or examination prescribed in respect of the licence;
 - (g) in the case of an application for an agent's licence to be held on behalf of a partnership or body corporate —
 - (i) where relevant, proof of the business name;
 - (ii) where relevant, proof of incorporation;
 - (iii) evidence that the applicant is a resident of the State; and
 - (iv) written confirmation from one of the other partners or one of the body's directors, as the case requires, that the applicant is authorised by the partnership or the body to make the application;and
 - (h) other evidence of a nature or in a form that is prescribed.
- (2) An application by a person is to state an address for service of notices and other documents that may be required to be served on the person under this Act whether as applicant or licensee.
- (2a) An application for the issue of a temporary licence is to be accompanied by —
- (a) such evidence as is prescribed of the age and identity of the applicant; and
 - (b) evidence that the person is licensed or registered or otherwise authorised in his or her State or Territory of residence to carry out the activity or activities for which the licence is sought; and
 - (c) other evidence of a nature or in a form that is prescribed.

- (2b) If requested by a licensing officer to do so, the applicant must do everything that is, in the opinion of the licensing officer, within the applicant's power to procure or facilitate the release to the licensing officer of all information held by a relevant body concerning relevant conduct by —
- (a) the applicant; or
 - (b) a natural person who is relevant to the application under section 56.
- (2c) Subsection (2b) applies in respect of an applicant even if the application for the licence was made before the commencement of the *Security and Related Activities (Control) Amendment Act 2008* section 31¹, unless the application has been refused, or the licence issued, before that time.
- (3) The applicant must also provide such other information and evidence as a licensing officer may require for the proper consideration of a particular application, including all or any of the following —
- (a) further information and evidence that the licensing officer reasonably needs to establish the applicant's identity;
 - (b) if the applicant is a relevant applicant, information as to all or any of the following —
 - (i) the country, or countries, in which the applicant has spent time during the period of 5 years commencing immediately before the making of the application;
 - (ii) the length of time the applicant spent in that country, or those countries;
 - (iii) the reason why the applicant spent time in that country, or those countries;
 - (iv) the persons that the applicant associated with in that country, or those countries;
 - (v) the background, and the reputation, honesty and integrity of, any such persons;

- (c) if the applicant is a relevant applicant, a record of the criminal convictions, if any, of the applicant for offences under the law of any country, or countries, in which the applicant spent time during the period of 5 years commencing immediately before the making of the application, provided by a competent authority of the government of that country.
- (4) In subsection (3) —
relevant applicant means an applicant who —
 - (a) has spent more than 12 consecutive months outside Australia during the period of 5 years commencing immediately before the making of the application; or
 - (b) has not been a resident of Australia for the whole of the period of 5 years commencing immediately before the making of the application.

[Section 47 amended: No. 4 of 2008 s. 31.]

48. Taking of fingerprints and palm prints

- (1) Subject to subsection (1a), a licensing officer may in writing require any of the following persons to attend at a place and there have his or her fingerprints and palm prints taken by a member of the police force or an officer of the Department —
 - (a) a person who has applied for a licence; or
 - (b) a person who has applied for —
 - (i) the renewal of a licence; or
 - (ii) a permit under section 25; or
 - (iii) an endorsement under section 24 or 26,if the person has not previously had his or her fingerprints and palm prints taken under this section, or if such prints previously taken under this section have been destroyed at the person's election.

- (1a) A requirement under subsection (1) may be made orally if the person is present at the place where the fingerprints and palm prints are to be taken.
- (2) The grant of a licence, permit or endorsement referred to in subsection (1) may be refused if the person of whom a requirement under subsection (1) is made fails to comply with it.
- (2a) An application —
- (a) for the issue of a licence, permit or endorsement; or
 - (b) for the renewal of a licence,
- is to set out an election to be made by the applicant as to whether any fingerprints and palm prints taken from the applicant under this section, and any copy of them —
- (c) can be kept by the Commissioner indefinitely; or
 - (d) are to be dealt with in accordance with subsections (3) and (4).
- (2b) The fingerprints and palm prints of an applicant who makes an election referred to in subsection (2a)(c) are to be kept by the Commissioner in accordance with that election and, unless the applicant subsequently changes the election, subsections (3) and (4) do not apply in respect of those prints or copies.
- (2c) Before making an election referred to in subsection (2a) the applicant is to be informed as to the following matters —
- (a) that the prints taken may be compared with or put in a forensic database, within the meaning of the *Criminal Investigation (Identifying People) Act 2002*;
 - (b) that the prints taken may provide evidence that could be used in court against the applicant;
 - (c) that the applicant may subsequently change an election made under subsection (2a) by notifying the Commissioner;

- (d) that the applicant may get legal advice before deciding whether or not to have the prints taken and making an election under subsection (2a);
 - (e) such other matters as may be prescribed.
- (2d) The information in subsection (2c) may be provided in writing.
- (3) If an election is made under subsection (2a)(d), then the Commissioner is to cause fingerprints and palm prints taken under this section and any copy of them to be destroyed —
- (a) if the relevant licence, permit or endorsement is not granted; or
 - (b) when the relevant licence, permit or endorsement no longer has effect.
- (4) If a review is available under section 72, the destruction of fingerprints and palm prints under subsection (3) is not required until —
- (a) the time for applying for a review has expired; and
 - (b) if an application for a review is made, it has been determined in a way that does not result in the grant or continuation of the relevant licence, permit or endorsement.
- (5) If a person subsequently changes an election made under subsection (2a) and elects that prints taken are to be dealt with in accordance with subsections (3) and (4), and the time for destroying the prints under those provisions has already passed, the Commissioner is to cause the prints and any copy of them to be destroyed as soon as is practicable after the election is changed.

[Section 48 amended: No. 55 of 2004 s. 1069; No. 4 of 2008 s. 32.]

49. How and when to apply for renewal

- (1) An application for the renewal of a licence is to be —
 - (a) made in an approved form; and
 - (b) lodged in the prescribed manner; and
 - (c) accompanied by the fee prescribed in respect of the licence.
- (2) A form approved under subsection (1) may include a requirement that the applicant's signature be witnessed by a person of a class specified in the form.
- (3) An application for the renewal of a licence is to be made no later than 28 days before the day on which the licence is due to expire or at such later time as the licensing officer, having regard to section 57(2), allows.

