

Western Australia

**Security and Related Activities (Control)
Act 1996**

As at 27 Apr 2008

Version 01-f0-01

Extract from www.slp.wa.gov.au, see that website for further information

Security and Related Activities (Control) Act 1996

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Western Australia

Security and Related Activities (Control) Act 1996

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

- **property protection;**
- **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.

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. Interpretation

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;

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

“crowd control agent’s licence” means a licence issued for the purposes of section 36;

“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;

“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’s licence” means a licence issued for the purposes of section 29;

“licence” means a licence under this Act;

“licensee” means a person who holds a licence;

“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;

“remuneration” includes any forbearance or other valuable consideration;

“security agent”, **“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 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.

4. **Meaning of employment**

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

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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. Licensing officers

- (1) The Commissioner is to appoint from officers of the Department such number of 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 licensing officer for the purposes of this Act is to be taken to be within his or her authority unless the contrary is shown.

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: see section 88.
- (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.

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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.

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 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.

Part 3 — Licensing of security activities

Division 1 — Definitions

11. Definition of “security agent”

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

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

12. Definition of “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. Definition of “security consultant”

A security consultant is a person who —

- (a) for remuneration investigates or advises on matters relating to the watching, guarding or protection of property; or
- (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.

14. Definition of “security installer”

- (1) A security installer is a person who for remuneration installs, maintains or repairs —
 - (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; or
 - (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.

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: see section 88.

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: see section 88.

17. Security consultants to be licensed

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

Penalty: see section 88.

18. Security installers to be licensed

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

Penalty: see section 88.

19. Security officers to be employed by security agent

(1) A person who is licensed as a —

- (a) security officer;
- (b) security consultant; or
- (c) security installer,

must not act as such unless he or she does so as an employee of a security agent and that security agent is specified in the person's licence under section 59.

Penalty: see section 88.

(2) Subsection (1) does not apply to a licensed security agent who holds the relevant licence referred to in section 16, 17 or 18.

(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.

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

A person must not employ as a —

- (a) security officer;
- (b) security consultant; or
- (c) security installer,

a person who does not hold the relevant licence.

Penalty: see section 88.

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;
 - (b) security consultants; or
 - (c) security installers,

unless the person holds a security agent's licence.

Penalty: see section 88.

- (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).

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

22. Definitions

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; or
- (b) he or she is the holder of a permit under section 25,

and in either case he or she complies with the terms of the endorsement or permit and any condition or restriction to which it is subject.

Penalty: see section 88.

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 periodical medical examinations of a kind specified in the regulations.

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 articles of value otherwise than during an escort.
- (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.

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.
- (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. Definition of “inquiry agent”

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

28. Definition of “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 certificated practitioner (within the meaning of the *Legal Practice Act 2003*) 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 by No. 65 of 2003 s. 65.]

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: see section 88.

30. Investigators to be licensed

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

Penalty: see section 88.

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 and that inquiry agent is specified in the person's licence under section 59.

Penalty: see section 88.

- (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.

32. Unlicensed person not to be employed as an investigator

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

Penalty: see section 88.

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: see section 88.

- (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).

Part 5 — Licensing of crowd control activities

Division 1 — Definitions

34. Definition of “crowd control agent”

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

35. Definition of “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 by 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: see section 88.

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: see section 88.

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 and that crowd control agent is specified in the person's licence under section 59.

Penalty: see section 88.

- (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.

39. Unlicensed person not to be employed as a crowd controller

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

Penalty: see section 88.

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: see section 88.

- (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).

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 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: see section 88.

- (2) For the purposes of subsection (1), a person is an armed bodyguard if the person while in actual possession of a firearm escorts another person as that person's 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.

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 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;
 - (b) lodged in the prescribed manner; and
 - (c) accompanied by the prescribed fee.
- (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.

47. Material to support application for licence

- (1) An application for the issue of a licence is to be accompanied by —
 - (a) evidence of the applicant's age and identity;
 - (b) photographs of the applicant in such number and form as the Commissioner may determine;
 - (c) testimonials from 2 persons as to the applicant's character given not more than 24 months before the application is lodged;
 - (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 prescribed course of training; and
 - (ii) passed any prescribed test or examination;

- (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.
- (3) The applicant must also provide such other information as a licensing officer may require for the proper consideration of a particular application.

