

SECURITY AGENTS.

No. 87 of 1976.

AN ACT to make provisions for the regulation of Security Agents, and of persons employed as guards, and for incidental purposes.

[Assented to 4th November, 1976.]

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

PART I—PRELIMINARY.

1. This Act may be cited as the *Security Agents Act, 1976*. Short Title.

2. This Act or any provisions of this Act shall come into operation on a date or dates to be fixed by proclamation. Commencement.

Interpre-
tation.

3. In this Act, unless the context otherwise requires—

“corporation” has the meaning given to that term by the Companies Act, 1961;

“firm” means an unincorporated body of persons (whether consisting of individuals or of bodies corporate or partly of individuals and partly of bodies corporate) registered under the Business Names Act, 1962, and includes the several persons constituting that body;

“licence” means a licence granted pursuant to this Act;

“licensing officer” means the person designated as such pursuant to section 7, but where a matter is referred to a Court of Petty Sessions on objection or by notice pursuant to subsection (4) of section 17 shall be construed as a reference to that court;

“person” includes any firm or corporation;

“section” means section of this Act; and

“the Commissioner” means the person for the time being holding or acting in the office of the Commissioner of Police appointed pursuant to the Police Act, 1892.

Arrangement.

4. The arrangement of this Act is as follows—

PART I—PRELIMINARY, ss. 1-4;

PART II—ADMINISTRATION AND ENFORCEMENT, ss. 5-40;

PART III—SECURITY AGENTS AND GUARDS, s. 41.

PART II—ADMINISTRATION AND ENFORCEMENT.

Exemptions.

5. (1) The Minister, after consultation with the Commissioner, may, by notice published in the *Gazette*, grant to any person or class of persons an

exemption from the provisions of this Act, or any such provision, on such terms and conditions as the Minister thinks fit, and may by like notice cancel or vary any such exemption.

(2) Where a person is granted an exemption under this section subject to a condition and that condition is not observed in relation to any circumstances, that exemption shall be deemed not to have taken effect in relation to those circumstances and any act or thing connected therewith.

(3) The provisions of this Act do not apply to or in relation to any officer—

- (a) of the police force of the Commonwealth;
- (b) of the police force of any State of the Commonwealth;
- (c) of the Commonwealth Defence Forces;
- (d) of the public service of the Commonwealth;
or
- (e) of the public service of the State, or of any instrumentality of the Government of the State,

while, and to the extent that, the officer is performing official duties in that capacity.

6. (1) Subject to any specific or general direction given by the Minister, the general administration of this Act shall be vested in the Commissioner.

Adminis-
trative
arrange-
ments.

(2) The costs and expenses incurred in the administration of this Act shall be defrayed out of the moneys provided by Parliament for that purpose.

(3) The Commissioner shall make, in each year, a written report to the Minister as to the administration of this Act, and the report shall be made before the first day of October in each year.

Licensing
Officer.

7. For the purposes of this Act the functions of the licensing officer shall be performed by a member of the Police Force for the time being designated as such by the Commissioner.

Licences.

8. (1) The licences that may be granted under this Act are—

- (a) a general licence;
- (b) a restricted licence; and
- (c) a temporary licence.

(2) A general licence authorizes the holder to carry on the class or classes of business therein specified in the State.

(3) A restricted licence authorizes the holder to perform the functions therein specified.

(4) A temporary licence authorizes the holder to carry on the business or to perform the functions specified in the licence for such period not exceeding three months as is therein specified and in relation to the circumstances therein specified.

(5) Regulations may prescribe that the carrying on of a business or the performing of any function in relation to any specified circumstances shall require a separate category of licence for the purposes of this Act, and any such regulation may be of general or limited application according to time, place or other circumstance.

(6) A licence under this Act shall be granted only to a natural person and not to a body of persons or a corporation.

(7) In accordance with the provisions of section 14, section 17 and section 19, a licence may be granted to a natural person on behalf of a firm or corporation of which he is a member, officer, or

employee, and within the limits to which the licence extends any business under that licence may be transacted in the name of that firm or corporation.

9. (1) The holder of a licence and any firm or body corporate on behalf of which it was granted, shall carry on any business or perform any function to which that licence relates—

Restriction on licences.

- (a) in the name or trade name specified in that licence and under no other description;
- (b) at or from the place or places of business specified in that licence;
- (c) subject to subsection (5) of section 20, during the period for which that licence remains in force;
- (d) only in relation to the class or classes of business or the functions specified in or authorized by that licence; and
- (e) in accordance with any conditions, limitations or restrictions specified in that licence,

and not otherwise.

(2) A person who contravenes any provision of subsection (1) of this section commits an offence.

Penalty: Five hundred dollars.

10. Where any business is to be carried on at or from more than one place—

Separate places of business.

- (a) the licensing officer may require that separate applications are made in relation to each such place of business; and
- (b) it may be made a condition of the licence that the business carried on at each such place be conducted as a separate entity.