[Section 49 amended: No. 4 of 2008 s. 33.]

50. Material to support application for renewal

- (1) An application for the renewal of a licence is to be accompanied by information of such a nature or in such a form as may be prescribed.
- (2) If requested by a licensing officer to do so, an applicant for renewal of a licence must do everything that is, in the opinion of the licensing officer, within the applicant's power to procure or facilitate the release to the licensing officer of all information held by a relevant body concerning relevant conduct by —
 - (a) the applicant; or
 - (b) a natural person who is relevant to the application under section 56.
- (3) Subsection (2) applies to an application lodged before, on or after the day on which the *Security and Related Activities (Control) Amendment Act 2008* section 34, comes into operation¹ unless the application has been refused, or the licence renewed, before that time.

[Section 50 amended: No. 4 of 2008 s. 34.]

51. False or misleading information

- (1) A person must not, in relation to an application for the issue or renewal of a licence, give information orally or in writing that the person knows to be —

- (a) false or misleading in a material particular; or
- (b) likely to deceive in a material way.

Penalty: a fine of \$15 000.

- (2) Subsection (1) extends to the giving of information to a person who witnesses an applicant's signature as mentioned in sections 46(2) and 49(2).

[Section 51 amended: No. 4 of 2008 s. 80(2).]

Division 3 — Issue and renewal of licences

52. Issue of licences

- (1) A licensing officer is not to issue a licence, other than a temporary licence, unless the officer is satisfied —

- (a) that there is sufficient evidence of the applicant's identity; and
- (b) in the case of an agent's licence, a security officer's licence and a crowd controller's licence, that the applicant has attained the age of 18 years; and
- (c) that the applicant is of good character and is a fit and proper person to hold a licence; and
- (ca) that the applicant is not a prohibited person; and
- (cb) where there is a charge pending in relation to the applicant for a disqualifying offence, that extenuating circumstances exist; and
- (d) in the case of an agent's licence, that during the licence period there will be adequate management, supervision

- and control of the business that will be carried on under the licence; and
- (e) that during the licence period the applicant will be able to comply with any condition or restriction to which the licence is to be made subject; and
 - (f) in the case of an agent's licence, that the applicant has sufficient financial resources to meet his or her financial obligations; and
 - (g) that the applicant has —
 - (i) except where section 53 applies, satisfactorily completed any course of training prescribed in respect of the licence; and
 - (ii) passed any test or examination prescribed in respect of the licence;
- and
- (h) in the case of an application for a security officer's licence with an endorsement under section 24, that the applicant has passed any prescribed medical examination; and
 - (i) in the case of an application for an agent's licence to be held on behalf of a partnership or body corporate, that, subject to section 44(2), the applicant is a resident of the State; and
 - (j) that the application complies with such other requirements as may be prescribed; and
 - (k) that there is no other good reason why the licence should not be issued.
- (2) A licensing officer is not to issue a temporary licence unless the officer is satisfied —
- (a) that there is sufficient evidence of the applicant's identity; and
 - (b) that the applicant is not a prohibited person; and

- (c) where there is a charge pending in relation to the applicant for a disqualifying offence, that extenuating circumstances exist; and
 - (d) that the person is licensed or registered or otherwise authorised in his or her State or Territory of residence to carry out the activity or activities for which the licence is sought; and
 - (e) that the application complies with such other requirements as may be prescribed; and
 - (f) that there is no other good reason why the licence should not be issued.
- (3) Section 52A and subsection (1)(b) and (c) do not limit the matters that a licensing officer may take into consideration for the purposes of subsection (1).

[Section 52 amended: No. 4 of 2008 s. 35.]

52A. Matters to be taken into account in deciding whether to issue licence

- (1) In deciding whether, under section 52(1)(c), an applicant is of good character and is a fit and proper person to hold a licence, the licensing officer must take into consideration —
- (a) the reputation, honesty and integrity of —
 - (i) the applicant; and
 - (ii) where the licence is to be held on behalf of a partnership or body corporate, the partners of the partnership and the officers of the body corporate;
- and
- (b) the reputation, honesty and integrity of people with whom —
 - (i) the applicant associates; and
 - (ii) where the licence is to be held on behalf of a partnership or body corporate, the partners of the

partnership and the officers of the body corporate associate.

- (2) A licence can be issued only if the licensing officer is satisfied that to issue the licence to the applicant would not be contrary to the public interest.

[Section 52A inserted: No. 4 of 2008 s. 36.]

53. Exemption from section 52(1)(g)(i)

- (1) Section 52(1)(g)(i) does not apply to any applicant who is granted an exemption under subsection (2).
- (2) A licensing officer may in writing exempt an applicant for a licence from the requirements of section 52(1)(g)(i) and if the licence is granted may attach to the licence a condition that the person satisfactorily complete any course of training prescribed in respect of the licence within a specified period.
- (3) A licensing officer is not authorised under subsection (2) to exempt from the requirements of section 52(1)(g)(i) an applicant for a security officer's licence who has applied for an endorsement under section 24 or 26.

[Section 53 amended: No. 4 of 2008 s. 37.]

[54. Deleted: No. 4 of 2008 s. 38.]

55. Refusal of renewal

- (1) Subject to subsection (2), a licensing officer is not to renew an applicant's licence —
- (a) if in the officer's opinion there are sufficient grounds —
- (i) to make an allegation to the State Administrative Tribunal under section 67(1) in respect of the applicant; or
- (ii) for the exercise of the power to revoke the licence under section 67A(1)(a) or 81(1); or

- (iii) for the exercise of the power to suspend the licence under section 67A(2);
 - or
 - (b) if the officer is satisfied that the applicant is a prohibited person.
- (2) Despite subsection (1)(a)(i), a licensing officer may renew an applicant's licence if —
- (a) the allegation that may be made under section 67(1) is that there is proper cause for disciplinary action as mentioned in section 67(1a)(c), (d) or (e); and
 - (b) the licensing officer is of the opinion that it is appropriate to do so in the circumstances of the particular case.

[Section 55 inserted: No. 4 of 2008 s. 39.]