48. Taking of fingerprints and palm prints

- (1) 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 crowd controller's licence, a crowd control agent's licence or a security installer's licence;
 - (b) a person whose application for a security officer's licence includes an application for an endorsement under section 24 or 26;
 - (c) a security officer who has applied for a permit under section 25; and

- (d) a person who, in accordance with regulations referred to in section 24(5) or 26(6), has applied for an endorsement under section 24 or 26.
- (2) The grant of a licence, permit or endorsement referred to in subsection (1) may be refused if the person of whom such a requirement is made fails to comply with it.
- (3) 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.

[Section 48 amended by No. 55 of 2004 s. 1069.]

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;
 - (b) lodged in the prescribed manner; and
 - (c) accompanied by the prescribed fee.
- (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.

50. Material to support application for renewal

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.

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: see section 88.

- (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).

Division 3 — Issue and renewal of licences

52. Issue of licences

A licensing officer is not to issue a licence unless the officer is satisfied —

- (a) that there is sufficient evidence of the applicant's identity;
- (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;
- (c) that the applicant is of good character and is a fit and proper person to hold a licence;

- (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;
- (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;
- (f) in the case of an agent's licence, that the applicant has sufficient financial resources to meet his or her financial obligations;
- (g) that the applicant has —
 - (i) except where section 53 applies, satisfactorily completed any prescribed course of training; and
 - (ii) passed any prescribed test or examination;
- (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;
- (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;
- (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.

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

- (1) Section 52(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(g)(i) and if the licence is granted may attach to the licence a condition that the

person satisfactorily complete any prescribed course of training within a specified period.

- (3) A licensing officer is not authorised under subsection (2) to exempt from the requirements of section 52(g)(i) an applicant for a security officer's licence who has applied for an endorsement under section 24 or 26.

54. Transitional provision as to completion of training courses

- (1) This section applies to a licence that is granted after the commencement of this Act but before any course of training is prescribed for the purposes of section 52(g)(i) in relation to that type of licence.
- (2) The Commissioner may by notice in writing to the licensee under section 62(2) attach a condition to a licence to which this section applies requiring the licensee to complete a course of training referred to in subsection (1) within a specified time, being not more than 12 months from the time when the notice is given.

55. Refusal of renewal

A licensing officer is not to renew a licence if in his or her opinion there are sufficient grounds to make an allegation under section 67(1) or for the exercise of the power to revoke the licence under section 67(3) or 81(1).

[Section 55 amended by No. 55 of 2004 s. 1070.]

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 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;
- (b) the body corporate;
- (c) the officers of the body corporate; and
- (d) any person who has a substantial holding within the meaning in the *Corporations Act 2001* of the Commonwealth, in the body corporate as if the prescribed percentage for the purposes of that Part were 25%.

[Section 56 amended by No. 10 of 2001 s. 164.]

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. Licence to specify employers

- (1) A licence, other than an agent's licence, is to specify the one or more employers by whom the licensee may be employed for the purposes of section 19, 31 or 38 as the case may be.

- (2) The licensing officer may on application made in the approved form amend a licence —
- (a) to specify additional employers by whom the licensee may be employed for the purposes of section 19, 31 or 38 as the case may be; or
 - (b) to delete from the licence any employer specified under this section.

60. Duration of licences

Subject to section 67, except for the first issue of a licence or when the prospective licensee requests a shorter period of licence, a licence shall be issued or renewed for a period of 3 years.

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 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: \$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.

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: see section 88.

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 against licensees

[Heading inserted by No. 55 of 2004 s. 1071.]

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 licensee.
- (1a) There is proper cause for disciplinary action against a licensee —
 - (a) if the licensee no longer meets the requirements described in section 52(c), (e), (f) or (i);
 - (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, no longer meet the requirements described in section 52(c), (d), (e) or (f);

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- (c) if there is power to cancel an endorsement on the licence under section 68;
 - (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.
- (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 may revoke the licence of the licensee or cancel an endorsement on the licence under section 24 or 26.
- (3) 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 a licence the licensing officer may give to the licensee written notice of the revocation —
- (a) stating the grounds on which the revocation is made; and
 - (b) 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 revoked when the notice is received or deemed to be received by the licensee.
- (3a) A copy of a notice given under subsection (3) is to be given to the Commissioner by the licensing officer who gave the notice as soon as is practicable, but in any event not later than 3 days, after giving the notice.

- (3b) Within 14 days of a notice being given under subsection (3) 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.

- (4) A person to whom notice of revocation of a licence 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: \$2 000.

[Section 67 amended by No. 55 of 2004 s. 1072.]

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: \$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 by No. 55 of 2004 s. 1073.]

