

INQUIRY AGENTS LICENSING.

3° Elizabeth II., No. XI.

No. 11 of 1954.

(Affected by Act No. 113 of 1965.)

[As amended by Act:
No. 16 of 1964, assented to 8th October, 1964;
and reprinted pursuant to the Amendments Incorporation Act,
1938.]

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

[Assented to 8th September, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Inquiry Agents Licensing Act, 1954-1964*.

Short title.
Amended by
No. 16 of
1964, s. 1.

2. In this Act unless the context requires otherwise—

Interpre-
tation.
Amended by
No. 16 of
1964, s. 3.

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

“Court” or “Court of Petty Sessions” means a Court of Petty Sessions constituted by a Stipendiary Magistrate but “court” in the interpretation, “Inquiry agent” means any court.

¹ Came into operation 22nd October, 1965. See *Gazette* 22/10/65, p. 3715.
60518/4/69—1650

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“Inquiry agent” means a person (whether or not he carries on any other business) who whether as a principal, an agent or an employee, on behalf of any other person and for gain, fee or reward, exercises or carries on any of the following functions, namely—

(a) obtaining and furnishing; or

(b) undertaking to obtain and furnish, evidence for the purpose of any proceeding in a court, whether the proceeding has commenced or is contemplated or prospective.

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

Inquiry agents must be licensed. Repealed and re-enacted by No. 16 of 1964, s. 4. Amended by No. 113 of 1965, s. 8.

3. (1) Subject to this Act, no person shall—

(a) exercise or carry on or advertise, notify or state that he exercises or carries on or is willing to exercise or carry on the business of or shall act as an inquiry agent, whether as principal or as agent or employee; or

(b) shall in any way hold himself out to the public as ready to undertake for gain, fee or reward any of the functions of an inquiry agent, whether as principal or as agent or employee,

unless he is the holder of a license.

Penalty: One hundred dollars.

(2) This Act shall not be construed as requiring—

(a) any member of the police force of the State or of the Commonwealth or of any other State or Territory of the Commonwealth while acting in the exercise of his functions as such;

(b) any member of the Defence Force of the Commonwealth while acting in the exercise of his functions as such;

- (c) any officer or employee of
 - (i) the Crown in right of the Commonwealth or of this State or of any other State;
 - (ii) any Government Department of the Commonwealth or of this State or of any other State,

while acting in the exercise of his functions as such;

- (d) any practitioner holding a valid and current practice certificate under the Legal Practitioners Act, 1893, while acting in the ordinary course of his profession as such or any clerk to the practitioner acting in the ordinary course of the practitioner's profession as such;
- (e) any medical practitioner registered under the Medical Act, 1894, while acting in the ordinary course of his profession as such;
- (f) any person genuinely carrying on the business of insurance or of any insurance adjustment agency or any employee or agent of such a person in the exercise of his functions as such,

to hold a license.

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

Penalty: One hundred dollars.

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

- (a) to a person who has attained the age of twenty-one years, who, in the opinion of the Court, is of good character and in all

Licenses,
renewals and
cancellations.
Amended by
No. 16 of
1964, s. 5.

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other respects a fit and proper person to be the holder of a license, and who has complied with the requirements of the regulations;

- (b) for a maximum period of a year expiring on the thirtieth day of June in any year.

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

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

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

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

- (a) to the holder if in the opinion of the Court he has continued to be of good character and in all other respects a fit and proper person to be the holder of a license, and has, not later than the fifteenth day of May next preceding that thirtieth day of June, made application for renewal of the license and has complied with the requirements of the regulations;
- (b) for the year expiring on the next following thirtieth day of June;

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

renewal, or in respect of cancellation of the license, and the hearing of the appeal is not finalised by that thirtieth day of June, he is deemed to be the holder of a license until the hearing of the application or appeal is finalised.

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

5. (1) A person who desires to obtain—

(a) a license in the first instance; or

(b) the renewal of a license;

Applications
for license
in first
instance,
renewal and
cancellation.

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

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

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

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

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

Magistrate shall hear and determine applications under the provisions of Justices Act, 1902.
Amended by No. 113 of 1965, s. 8.

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

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

(3) If on the hearing of an application for the renewal of a license the Court is satisfied that the

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

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

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

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

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

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

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

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

**Inquiry
Agents
Register, and
evidence.**

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

the issues of licenses;

the renewal of licenses; and

the cancellation of licenses;

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

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

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

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

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

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

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

is *prima facie* evidence of the fact certified.

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

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

Rectification
of defects and
extension of
time.

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

Regulations.
Amended by
No. 16 of
1964, s. 6.