56. Issue and renewal of licences held on behalf of partnerships and bodies corporate

Where an application is made for the issue or renewal of an agent's licence to be held on behalf of a partnership or body corporate, a licensing officer is not to issue or renew the licence unless the licensing officer is satisfied as to each of the matters referred to in section 52(1) or 55, as the case may be, in relation to each of the following persons who is relevant to the application —

- (a) the partnership and the partners; and
- (b) the body corporate; and
- (c) the officers of the body corporate; and
- (d) a person who would have a substantial holding in the body corporate under the definition of **substantial holding** in the *Commonwealth Corporations Act 2001* section 9 if the reference in that definition to 5% were a reference to 25%.

[Section 56 amended: No. 10 of 2001 s. 164; No. 4 of 2008 s. 40.]

57. Notice of refusal to issue or renew licence

- (1) Where a licensing officer refuses to issue a licence the officer, no later than 28 days after the decision is made, is to give written notice to the applicant setting out the decision and the reasons for the decision.
- (2) Where a licensing officer refuses to renew a licence the officer, no later than 14 days before the day on which the licence is due to expire, is to give written notice to the applicant setting out the decision and the reasons for the decision.

58. Form of licences

- (1) Subject to this Part, a licence is to be in such form as the Commissioner may determine.
- (2) The Commissioner may under subsection (1) determine that where more than one licence under a Part is issued to a person the licences may be combined in one document.

[59. Deleted: No. 4 of 2008 s. 41.]

60. Duration of licences

Subject to this Act, except for the first issue of a licence, a licence shall be issued or renewed —

- (a) for a period of 3 years, or such shorter period as is requested; or
- (b) for the duration of a special event or events,

as is specified in the licence.

[Section 60 amended: No. 4 of 2008 s. 42.]

61. Identity cards

- (1) A licensing officer may issue an identity card to a person to whom a licence is issued.
- (2) A licensee to whom an identity card has been issued under subsection (1) must, on request, immediately produce the card for inspection by —
 - (a) a compliance officer or a police officer; or
 - (b) any person for whom the licensee is performing services under the licence,

and must have the card in his or her possession to enable this subsection to be complied with.

Penalty: a fine of \$200.

- (3) It is a defence to a charge under subsection (2) for a person to prove that he or she had a reasonable excuse for failing to produce the card or to have it in his or her possession or to do both of those things, as the case may be.

[Section 61 amended: No. 4 of 2008 s. 43.]

62. Conditions and restrictions

- (1) A licensing officer may issue or renew a licence subject to conditions and restrictions set out in, or provided with, the licence.
- (2) A licensing officer may decide to make an existing licence subject to a new condition or restriction or to change or remove a condition or restriction to which an existing licence is subject, but in that case —
 - (a) the officer, no later than 14 days after the decision is made, is to give written notice of the decision to the licensee; and
 - (b) the decision does not take effect until 28 days after the decision is made, or at such later time as is set out in the notice.

63. Regulations may prescribe conditions and restrictions

- (1) Regulations made under section 94(1) may prescribe conditions and restrictions that are to be taken to be attached to —
- (a) all licences;
 - (b) all licences of a particular class; or
 - (c) all endorsements under section 24 or 26,
- unless otherwise provided by the licence or endorsement.
- (2) The conditions imposed under subsection (1) may include —
- (a) a condition requiring the wearing by a licensee of a uniform, of a type approved by the Commissioner, while performing functions authorised by the licence;
 - (b) any condition designed to prevent a uniform worn by, or marking on a vehicle used by, a licensee being confusingly similar to a uniform or vehicle marking in use by a police force;
 - (c) a condition that, if an identity card is issued to a licensee, the card is to be visibly displayed on the person of the licensee while he or she is engaged in activities authorised by the licence.

64. Breach of condition or restriction

A person must not fail to comply with a condition or restriction attached to a licence.

Penalty: a fine of \$15 000.

[Section 64 amended: No. 4 of 2008 s. 80(2).]

65. Licences not transferable

A licence is not transferable.

66. Issue of duplicate licence or identity card

If a licensing officer is satisfied that a licence or identity card has been lost or destroyed he or she may issue a duplicate licence or identity card on payment of the prescribed fee.

Division 4 — Disciplinary proceedings

[Heading inserted: No. 55 of 2004 s. 1071; amended: No. 4 of 2008 s. 44.]

66A. Term used: licensee

In this Division —

licensee includes a person referred to in section 67(1)(b).

[Section 66A inserted: No. 4 of 2008 s. 45.]

67. Power to revoke licence

(1) The Commissioner may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1a), against a person who —

- (a) holds a licence; or
- (b) held a licence when the conduct giving rise to the allegation occurred but who no longer holds a licence.

(1a) There is proper cause for disciplinary action against a licensee —

- (a) if the licensee does not meet the requirements described in section 52(1)(c), (e), (f) or (i); or
- (b) where the licence is held on behalf of a partnership or body corporate, if the partnership and any of the partners or the body and any of the body's officers, as the case may be, does not meet the requirements described in section 52(1)(c), (d), (e) or (f); or
- (c) if there is power to cancel an endorsement on the licence under section 68; or
- (d) if the licensee has committed a breach of a code of conduct prescribed as being a proper cause for disciplinary action against a licensee under section 94(2); or
- (e) if the licensee or a person referred to in paragraph (b) has contravened, or failed to comply with —
 - (i) a provision of this Act; or

- (ii) the licence or a condition or restriction to which the licence is subject;
 - or
 - (f) it would be contrary to the public interest if the licensee were to continue to be licensed.
- (2) If, in a proceeding commenced by an allegation under subsection (1) against a licensee, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal —
- (a) may —
 - (i) revoke the licence of the licensee; or
 - (ii) cancel an endorsement on the licence under section 24 or 26; or
 - (iii) suspend the operation of the licence for a particular period;
 - and
 - (b) if an order is made under paragraph (a), or the licensee is a person referred to in subsection (1)(b), order that the licensee be disqualified from holding —
 - (i) a licence, or a licence of a particular type or class; or
 - (ii) a licence, or a licence of a particular type or class, that is endorsed under section 24 or 26, for a particular period not exceeding 3 years.

[Section 67 amended: No. 55 of 2004 s. 1072; No. 4 of 2008 s. 46.]