69. Courts may revoke licence

- (1) Where a licensee is convicted by any court of an offence against this Act, the court may, in addition to any penalty imposed or order made in respect of the conviction —
- (a) revoke the licence and order that it be delivered up to the court together with the identity card issued to the licensee;
 - (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.
- (2) When making any order under this section the court may, if it thinks fit, defer the operation of the order pending an appeal.

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 by No. 59 of 2004 s. 141.]

Division 5 — Review of licensing decisions

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

[71. Repealed by 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;
- (b) as to the period for which a licence is issued or renewed;

- (c) as to a condition or restriction which is attached to a licence or an endorsement under section 24 or 26;
- (d) to revoke a licence; or
- (e) to cancel an endorsement under section 24 or 26.

[Section 72 inserted by No. 55 of 2004 s. 1076.]

73. Surrender of licence

Despite the surrender by a person of the person's licence, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence had not been surrendered.

[Section 73 inserted by No. 55 of 2004 s. 1077.]

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 by 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, produce the licence for inspection as soon as is practicable.

Penalty: \$2 000.

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,

must, as soon as is practicable after the expiry or termination of the licence, deliver to the Commissioner the licence and any identity card issued to the person.

Penalty: \$2 000.

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 give to the Commissioner notice of the address of the new place of business, not later than 14 days after the change occurs.

Penalty: \$2 000.

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

Penalty: \$2 000.

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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: see section 88.

- (2) A licensee must notify the Commissioner 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: \$2 000.

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

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: see section 88.

Part 9 — Random drug testing of licensed crowd controllers

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

- (1) The Commissioner may at any time direct the holder of a crowd controller's licence 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.
- (5) The Commissioner may delegate to a police officer the exercise of the power of direction conferred by this section.

81. Licence may be revoked

- (1) A licensing officer may revoke a crowd controller's 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.

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- (2) Subject to subsection (3), a revocation under subsection (1) of a crowd controller's licence is not effective unless a licensing officer —
- (a) has given to the licensee written notice of the intention to revoke the licence stating the grounds on which the revocation 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 revocation of the licence at least 14 days before the revocation is to take effect, stating the grounds on which the revocation is made.
- (3) Nothing in this section limits the power of a licensing officer to give to the licensee a written notice of revocation under section 67(3).
- (4) A person to whom notice of revocation of a licence is given under this section 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: \$2 000.

[Section 81 amended by No. 55 of 2004 s. 1078.]

82. Cost of test may be recovered

If a sample of blood or urine given by the holder of a crowd controller's licence 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.

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

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 for an individual: \$5 000.

Penalty for a body corporate: \$10 000.

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 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: \$2 000.

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 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.

87. Obstruction of police

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

Penalty: \$2 000.

88. Penalty for contravention of certain sections

A person who contravenes section 8(1), 15, 16, 17, 18, 19(1), 20, 21(1), 23, 29, 30, 31(1), 32, 33(1), 36, 37, 38(1), 39, 40(1), 41(1), 51(1), 64, 78(1) or 79 commits an offence and is liable to a fine not exceeding —

- (a) in the case of an individual, \$10 000; and
(b) in the case of a body corporate, \$20 000.

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

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- (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.
- (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.

90. Liability of officers

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.

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.
- (4) In subsection (1) “**employer**” means the relevant crowd control agent specified in the crowd controller’s licence under section 59.

92. Evidentiary provisions

- (1) In any proceedings for an offence against this Act 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;

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- (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.

93. Onus of proof

Where in any proceedings for an offence against section 16, 17, 18, 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.

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 of codes of conduct, and their publication with the approval of the Minister, by associations representing groups of persons licensed under this Act; 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).
- (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 a security officer's licence includes an application for an endorsement under section 24 or 26.

[Section 94 amended by No. 55 of 2004 s. 1079.]

95. Repeals, savings and transitional

- (1) The *Inquiry Agents Licensing Act 1954* and the *Security Agents Act 1976* are repealed.
- (2) Schedule 1 has effect to make transitional provisions.

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

Schedule 1

[Section 95(2)]

Savings and transitional

1. Interpretation

- (1) In this Schedule —
 - (a) “**commencement day**” means the day of the commencement of this Act; and
 - (b) a reference to a repealed Act is a reference to the *Inquiry Agents Licensing Act 1954* or the *Security Agents Act 1976*.
- (2) The provisions of this Schedule do not affect the application of the *Interpretation Act 1984* to and in relation to the repeal effected by section 95(1).