11. In relation to any business, no licence shall be granted or renewed unless the licensing officer is satisfied that adequate management and supervision will be provided to safeguard the public interest.

Supervision and management.

Duration of
licences.

12. (1) Subject to the provisions of section 20 unless sooner surrendered a licence, other than a temporary licence, shall remain in force for one year beginning on the day therein specified, and may be renewed from time to time.

(2) Where an application is made for the renewal of a licence after, but within three months of, the date on which that licence expired, the licensing officer may renew that licence and in that event the renewal of the licence shall be deemed for all purposes to have taken effect on the day immediately succeeding the date on which the previous licence expired.

Application.

13. (1) An application for the grant or renewal of a licence shall be made in the prescribed manner to the licensing officer, and shall be accompanied by the prescribed fee.

(2) On the application for the grant of a licence, but not in respect of a renewal, the original and a copy of each of two current testimonials as to the character of the proposed holder of the licence shall be lodged with the licensing officer, together with the application.

(3) The Commissioner is authorized to disclose to the Minister, on the request of the licensing officer, any record or information relevant to an application under this Act.

(4) Not more than twenty-eight days nor less than fourteen days before an application for the grant of a general licence is submitted to the licensing officer the applicant shall cause a notice in the prescribed form to be published in a newspaper circulating in the locality of each place from which the business is to be carried on and a page of that newspaper showing the advertisement shall be lodged together with the application.

(5) Where applications relating to two or more persons are made on the same day in respect of any one business or in respect of related businesses, the

licensing officer may authorize the publication of a joint advertisement for the purposes of subsection (4) of this section.

(6) An application for the variation or transfer of a licence shall be endorsed to show clearly the particulars of the licence to which it relates, but in all other respects shall be dealt with as though it were an application for the grant of a licence save that if the proposed holder of the licence is the holder of a current licence no testimonials as to the character shall be required.

14. (1) Where it is desired that a licence shall be granted to a natural person on behalf of a firm or of a corporation the application—

Licences may be issued for the benefit of a firm or corporation.

- (a) shall state the name and the principal place of business of that firm or corporation;
- (b) shall state the name and the principal place of business of the proposed holder of the licence;
- (c) may be made either by the firm or corporation on behalf of the proposed holder of the licence or by the proposed holder of the licence personally;
- (d) shall be treated as though made by or on behalf of the firm or corporation which—
 - (i) may be represented at any hearing;
 - (ii) is liable to pay and may be awarded costs; and
 - (iii) may be required to satisfy the licensing officer that it consents to the application.

(2) On an application made under this section the licensing officer shall have regard not only to the question as to whether or not the proposed holder of the licence is a fit and proper person to hold a licence but also to the fitness and repute of the firm or corporation on behalf of which the

licence is to be used, and may hear and take into consideration any objection or submission made in relation to that firm or corporation or the persons responsible for its management.

(3) Two or more licences may be granted on behalf of the same firm or corporation.

(4) A licence granted pursuant to an application made under this section shall specify the firm or corporation on behalf of which it is granted and shall not have effect as a licence granted to the natural person named therein on his own behalf.

(5) Where the holder of a licence is an employee of a firm or corporation named in that licence, that firm or corporation and not the holder of the licence shall be primarily responsible for observing the requirements of this Act but the holder of the licence, the firm, and any corporation so named may be charged with and convicted of the like offence.

(6) Except with the consent of the firm or corporation named in the licence no licence granted pursuant to this section may be transferred, but, subject to this Act, the licence may be transferred to any person to whom the firm or corporation has agreed to transfer it and the consent of the holder of the licence or his legal personal representative shall not be necessary where the holder of the licence was an employee of that firm or corporation at the time the licence was granted.

Objections.

15. (1) Where the Commissioner, or a member of the police force authorized by him, or any other person, desires to object to the grant or renewal of a licence he shall lodge with the licensing officer and serve on the applicant or his authorized representative a notice stating the objection and the grounds thereof in sufficient detail to enable the applicant to know what he has to answer.

(2) Without limiting the generality of the matters that may be raised by way of an objection to the grant or renewal of a licence, objection may be made on the grounds that the applicant—

- (a) is not of good character;
- (b) is not above the age of—
 - (i) where the application is for a general licence—twenty-one years;
 - (ii) where the application is for any other category of licence—eighteen years;
- (c) is bankrupt, or is otherwise subject to stringent financial pressures;
- (d) has been guilty of harassing tactics;
- (e) has been guilty of conduct which renders him unfit to hold a licence;
- (f) has contravened or failed to comply with any provision of this Act or the regulations and that the contravention or failure warrants the refusal of a licence; or
- (g) has been convicted of an offence involving stealing, fraud or unlawful entry upon any premises or of any other offence which warrants the refusal of a licence; or
- (h) is not capable of carrying out the duties of a licence holder.