67A. Summary power to revoke and suspend licences

- (1) If the Commissioner —
 - (a) is of the opinion that the safety or welfare of members of the public is or may be at risk from the continuance in force of a licence; or

(b) is satisfied that a licensee is a prohibited person,

the Commissioner must give to the licensee written notice of the revocation of the licence or, if paragraph (b) is applicable, of every licence held by the licensee —

- (c) stating the grounds on which the revocation is, or revocations are, made; and
- (d) in the case of the grounds set out in paragraph (a), advising that the Commissioner will refer the matter to the State Administrative Tribunal within 14 days of the making of the notice,

and the licence, or licences, held by the licensee are revoked when the notice is received by the licensee.

(2) If the Commissioner is satisfied that —

- (a) a security officer whose licence is endorsed under section 24 has, without reasonable excuse, refused or failed to undergo a prescribed medical examination or in any way obstructed the examination; or
- (b) a licensee has, without reasonable excuse, refused or failed to comply with a request made under section 68A(2); or
- (c) there is a charge pending in relation to a licensee for a disqualifying offence and that no extenuating circumstances exist,

the Commissioner must give to the licensee written notice of the suspension of every licence held by the licensee —

- (d) stating that the licence is, or licences are, suspended under this subsection and —
 - (i) if the suspension is, or suspensions are, under paragraph (a), giving details of the prescribed medical examination; or
 - (ii) if the suspension is, or suspensions are, under paragraph (b), giving details of the request made under section 68A(2); or

(iii) if the suspension is, or suspensions are, under paragraph (c), referring to the charge on which the decision was based;

and

(e) stating —

(i) the period of time for which the licence, or licences, are suspended; or

(ii) that the suspension is, or suspensions are, until the occurrence of a specified event;

and

(f) advising that the Commissioner will refer the matter to the State Administrative Tribunal within 14 days of the making of the notice,

and the licence is, or licences are, suspended when the notice is received by the licensee.

(3) If a licence is revoked or suspended under subsection (1)(a) or (2), the Commissioner may also, in the notice of revocation, disqualify the licensee from holding —

(a) a licence, or a licence of a particular type or class; or

(b) a licence, or a licence of a particular type or class, that is endorsed under section 24 or 26,

from when the notice is received by the licensee until such time as is specified in the notice, being a period not exceeding 3 years.

(4) Within 14 days of a notice being given under subsection (1)(a) or (2) the Commissioner must —

(a) refer the matter in respect of which the notice was given to the State Administrative Tribunal; and

(b) ensure that any other proceedings under this Division in respect of the matter commenced before the notice was given are discontinued.

- (5) For the purposes of subsections (1) and (2), if a notice is sent by post to the address for service provided by the person under section 47(2), it is to be presumed, unless the contrary is shown, to have been received by the person at the time when, in the ordinary course of events, it would have been delivered.

[Section 67A inserted: No. 4 of 2008 s. 47.]

67B. Return of revoked licence and identity card

A person whose licence has been revoked or suspended must comply with any directions given by a licensing officer in relation to delivering up the licence and the identity card issued to the person.

Penalty: a fine of \$2 000.

[Section 67B inserted: No. 4 of 2008 s. 47.]

68. Cancellation of endorsement

- (1) A licensing officer may cancel an endorsement on a licence under section 24 or 26 if he or she considers that the licensee has —
- (a) contravened or failed to comply with —
 - (i) the terms of the endorsement; or
 - (ii) a condition or restriction attached to the endorsement;
 - or
 - (b) has failed a medical examination prescribed under section 24(5)(b).
- (2) Subject to subsection (2a), a cancellation of an endorsement is not effective unless a licensing officer —
- (a) has given to the licensee written notice of the intention to cancel the endorsement stating the grounds on which the cancellation is intended to be made and allowing the licensee 21 days within which to respond to the notice;

- (b) has had due regard to any response to the notice made within that time; and
 - (c) has given to the licensee written notice of cancellation of the endorsement at least 14 days before the cancellation is to take effect, stating the grounds on which the cancellation is made.
- (2a) If in the opinion of the licensing officer the safety or welfare of members of the public is or may be at risk from the continuance in force of an endorsement the licensing officer may give to the licensee written notice of the cancellation stating the grounds on which the cancellation is made, and the endorsement is cancelled when the notice is received or deemed to be received by the licensee.
- (2b) A person to whom notice of cancellation of an endorsement is given must comply with any directions of a licensing officer in relation to delivering up the licence and the identity card issued to the person.
- Penalty: a fine of \$2 000.
- (3) A licence that is delivered up under subsection (2b) is to be amended to delete the endorsement and returned to the licensee.

[Section 68 amended: No. 55 of 2004 s. 1073; No. 4 of 2008 s. 80(1).]

68A. Consent to release information

- (1) In this section —
- relevant person**, in relation to a licensee, means —
- (a) the licensee; or
 - (b) if the licensee holds the licence on behalf of a partnership, a partner in the partnership; or
 - (c) if the licensee holds the licence on behalf of a body corporate —
 - (i) an officer of the body corporate; or

- (ii) a person who would have a substantial holding in the body corporate under the definition of **substantial holding** in the Commonwealth *Corporations Act 2001* section 9 if the reference in that definition to 5% were a reference to 25%.
- (2) If requested by a licensing officer to do so, a licensee must do everything that is, in the opinion of the licensing officer, within the licensee's power to procure or facilitate release to the licensing officer of all information held by a relevant body concerning relevant conduct by a relevant person.
- (3) A licensee must comply with a request made under subsection (2) within the period of time specified in writing by the licensing officer, being a period of time not less than 7 days.

[Section 68A inserted: No. 4 of 2008 s. 48.]

69. Courts may revoke licence

- (1) Where a finding of guilt has been made by a court in respect of an offence against this Act, or any other Act, committed by a licensee the court may, in addition to any penalty imposed or order made in respect of the matter —
 - (a) revoke the licence and order that it be delivered up to the court together with the identity card issued to the licensee; or
 - (aa) suspend the operation of the licence for any period specified in the order; or
 - (b) cancel an endorsement on the licence under section 24 or 26, and order that the licence be delivered up to the court for amendment; or
 - (c) attach any condition or restriction to the licence or to an endorsement for any period specified in the order.
- (1a) Subsection (1) does not apply in relation to a disqualifying offence.