2. Existing licences to be treated as licences under this Act

- (1) A licence under a repealed Act that is in force immediately before the repeal continues in force despite the repeal as provided by this clause.
- (2) A licence under the *Inquiry Agents Licensing Act 1954* is to be treated as both an inquiry agent’s licence and an investigator’s licence under this Act, and after the commencement day this Act applies to those licences as if they had been issued under this Act.
- (3) A licence for a security agent or for a guard under the *Security Agents Act 1976* is to be treated as a security agent’s licence or a security officer’s licence respectively under this Act, and after the commencement day this Act applies to that licence as if it had been issued under this Act.

3. Transitional provision for crowd control activities

- (1) An unlicensed person who would otherwise require a licence for the purposes of section 36, 37, 39 or 40 is to be treated as if he were the holder of the relevant licence —
 - (a) until the expiry of 120 days after the commencement day; or

- (b) until —
 - (i) the grant of a licence of the relevant kind to the person has been refused; and
 - (ii) the time for appeal against the refusal under section 72 has expired without an appeal being brought or an appeal has been brought but has been unsuccessful,

whichever happens first.

- (2) For the purposes of paragraph (ii) of subclause (1)(b) an appeal is unsuccessful if it —
 - (a) results in the refusal referred to in paragraph (i) of that subclause being confirmed; or
 - (b) is withdrawn, discontinued or dismissed for want of prosecution.

4. Existing register etc.

- (1) The continuation of the register kept under section 23 of the *Security Agents Act 1976* is to be taken to be compliance with section 10 in relation to licences under Part 3.
- (2) Section 10 does not apply to any licence referred to in clause 2(2) until the licence is renewed under this Act.

5. Existing applications etc.

Any application made or proceeding commenced under a repealed Act before the commencement day, and not discontinued or abandoned, continues to be governed by that Act and may be completed as if section 95(1) had not come into operation.

6. Further transitional provision may be made

- (1) If there is no sufficient provision in this Schedule for any matter or thing necessary or convenient to give effect to the transition from a repealed Act to this Act, that provision may be made by regulations under section 94.
- (2) Any such regulation may be made so as to have effect from the commencement day.

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- (3) To the extent that a provision of any such regulation has effect on a day that is earlier than the day of its publication in the *Gazette*, the provision does not operate so as —
- (a) to affect, in a manner prejudicial to any person, the rights of that person existing before the day of its publication; or
 - (b) to impose liabilities on any person, in respect of anything done or omitted to be done before the day of publication.

[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 ^{1a}. 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 | 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 <i>Cwlth 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> ⁴ | 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> ^{2,3} | 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) |

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

| Short title | Number and year | Assent | Commencement |
|--|-----------------|------------|--------------------------------|
| <i>Security and Related Activities (Control) Amendment Act 2008</i> Pt. 2 ⁶ | 4 of 2008 | 2 Apr 2008 | To be proclaimed (see s. 2(b)) |

² 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.

³ 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).

”.

⁴ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 47 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

⁵ Footnote no longer applicable.

⁶ On the date as at which this compilation was prepared, the *Security and Related Activities (Control) Amendment Act 2008* Pt. 2 had not come into operation. It reads as follows:

“

Part 2 — Amendments to the *Security and Related Activities (Control) Act 1996*

4. Long title amended

The long title is amended by deleting “property protection;” and inserting instead —

“ the protection of persons and property; ”.

5. Section 3 amended

- (1) Section 3 is amended in the definition commencing “security agent” by deleting ““security agent”, “security consultant”,” and inserting instead —

“

“**security agent**”, “**security bodyguard**”, “**security consultant**”,

”.

- (2) Section 3 is amended by inserting in the appropriate alphabetical positions —

“

“**class**”, in relation to a security consultant’s licence or a security installer’s licence, means a class prescribed in relation to that licence;

“**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 controller**” has the meaning given by section 35;

“**disqualifying offence**” means an offence of a kind prescribed as being a disqualifying offence;

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

“**inquiry agent**” has the meaning given by section 27;

“**investigator**” has the meaning given by section 28;

“**investigator’s licence**” means a licence issued for the purposes of section 30;

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

“**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;

“**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;

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

”.

- (3) Section 3 is amended by deleting the full stop after the definition of “supplies” and inserting a semicolon instead.

6. Sections 4A and 4B inserted

After section 4 the following sections are inserted —

“

4A. Meaning of “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.

4B. Meaning of “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;

- (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.

”.