- (2) When making any order under this section the court may, if it thinks fit, defer the operation of the order pending an appeal.
- (3) When making an order under subsection (1)(a) the court may, if it thinks fit, order that the licensee be disqualified from holding —
 - (a) a licence, or a licence of a particular type or class; or
 - (b) a licence, or a licence of a particular type or class, that is endorsed under section 24 or 26,

for a particular period not exceeding 3 years.

[Section 69 amended: No. 4 of 2008 s. 49.]

70. Returns by courts

Where a court has made an order under section 69(1) the registrar of the court is to send to the Commissioner —

- (a) notice of the findings, penalty imposed and order made; and
- (b) where a licence is revoked, the licence and identity card that is delivered up to the court.

[Section 70 amended: No. 59 of 2004 s. 141.]

Division 5 — Review of licensing decisions

[Heading inserted: No. 55 of 2004 s. 1074.]

[71. Deleted: No. 55 of 2004 s. 1075.]

72. Application for review

- (1) Any person aggrieved by a reviewable decision of a licensing officer may apply to State Administrative Tribunal for a review of the decision.
- (2) In subsection (1) —

person aggrieved means a person whose licence is affected by a reviewable decision or who applies for the grant or renewal of a licence;

reviewable decision means a decision —

- (a) to refuse to issue or renew a licence or refuse to grant an endorsement under section 24 or 26; or
- (b) as to the period for which a licence is issued or renewed; or
- (c) as to a condition or restriction which is attached to a licence, a permit under section 25 or an endorsement under section 24 or 26; or
- (ca) to refuse to issue a permit under section 25; or
- (cb) as to the period for which a permit under section 25 is issued; or
- (d) to revoke or suspend a licence; or
- (e) to cancel an endorsement under section 24 or 26.

[Section 72 inserted: No. 55 of 2004 s. 1076; amended: No. 4 of 2008 s. 50.]

[73. Deleted: No. 4 of 2008 s. 51.]

74. Suspension of licence by State Administrative Tribunal

- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the person's licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

[Section 74 inserted: No. 55 of 2004 s. 1077.]

Part 8 — Further obligations of licensees

75. Production of licence

The holder of a licence must, if requested by a member of the police force, a compliance officer or a licensing officer, produce the licence for inspection as soon as is practicable.

Penalty: a fine of \$2 000.

[Section 75 amended: No. 4 of 2008 s. 52 and 80(1).]

76. Return of licence

A person who was the holder of a licence that —

- (a) has expired and has not been renewed; or
- (b) has terminated under section 45; or
- (c) has been surrendered in accordance with the regulations,

must, in accordance with the regulations, deliver to a licensing officer the licence and any identity card issued to the person.

Penalty: a fine of \$2 000.

[Section 76 amended: No. 4 of 2008 s. 53 and 80(1).]

77. Change of address of licensee

- (1) Where a licensee under an agent's licence changes the place at which he or she carries on business under the licence, the licensee must, in accordance with the regulations, give to a licensing officer notice of the address of the new place of business, not later than 14 days after the change occurs.

Penalty: a fine of \$2 000.

- (2) Where a licensee changes his or her place of residence, the licensee must, in accordance with the regulations, give to a licensing officer notice of the address of the new place of residence not later than 14 days after the change occurs.

Penalty: a fine of \$2 000.

[Section 77 amended: No. 4 of 2008 s. 54 and 80(1).]

77A. Licensee to give notice about offences

- (1) A licensee must give to a licensing officer written notice within 7 days after —
- (a) being charged with a disqualifying offence; or
 - (b) there has been a finding of guilt in relation to an offence committed by the licensee,

setting out details of the charge, offence, conviction, finding or plea.

Penalty: a fine of \$2 000.

- (2) As soon as is possible after receiving notice under this section, the licensing officer to whom the notice was given is to consider the notice and any other information he or she considers relevant and take such action as he or she considers appropriate, including to refer the matter to the Commissioner as to either or both of the following matters —
- (a) whether the licence of the person should be revoked or suspended under section 67A;
 - (b) whether an allegation should be made under section 67(1).

[Section 77A inserted: No. 4 of 2008 s. 55.]

78. Records to be kept

- (1) A licensee —
- (a) must keep such records as may be prescribed containing such particulars as may be prescribed;
 - (b) must not knowingly make any false or misleading entry in any record; and
 - (c) must preserve any record made under this section for a period of 3 years after the last entry was made in it and must do so at premises of which notice is given under subsection (2).

Penalty: a fine of \$15 000.

s. 79

- (2) A licensee must, in accordance with the regulations, notify a licensing officer in writing of the address of the premises at which records are preserved under subsection (1)(c) and of the address of any premises to which they are removed.

Penalty: a fine of \$2 000.

- (3) Premises referred to in subsection (2) must be in this State unless a licensing officer in writing approves otherwise.

[Section 78 amended: No. 4 of 2008 s. 56 and 80.]

79. Disposal of licence to another

A licensee must not —

- (a) dispose of his or her licence or identity card to any person; or
- (b) permit another person to use the licence or identity card.

Penalty: a fine of \$15 000.

[Section 79 amended: No. 4 of 2008 s. 80(2).]

79A. Certain unlicensed persons not to be employed in agent's business

- (1) In subsection (1) —

employ, in relation to the holder of an agent's licence, includes —

- (a) to have working in any capacity in the business that the person carries out under the agent's licence; and
- (b) to provide remuneration or pay for that work, whether by the person who holds the agent's licence or by another person with the agreement of the person who holds the agent's licence.

- (2) A person who holds an agent's licence is not to employ in any capacity in the business that the person carries out under the licence a person —

- (a) who is unlicensed; and

- (b) to whom the grant, or renewal, of a licence has been refused, or whose licence is suspended or revoked.

Penalty: a fine of \$15 000.

- (3) It is a defence to a charge of an offence under subsection (2) to prove that the accused did not know, and could not by the exercise of reasonable diligence have found out, that subsection (2) applies in respect of a person.

[Section 79A inserted: No. 4 of 2008 s. 57; amended: No. 47 of 2011 s. 15.]

Part 9 — Random drug testing

[Heading amended: No. 4 of 2008 s. 58.]

79B. Term used: licensee

In this Part —

licensee means the holder of —

- (a) a crowd controller's licence; or
- (b) a security officer's licence with an endorsement under section 24 or 26; or
- (c) a security officer's licence and a permit under section 25.

[Section 79B inserted: No. 4 of 2008 s. 59.]

80. Licensee may be directed to provide blood or urine for analysis

- (1) The Commissioner may at any time direct a licensee to attend at a place and there give a sample of his or her blood or urine for analysis.
- (2) The purpose of an analysis is to determine the presence or level of any prescribed drug in any form in the blood or urine of the licensee.
- (3) A direction under this section must —
 - (a) be in writing given to the licensee;
 - (b) specify the day on which and time and place at which the licensee is to attend; and
 - (c) indicate what sample or samples are to be given.
- (4) Where a direction is given under this section, any sample is to be taken and dealt with in accordance with regulations referred to in section 83.

[Section 80 amended: No. 4 of 2008 s. 60.]

81. Licence may be revoked

- (1) The Commissioner may, by written notice to a licensee, revoke a licence if —
 - (a) the licensee fails without lawful excuse to comply with a direction under section 80; or
 - (b) a sample of blood or urine given by the licensee following a direction under section 80 is found on analysis to be a non-complying sample, within the meaning in the regulations, for the purposes of this section.
- (2) If a licence is revoked under subsection (1), the Commissioner may also, in the notice of revocation, disqualify the licensee from holding —
 - (a) a licence, or a licence of a particular type or class; or
 - (b) a licence, or a licence of a particular type or class, that is endorsed under section 24 or 26,for a period not exceeding 3 years.
- (2a) Before taking action under this section, the Commissioner must —
 - (a) give the licensee written notice of the intention to take the action, stating the grounds on which the action is intended to be made and allowing the licensee 21 days within which to respond to the notice; and
 - (b) give due regard to any response to the notice within that time.
- (2b) The Commissioner is to give to the licensee written notice of the revocation, and if relevant the disqualification, at least 14 days before the revocation is to take effect —
 - (a) stating the grounds on which the action is taken; and
 - (b) stating when the revocation is to take effect; and

s. 82

- (c) advising that the matter will be referred to the State Administrative Tribunal within 14 days of the making of the notice.
- (2c) Within 14 days of a notice of the revocation of a licence being given under this section the Commissioner must refer the matter in respect of which the notice was given to the State Administrative Tribunal.
- (3) Nothing in this section limits the power of the Commissioner to give to the licensee a written notice of revocation under section 67A(1).

[Section 81 amended: No. 55 of 2004 s. 1078; No. 4 of 2008 s. 61.]

82. Cost of test may be recovered

If a sample of blood or urine given by a licensee is found on analysis to be a non-complying sample for the purposes of section 81(1)(b), the Commissioner may —

- (a) determine the costs and expenses of carrying out the analysis; and
- (b) recover the amount so determined from the licensee as a debt in a court of competent jurisdiction.

[Section 82 amended: No. 4 of 2008 s. 62.]

83. Regulations relating to drug tests

Regulations may be made under section 94 —

- (a) prescribing drugs for which a person may be required to be tested pursuant to a direction under section 80;
- (b) prescribing any test to be carried out for the purposes of section 81(1)(b);
- (c) prescribing the amount of a prescribed drug in any form in a given quantity of blood or urine in a sample that is to render the sample a non-complying sample for the purposes of section 81(1)(b);

- (d) regulating the manner of taking and dealing with samples of blood and urine and their analysis;
- (e) requiring a licensee to produce his or her identity card at the time when a sample is taken, and providing that a failure to do so —
 - (i) is taken to be a failure to comply with a direction under section 80; and
 - (ii) constitutes an offence punishable by a fine not exceeding \$2 000;
- (f) providing for the authorisation of persons as analysts for the purposes of this Part;
- (g) providing for certificate evidence in any proceedings as to the taking and analysis of any sample and the authority of any analyst to carry out an analysis.

Part 10 — Miscellaneous

Division 1 — Records

[Heading inserted: No. 4 of 2008 s. 63.]

84. Records to be kept by person who engages crowd controller

A person for whom a licensed crowd controller is performing any services authorised by his or her licence —

- (a) must keep such records as may be prescribed containing such particulars as may be prescribed;
- (b) must not knowingly make any false or misleading entry in any record; and
- (c) must preserve any record made under this section for a period of 3 years after the last entry was made in it.

Penalty: a fine of \$15 000.

[Section 84 amended: No. 4 of 2008 s. 64.]

85. Inspection of records

- (1) Records required to be kept for the purposes of sections 78 and 84 must be available for inspection at the premises at which they are required to be kept.
- (2) When required to do so by a compliance officer, a licensing officer or a member of the police force, the licensee, or an agent or employee of the licensee who is at the time in charge of the premises, or a person referred to in section 84, must produce for inspection —
 - (a) any relevant licence; and
 - (b) any record referred to in subsection (1).
- (3) Where the production of a record is required under this section and the record is not in a readable format, the requirement to produce the record is to be treated as a requirement to produce —
 - (a) the record itself; and

(b) the contents of the record in a readable format.

- (4) A person must not refuse or fail to comply with a requirement under this section and must not provide information that is false or misleading.

Penalty: a fine of \$2 000.

[Section 85 amended: No. 4 of 2008 s. 65 and 80(1).]

86. Police may retain records for certain purposes

- (1) Where any record kept for the purposes of section 78 or 84 is produced for inspection under section 85 a compliance officer, a licensing officer or a member of the police force may retain the record for the purpose of making copies or notes of some or all of the record.
- (2) If a record is retained under this section a receipt is to be issued to the person from whom the record was taken as soon as is practicable.

[Section 86 amended: No. 4 of 2008 s. 66.]

87. Obstruction of police

A person must not delay, obstruct or otherwise hinder a compliance officer, a licensing officer or a member of the police force in the performance of his or her functions under section 85.

Penalty: a fine of \$2 000.

[Section 87 amended: No. 4 of 2008 s. 67 and 80(1).]

Division 2 — Legal proceedings

[Heading inserted: No. 4 of 2008 s. 68.]