7. Section 7 amended

- (1) Section 7(1) is amended by deleting “of licensing officers as are required for the purposes of this Act.” and inserting instead —

“

of —

- (a) compliance officers; and
- (b) licensing officers,

as are required for the purposes of this Act.

”.

- (2) Section 7(3) is amended by inserting after “done by” —
- “ a compliance officer or ”.

8. Section 7A inserted

After section 7 the following section is inserted —

“

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.

”.

9. Section 8A inserted

After section 8 the following section is inserted —

“

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.

”.

10. Section 9A inserted

After section 9 the following section is inserted —

“

9A. Delegation by the 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.

”.

11. Section 10 amended

Section 10(1)(a) is amended by inserting after “type” —

“ and, where relevant, the class, ”.

12. Section 10A inserted

After section 10 the following section is inserted in Part 2 —

“

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.

”.

13. Section 11 amended

Section 11 is amended as follows:

- (a) at the end of paragraph (a) by inserting —
“ or ”;
- (b) at the end of paragraph (c) by deleting the full stop and inserting instead —

“

- ; or
- (d) security bodyguards.

”.

14. Section 13 amended

Section 13 is amended as follows:

- (a) by inserting after “who” —
“ carries out all, or any, of the following activities ”;
- (b) by deleting “or” after paragraph (a).

15. Section 14 amended

Section 14(1) is amended as follows:

- (a) by inserting after “repairs” —
“ all, or any, of the following ”;
- (b) by deleting “or” after paragraph (f).

16. Section 14A inserted

After section 14 the following section is inserted in Division 1 —

“

14A. Definition of “security bodyguard”

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

”.

17. Section 17 amended

- (1) Section 17 is amended by inserting before “A” the subsection designation “(1)”.
- (2) The penalty provision at the end of section 17 is deleted and the following is inserted instead —

“

- (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.

”.

18. Section 18 amended

- (1) Section 18 is amended by inserting before “A” the subsection designation “(1)”.
- (2) The penalty provision at the end of section 18 is deleted and the following is inserted instead —

“

- (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.

”.

19. Section 18A inserted

After section 18 the following section is inserted —

“

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.

”.

20. Section 19 amended

- (1) Section 19(1) is amended as follows:
 - (a) at the end of paragraph (a) by inserting —
“ or ”;
 - (b) at the end of paragraph (c) by deleting the comma and inserting instead —
- (2) Section 19(2) is amended by deleting “holds the relevant licence referred to in section 16, 17 or 18.” and inserting instead —

“

; or

- (d) security bodyguard,

”;

- (c) by deleting “and that security agent is specified in the person’s licence under section 59”.

“

is acting under the authority of a licence referred to in section 16, 17, 18 or 18A, as is relevant.

”.

21. Section 20 replaced

Section 20 is repealed and the following section is inserted instead —

“

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.

”.

22. Section 21 amended

Section 21(1) is amended as follows:

- (a) at the end of paragraph (a) by inserting —
“ or ”;
- (b) at the end of paragraph (c) by deleting the comma and inserting instead —

“

- ; or
- (d) security bodyguards,

”.

23. Section 23 amended

Section 23 is amended as follows:

- (a) after paragraph (a) by deleting “or” and inserting instead —
“ and ”;

- (b) by deleting from paragraph (b) to “it is subject.” and inserting instead —

“

- (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.

”.

24. Section 24 amended

Section 24(5)(b) is amended by deleting “periodical medical examinations of a kind specified in the regulations.” and inserting instead —

“

prescribed medical examinations in prescribed circumstances or at prescribed times.

”.

25. Section 25 amended

- (1) Section 25(1) is amended by inserting after “protecting” —
“ money or ”.
- (2) After section 25(1) the following subsection is inserted —

“

- (1a) A permit under this section may be issued only to a security officer whose licence is endorsed under section 24.

”.

26. Section 31 amended

Section 31(1) is amended by deleting “and that inquiry agent is specified in the person’s licence under section 59”.

27. Section 38 amended

Section 38(1) is amended by deleting “and that crowd control agent is specified in the person’s licence under section 59”.

28. Section 41 amended

- (1) Section 41(1) is amended by inserting after “armed” —
“ security ”.
- (2) Section 41(2) is amended as follows:

- (a) by inserting after “armed” —
“ security ”;
- (b) by deleting “that person’s guard” and inserting instead —
“ a guard ”.

29. Part 6A inserted

After section 42 the following Part is inserted —

“

Part 6A — Temporary licences for interstate visitors

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.

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.

”.