88. Designated persons

- (1) In sections 88A and 88B —
designated person means a person appointed under subsection (2) to be a designated person for the purposes of the provision in which the term is used.

- (2) The Commissioner may, in writing, appoint persons or classes of persons to be designated persons for the purposes of section 88A(2), (4) or 88B or for the purposes of more than one of those provisions, but a member of the police force, or a compliance officer, who issues an infringement notice is not eligible to be a designated person for the purposes of any of those provisions in relation to that notice.

[Section 88 inserted: No. 4 of 2008 s. 68.]

88A. Infringement notices

- (1) A member of the police force, or a compliance officer, who has reason to believe that a person —
- (a) has committed a prescribed offence under this Act; or
 - (b) is to be treated as having committed such an offence by reason of section 89, 90 or 90A,

may, within 6 months after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.

- (2) An infringement notice must —
- (a) be in the prescribed form; and
 - (b) contain a description of the alleged offence; and
 - (c) advise that if the alleged offender does not wish to be prosecuted for the alleged offence, the amount of money specified in the notice as the modified penalty for the offence may be paid to a designated person within 28 days after the date of the notice; and
 - (d) inform the alleged offender how and where the money may be paid.
- (3) In an infringement notice the amount specified as the modified penalty for the alleged offence must be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.

- (4) A designated person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.
- (5) The modified penalty that may be prescribed for an offence is not to exceed 20% of the maximum penalty that could be imposed for that offence by a court.

[Section 88A inserted: No. 4 of 2008 s. 68.]

88B. Withdrawal of infringement notice

- (1) A designated person may, whether or not the modified penalty has been paid, withdraw an infringement notice by giving to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (2) If an infringement notice is withdrawn after the modified penalty has been paid, the amount paid must be refunded.

[Section 88B inserted: No. 4 of 2008 s. 68.]

88C. Benefit of paying modified penalty

If the modified penalty specified in an infringement notice is paid within 28 days or any further time allowed, and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for, the alleged offence.

[Section 88C inserted: No. 4 of 2008 s. 68.]

88D. No admission implied by payment

The payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

[Section 88D inserted: No. 4 of 2008 s. 68.]

88E. Application of penalties collected

An amount paid as a modified penalty is, subject to section 88B(2), to be dealt with as if it were a penalty imposed by a court as a penalty for an offence.

[Section 88E inserted: No. 4 of 2008 s. 68.]

89. Liability of partners and bodies corporate

- (1) Where a licence is held on behalf of a partnership or body corporate and the licensee commits an offence against this Act —

- (a) subject to subsection (2), each of the partners; or
- (b) the body corporate,

as the case may be, is to be treated as having committed an offence and is liable to the penalty prescribed for the offence committed by the licensee.

- (2) Subsection (1) does not apply to a partner who proves that —

- (a) the offence was committed without the partner's consent or connivance; and
- (b) the partner exercised all such due diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the partner's functions and to all the circumstances.

- (2a) A partner or a body corporate may be proceeded against and convicted of an offence against this Act by virtue of subsection (1) whether or not proceedings are taken against the licensee and whether or not the licensee was convicted of the offence.

- (3) The reference in subsection (2) to a partner does not include a reference to a partner who is also the licensee and the defence available to an officer under section 90 is not available to an officer who is also the licensee.

[Section 89 amended: No. 4 of 2008 s. 69.]

90. Liability of officers

- (1) Where a body corporate is to be treated as having committed an offence against this Act, each of the body's officers is also to be treated as having committed the offence unless the officer proves that —
 - (a) the offence was committed without the officer's consent or connivance; and
 - (b) the officer exercised all such due diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the officer's functions and to all the circumstances.
- (2) An officer of a body corporate may be proceeded against and convicted of an offence against this Act by virtue of section 89 and subsection (1) whether or not proceedings are taken against the body corporate or the licensee and whether or not the body corporate or licensee was convicted of the offence.

[Section 90 amended: No. 4 of 2008 s. 70.]

90A. Liability of agent for licensee

- (1) Subject to subsection (2), where a licensee commits an offence against this Act, a licensee's agent is to be treated as having committed an offence and is liable to the penalty prescribed for the offence committed by the licensee.
- (2) Subsection (1) does not apply to an agent who proves that —
 - (a) the offence was committed without the agent's consent or connivance; and
 - (b) the agent exercised all such due diligence to prevent the commission of the offence as ought to have been exercised in the circumstances.
- (3) Proceedings under this section may be taken against an agent whether or not proceedings are taken against the licensee and whether or not the licensee was convicted of the offence.

(4) In this section —

agent, in relation to a licensee, means a person who —

- (a) holds an agent's licence; and
- (b) employed the licensee at the time the licensee committed the offence.

[Section 90A inserted: No. 4 of 2008 s. 71.]

91. Liability of employer of crowd controller for damages

(1) Without limiting an employer's vicarious liability at common law, a crowd controller and his or her employer are liable jointly and severally for damages in tort for any physical injury caused by the crowd controller to any person if —

- (a) the injury is caused while the crowd controller is performing any function referred to in section 35(1) as the employee of that employer; and
- (b) an action for damages in tort would, apart from this section, lie against the crowd controller for the injury.

(2) It is a defence to an action for damages under subsection (1) against an employer for the employer to show that in causing the physical injury the employee was pursuing a purpose of his or her own not related to the duties of his or her employment.

(3) Where an action for damages in tort lies against a crowd controller for physical injury in the circumstances referred to in subsection (1)(a), nothing in this section affects the liability of any other person as a joint tortfeasor with the crowd controller in respect of the same injury.

[Section 91 amended: No. 4 of 2008 s. 72.]

92. Evidentiary provisions

(1) In any legal proceedings before a court or tribunal production of a certificate under subsection (2) purporting to be signed by or on behalf of the Commissioner is, without proof of any

appointment or signature, evidence of the facts stated in the certificate.

- (2) A certificate may state any of the following —
- (a) that a licence, an endorsement under section 24 or 26, or a permit under section 25 is or was or is not or was not held by or on behalf of any person;
 - (b) the conditions and restrictions to which a licence endorsement or permit is or was subject;
 - (c) the premises to which a licence or permit applies or applied;
 - (d) the day or days or period on or during which anything referred to in paragraph (a), (b) or (c) applied.