30. Section 46 amended

Section 46(1) is amended as follows:

- (a) after paragraph (a) by inserting —
“ and ”;
- (b) in paragraph (c) by deleting “prescribed fee.” and inserting instead —
“ fee prescribed in respect of the licence. ”.

31. Section 47 amended

(1) Section 47(1) is amended by inserting after “issue of a licence” —
“ , other than a temporary licence, ”.

(2) Section 47(1)(a) is deleted and the following paragraph is inserted instead —

“

- (a) such evidence as is prescribed of the age and identity of the applicant;

”.

(3) Section 47(1)(c) is deleted and the following paragraph is inserted instead —

“

- (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;

”.

(4) Section 47(1)(f) is amended as follows:

- (a) in subparagraph (i) by deleting “prescribed course of training;” and inserting instead —

“

course of training prescribed in respect of the licence;

”;

- (b) in subparagraph (ii) by deleting “prescribed test or examination;” and inserting instead —

“

test or examination prescribed in respect of the licence;

”.

(5) After section 47(2) the following subsections are inserted —

“

- (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 31, unless the application has been refused, or the licence issued, before that time.

”.

- (6) Section 47(3) is amended as follows:
 - (a) by inserting after “information” —
“ and evidence ”;
 - (b) by deleting the full stop at the end of the subsection and inserting instead —

“

- , 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.

”.

- (7) After section 47(3) the following subsection is inserted —

“

- (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.

”.

32. Section 48 amended

- (1) Section 48(1) is amended as follows:
- (a) by deleting “A licensing” and inserting instead —
“ Subject to subsection (1a), a licensing ”;
 - (b) by deleting paragraphs (a) to (d) and “and” after paragraph (c) and inserting the following paragraphs instead —

“

- (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.

”.

(2) After section 48(1) the following subsection is inserted —

“

(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.

”.

(3) Section 48(2) is amended by deleting “such a requirement” and inserting instead —

“ a requirement under subsection (1) ”.

(4) After section 48(2) the following subsections are inserted —

“

(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.

(5) Section 48(3) is amended by deleting “The” and inserting instead —

“ If an election is made under subsection (2a)(d), then the ”.

(6) After section 48(4) the following subsection is inserted —

“

(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.

”.

33. Section 49 amended

Section 49(1) is amended as follows:

(a) after paragraph (a) by inserting —

“ and ”;

(b) in paragraph (c) by deleting “prescribed fee.” and inserting instead —

“ fee prescribed in respect of the licence. ”.

34. Section 50 amended

(1) Section 50 is amended by inserting before “An” the subsection designation “(1)”.

(2) At the end of section 50 the following subsections are inserted —

“

(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 operation unless the application has been refused, or the licence renewed, before that time.

”.

35. Section 52 amended

- (1) Section 52 is amended as follows:

- (a) by inserting before “A licensing” the subsection designation “(1)”;
- (b) by inserting after “issue a licence” —
“ , other than a temporary licence, ”;
- (c) by inserting after paragraph (c) the following —

“

- (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 paragraph (g)(i) by deleting “prescribed course of training;” and inserting instead —

“

course of training prescribed in respect of the licence;

”;

- (e) in paragraph(g)(ii) by deleting “prescribed test or examination;” and inserting instead —

“

test or examination prescribed in respect of the licence;

”;

- (f) after each of paragraphs (a) to (c) and (d) to (i) by inserting —

“ and ”.

- (2) At the end of section 52 the following subsections are inserted —

“

- (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).

”.

36. Section 52A inserted

After section 52 the following section is inserted —

“

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.

”.

37. Section 53 amended

- (1) Section 53(2) is amended by deleting “prescribed course of training” and inserting instead —
“ course of training prescribed in respect of the licence ”.
- (2) Section 53(1), (2) and (3) are amended by deleting “52(g)(i)” in each place where it occurs and inserting instead —
“ 52(1)(g)(i) ”.

38. Section 54 repealed

Section 54 is repealed.

39. Section 55 replaced

Section 55 is repealed and the following section is inserted instead —

“

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.

”.

40. Section 56 amended

- (1) Section 56 is amended by deleting “52” and inserting instead —
“ 52(1) ”.
- (2) Section 56(d) is deleted and the following paragraph is inserted instead —

“

- (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%.

”.

- (3) Section 56 is amended by inserting at the end of each of paragraphs (a) and (b) —
“ and ”.

41. Section 59 repealed

Section 59 is repealed.

42. Section 60 amended

Section 60 is amended as follows:

- (a) by deleting “section 67,” and inserting instead —
“ this Act, ”;
- (b) by deleting “or when the prospective licensee requests a shorter period of licence, a licence shall be issued or renewed for a period of 3 years.” and inserting instead —

“

, 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.

”.

43. Section 61 amended

Section 61(2) is amended as follows:

- (a) in paragraph (a) by inserting after “a” —
“ compliance officer or a ”;
- (b) in the penalty provision by inserting before “\$200” —
“ a fine of ”.

44. Heading to Part 7 Division 4 amended

The heading to Part 7 Division 4 is amended by deleting “against licensees”.

45. Section 66A inserted

Before section 67 the following section is inserted in Part 7 Division 4 —

“

66A. Interpretation

In this Division —

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

”.

46. Section 67 amended

- (1) Section 67(1) is amended by deleting “against a licensee.” and inserting instead —

“

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.

”.

- (2) Section 67(1a) is amended as follows:

- (a) in paragraph (a) —
 - (i) by deleting “no longer meets” and inserting instead —
“ does not meet ”;
 - (ii) by deleting “52(c),” and inserting instead —
“ 52(1)(c), ”;
- (b) in paragraph (b) —
 - (i) by deleting “no longer” and inserting instead —
“ does not ”;

-
- (ii) by deleting “52(c),” and inserting instead —
“ 52(1)(c), ”;
- (c) at the end of paragraph (e) by deleting the full stop and inserting instead —
“
; or
(f) it would be contrary to the public interest if the licensee were to continue to be licensed.
”;
- (d) at the end of paragraphs (a), (b) and (c) by inserting —
“ or ”.
- (3) Section 67(2) is amended by deleting “Tribunal may revoke the licence of the licensee or cancel an endorsement on the licence under section 24 or 26.” and inserting instead —
“
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.
”.
- (4) Section 67(3), (3a), (3b) and (4) are repealed.
- 47. Sections 67A and 67B inserted**
After section 67 the following sections are inserted —

“

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.

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.

”

48. Section 68A inserted

After section 68 the following section is inserted —

“

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.

”

49. Section 69 amended

(1) Section 69(1) is amended as follows:

- (a) by deleting “Where a licensee is convicted by any court of an offence against this Act, the court may, in addition to any penalty imposed or order made in respect of the conviction —” and inserting instead —

“

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 —

(b) by inserting after paragraph (a) the following —

“

or

(aa) suspend the operation of the licence for any period specified in the order; or

(2) After subsection (1) the following subsection is inserted —

“

(1a) Subsection (1) does not apply in relation to a disqualifying offence.

(3) After section 69(2) the following subsection is inserted —

“

(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.

50. Section 72 amended

Section 72(2) is amended in the definition of “reviewable decision” as follows:

(a) in paragraph (c) by inserting after “licence” —

“ , a permit under section 25 ”;

(b) by inserting after paragraph (c) —

“

(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

(c) in paragraph (d) by inserting after “revoke” —

“ or suspend ”;

(d) after each of paragraphs (a) to (c) by inserting —
“ or ”.

51. Section 73 repealed

Section 73 is repealed.

52. Section 75 amended

Section 75 is amended by inserting after “force,” —
“ , a compliance officer or a licensing officer, ”.

53. Section 76 amended

Section 76(b) is amended as follows:

(a) at the end of paragraph (b) by deleting the comma and inserting instead —

“

; or

(c) has been surrendered in accordance with the regulations,

”;

(b) by deleting “as soon as is practicable after the expiry or termination of the licence, deliver to the Commissioner” and inserting instead —

“

, in accordance with the regulations, deliver to a licensing officer

”.

54. Section 77 amended

(1) Section 77(1) is amended by deleting “give to the Commissioner” and inserting instead —

“

, in accordance with the regulations, give to a licensing officer

”.

(2) Section 77(2) is amended by deleting “give to the Commissioner” and inserting instead —

“

, in accordance with the regulations, give to a licensing officer

”.

55. Section 77A inserted

After section 77 the following section is inserted —

“

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).

”

56. Section 78 amended

Section 78(2) is amended by deleting “notify the Commissioner” and inserting instead —

“

, in accordance with the regulations, notify a licensing officer

”

57. Section 79A inserted

After section 79 the following section is inserted in Part 8 —

“

79A. Certain unlicensed persons not to be employed in an 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 defendant did not know, and could not by the exercise of reasonable diligence have found out, that subsection (2) applies in respect of a person.

”.