[Section 92 amended: No. 4 of 2008 s. 73.]

93. Onus of proof

Where in any proceedings for an offence against section 16, 17, 18, 18A, 30 or 37 it is proved that a person was engaged to do anything which it is an offence to do for remuneration without a licence, it is to be presumed, unless the contrary is shown, that the person was engaged to do that thing for remuneration.

[Section 93 amended: No. 4 of 2008 s. 74.]

Division 3 — General provisions

[Heading inserted: No. 4 of 2008 s. 75.]

93A. Licensee to provide name of agent

- (1) When required to do so by a compliance officer, a licensing officer or a member of the police force, a licensee who is, or was, acting under the authority of a licence is to provide the name and address of the agent who, in accordance with section 19, 31 or 38, is, or at the relevant time was, the employer of the licensee.

- (2) A licensee must not refuse or fail to comply with a requirement under this section and must not provide information that is false or misleading.

Penalty: a fine of \$2 000.

[Section 93A inserted: No. 4 of 2008 s. 76.]

94. Regulations

- (1) The Governor may make any regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) The regulations may make provision for —
- (a) the preparation and, with the approval of the Minister, publication of codes of conduct setting out minimum standards of conduct to be observed by all licensees or licensees who hold licences of a particular type or class; and
 - (b) a breach of any such code of conduct to be a proper cause for disciplinary action against a licensee under section 67(1a)(d); and
 - (c) different classes of —
 - (i) security consultant's licence; or
 - (ii) security installer's licence,restricting the services of security consultant or security installer, as is relevant, that a person holding a particular class of licence is authorised to perform.
- (3) Regulations made for the purposes of section 24(5), 25(5) or 26(6) may prescribe fees to be paid for applications under that section.

- (4) A higher fee may be prescribed under section 46(1)(c) for cases where an application for the issue or renewal —
- (a) of a security officer's licence includes an application for an endorsement under section 24 or 26; or
 - (b) of a licence includes the taking of fingerprints or palm prints.

[Section 94 amended: No. 55 of 2004 s. 1079; No. 4 of 2008 s. 77.]

[95. Omitted under the Reprints Act 1984 s. 7(4)(f).]

[96. Omitted under the Reprints Act 1984 s. 7(4)(e).]

[Schedule 1 deleted: No. 4 of 2008 s. 79.]

[Schedule 2 omitted under the Reprints Act 1984 s. 7(4)(e).]

=====

Notes

¹ This is a compilation of the *Security and Related Activities (Control) Act 1996* and includes the amendments made by the other written laws referred to in the following table ⁵. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Security and Related Activities (Control) Act 1996</i>	27 of 1996	22 Jul 1996	s. 1 and 2: 22 Jul 1996; Act other than s. 1 and 2: 1 Apr 1997 (see s. 2 and <i>Gazette</i> 27 Mar 1997 p. 1693)
<i>Corporations (Consequential Amendments) Act 2001 Pt. 47</i>	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and Cwlth. <i>Gazette</i> 13 Jul 2001 No. S285)
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 65</i>	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i> ²	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 117</i> ^{3,4}	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
Reprint 1: The Security and Related Activities (Control) Act 1996 as at 3 Jun 2005 (includes amendments listed above)			
<i>Liquor and Gaming Legislation Amendment Act 2006 s. 114</i>	73 of 2006	13 Dec 2006	7 May 2007 (see s. 2(2) and <i>Gazette</i> 1 May 2007 p. 1893)
<i>Security and Related Activities (Control) Amendment Act 2008 Pt. 2</i>	4 of 2008	2 Apr 2008	13 Dec 2009 (see s. 2(b) and <i>Gazette</i> 4 Dec 2009 p. 4919)
<i>Legal Profession Act 2008 s. 703</i>	21 of 2008	27 May 2008	1 Mar 2009 (see s. 2(b) and <i>Gazette</i> 27 Feb 2009 p. 511)
Reprint 2: The Security and Related Activities (Control) Act 1996 as at 19 Mar 2010 (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act 2011</i> s. 15	47 of 2011	25 Oct 2011	26 Oct 2011 (see s. 2(b))

² The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 47 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

³ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

⁴ The *State Administrative Tribunal Regulations 2004* r. 62 reads as follows:

62. Security and Related Activities (Control) Act 1996

(1) In this regulation —

commencement day means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Part 2 Division 117 comes into operation.

(2) If in the period of 21 days before the commencement day a notice has been given under the *Security and Related Activities (Control) Act 1996* section 68(2) (applying section 67(2), (3) and (4) to the cancellation of an endorsement under section 68(1)), on or after the commencement day that notice is to be taken to be a notice given on the commencement day under that Act section 68(2)(a).

⁵ The *Standardisation of Formatting Act 2010* s. 4, the amendment to the *Security and Related Activities (Control) Act 1996* Schedule 1, had not come into operation when it was deleted by the *Statutes (Repeals and Minor Amendments) Act 2014* s. 39(2)(c).

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
agent.....	90A(4)
agent's licence.....	3
approved	3
class	3
Commissioner	3
compliance officer	3
court	3
crowd control agent	3
crowd control agent's licence	3
crowd controller.....	3
crowd controller's licence.....	3
Department	3
designated person.....	88(1)
disqualifying offence	3
employ	79A(1)
finding of guilt	3
firearm.....	3
identity card	3
inquiry agent	3
inquiry agent's licence	3
investigator	3
investigator's licence	3
licence	3
licensed premises	35(2)
licensee	3, 66A, 79B
licensing officer	3
officer.....	3
person aggrieved.....	72(2)
police force	3
possession	22
prohibited person	3
public officer.....	5(3)
relevant applicant.....	47(4)
relevant body	3
relevant conduct.....	3
relevant person.....	68A(1)
remuneration	3
reviewable decision.....	72(2)
security agent.....	3
security agent's licence.....	3

security bodyguard.....	3
security bodyguard's licence.....	3
security consultant	3
security consultant's licence	3
security installer	3
security installer's licence.....	3
security officer	3
security officer's licence	3
supplies	3
temporary licence.....	3, 42A(1), 42B(1)