58. Heading to Part 9 amended

The heading to Part 9 is amended by deleting “of licensed crowd controllers”.

59. Section 79B inserted

Before section 80 the following section is inserted in Part 9 —

“

79B. Interpretation

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.

”.

60. Section 80 amended

- (1) Section 80(1) is amended by deleting “the holder of a crowd controller's licence” and inserting instead —
“ a licensee ”.
- (2) Section 80(5) is repealed.

61. Section 81 amended

- (1) Section 81(1) is amended by deleting “A licensing officer may revoke a crowd controller’s” and inserting instead —

“

The Commissioner may, by written notice to a licensee, revoke a

”.

- (2) Section 81(2) is repealed and the following subsections are inserted instead —

“

- (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
- (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) Section 81(3) is amended —

- (a) by deleting “a licensing officer” and inserting instead —

“ the Commissioner ”; and
(b) by deleting “67(3).” and inserting instead —
“ 67A(1). ”.

(4) Section 81(4) is repealed.

62. Section 82 amended

Section 82 is amended by deleting “the holder of a crowd controller’s licence” and inserting instead —
“ a licensee ”.

63. Heading inserted

Before section 84 in Part 10 the following is inserted —
“ **Division 1 — Records** ”.

64. Section 84 amended

Section 84 is amended by deleting “Penalty for an individual: \$5 000.” and “Penalty for a body corporate: \$10 000.” and inserting instead —
“ Penalty: a fine of \$15 000. ”.

65. Section 85 amended

Section 85(2) is amended by inserting before “a licensing officer” —
“ a compliance officer, ”.

66. Section 86 amended

Section 86(1) is amended by inserting before “a member of the police force” —
“ a compliance officer, a licensing officer or ”.

67. Section 87 amended

Section 87 is amended by inserting before “a member of the police force” —
“ a compliance officer, a licensing officer or ”.

68. Part 10 Division 2 inserted

Section 88 is repealed and the following is inserted instead —

“

Division 2 — Legal proceedings

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.

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.

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.

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.

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.

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.

”

69. Section 89 amended

After section 89(2) the following subsection is inserted —

“

- (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.

”

70. Section 90 amended

- (1) Section 90 is amended by inserting before “Where” the subsection designation “(1)”.
- (2) At the end of section 90 the following subsection is inserted —

“

- (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.

”.

71. Section 90A inserted

After section 90 the following section is inserted —

“

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.

”.

72. Section 91 amended

Section 91(4) is repealed.

73. Section 92 amended

Section 92(1) is amended by deleting “proceedings for an offence against this Act” and inserting instead —

“ legal proceedings before a court or tribunal ”.

74. Section 93 amended

Section 93 is amended by inserting after “18,” —
“ 18A, ”.

75. Heading inserted

After section 93 the following heading is inserted —
“ **Division 3 — General provisions** ”.

76. Section 93A inserted

Before section 94 the following section is inserted —

“

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.

”.

77. Section 94 amended

- (1) Section 94(2) is amended as follows:
 - (a) by deleting paragraph (a) and “and” after it and inserting instead —

“

- (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) after paragraph (b) by deleting the full stop and inserting instead —

“

- ; 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.

”.

- (2) Section 94(4) is amended by deleting “application for a security officer's licence includes an application for an endorsement under section 24 or 26.” and inserting instead —

“

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.

”.

78. Section 95 amended

Section 95(2) is repealed.

79. Schedule 1 repealed

Schedule 1 is repealed.

80. Certain provisions amended regarding penalties

- (1) Each provision referred to in the Table to this subsection is amended in the penalty provision by inserting before “\$2 000” —
“ a fine of ”.

Table

| | |
|------------------|----------|
| s. 68(2b) | s. 78(2) |
| s. 75 | s. 85(4) |
| s. 76 | s. 87 |
| s. 77(1) and (2) | |

- (2) Each provision referred to in the Table to this subsection is amended in the penalty provision by deleting “see section 88.” and inserting instead —
“ a fine of \$15 000. ”.

Table

| | |
|----------|----------|
| s. 8(1) | s. 36 |
| s. 15 | s. 37 |
| s. 16 | s. 38(1) |
| s. 19(1) | s. 39 |

| | |
|----------|----------|
| s. 21(1) | s. 40(1) |
| s. 23 | s. 41(1) |
| s. 29 | s. 51(1) |
| s. 30 | s. 64 |
| s. 31(1) | s. 78(1) |
| s. 32 | s. 79 |
| s. 33(1) | |

”.