(3) The Commissioner shall cause his officers to make an investigation or inquiry and report relating to any matter that is the subject of an objection to the grant or renewal of a licence.

(4) A person who makes an objection to the grant or renewal of a licence is, while he maintains the objection, a party to the proceedings on the application.

Conditional
licences.

16. (1) A licence under this Act may be granted or renewed subject—

- (a) to any condition, limitation or restriction prescribed as being of general application or applicable to specified circumstances for the purposes of this Act; and
- (b) to conditions, limitations or restrictions relating to—
 - (i) the class of business to be carried on or the kind of functions to be performed;
 - (ii) the place or circumstances at or in which it is to have effect;
 - (iii) the supervision and control of the conduct of the business or the performance of the functions; and
 - (iv) such other matters as the licensing officer thinks fit to impose.

(2) A person who contravenes any condition, limitation or restriction to which a licence is subject commits an offence.

Issue of
licences.

17. (1) Where no objection to the grant or renewal of a licence is lodged with the licensing officer the licensing officer may, if he is satisfied that the applicant is a fit and proper person to hold a licence and that no other circumstances make it undesirable, grant a licence under this Act or renew any licence so granted either unconditionally or subject to conditions, limitations or restrictions.

(2) No person shall be granted a licence unless the licensing officer is satisfied that his education, intelligence and knowledge of the English language are such that he could capably and adequately carry out his duties as a licence holder.

(3) Where the licensing officer proposes not to grant or renew a licence or proposes to impose any condition, limitation or restriction he shall notify the applicant in writing setting out the reasons for his decision.

(4) Where—

- (a) an objection to the grant or renewal of a licence has been lodged with the licensing officer; or
- (b) an applicant has, within fourteen days of the receipt by him of a notice under subsection (3) of this section, notified the licensing officer in writing that he is aggrieved by the decision,

the application shall be referred by the licensing officer to a Court of Petty Sessions convenient to the place of business specified by the applicant.

(5) The clerk of the court to which the matter is referred shall—

- (a) endorse on the application particulars of the day appointed for the hearing of the application, and of the hour and place of the hearing; and
- (b) return a copy of the application so endorsed to the licensing officer.

(6) On receipt of the endorsed application the licensing officer shall notify in writing—

- (a) every person who has lodged with him an objection to the grant of the proposed licence;
- (b) the applicant, or his authorized representative; and
- (c) any firm or corporation on behalf of which the licence sought is to be used, or its authorized representative,

of the day, hour and place of the hearing appointed.

Jurisdiction.

18. A Court of Petty Sessions constituted by a Stipendiary Magistrate sitting alone has and may exercise jurisdiction to hear and determine applications referred and proceedings instituted by or on behalf of the licensing officer under this Act.

Hearing of Applications.

19. (1) Subject to subsection (5) of this section, the hearing of an application referred to a Court of Petty Sessions shall be a judicial proceeding open to the public, and may be at any time adjourned by the magistrate.

(2) Any party may appear and be represented by a solicitor or agent, and the magistrate shall hear the applicant, if the applicant so desires, and any objector who has lodged a notice with the licensing officer and appears before him.

(3) Unless the magistrate so requires, it shall not be necessary for the proposed holder of the licence to appear in person.

(4) Where the application is for the grant or renewal of a licence of a particular kind the magistrate may instead order that a licence of a different kind shall be granted if he so thinks fit.

(5) Unless—

(a) notice of objection has been lodged; or

(b) the Commissioner otherwise requires,

an application for the renewal of a licence may be taken in Chambers.

(6) Where an application is refused, or is granted or renewed subject to any condition, limitation or restriction which would not have been imposed had an objection not been made, the magistrate may order the applicant to pay to an objector the whole or a part of the costs of and incidental to his objection.

(7) If any objection to an application appears to the magistrate to be frivolous or vexatious he may order the person so objecting to pay to the applicant the costs of and occasioned by the objection.

20. (1) For the purposes of this section the expression "licensee" includes any person, any firm, and any corporation who or which is or are, or during the period of twelve months immediately preceding was or were, the holder of a licence or named in a licence.

Suspension,
cancellation
and disquali-
fication.

(2) On a complaint made by the licensing officer, or a person authorized by him, that a licensee—

- (a) has been guilty of improper conduct in relation to the carrying on of the business or the performance of the functions to which the licence relates; or
- (b) has been guilty of any dishonest or fraudulent practice, or of an offence against this Act, or of conduct which would constitute grounds for a refusal to renew a licence,

he may be summonsed before a Court of Petty Sessions, constituted by a Stipendiary Magistrate sitting alone, for the place where the alleged conduct occurred, to show cause why the licence should not be suspended or cancelled, and why he should not be disqualified either temporarily or permanently from holding or taking the benefit of a licence.

(3) Where—

- (a) upon proof of due service, a court is satisfied that a licensee has failed to appear to answer a summons issued under this section; or
- (b) a court is satisfied pursuant to a summons issued under this section that a licensee or the persons responsible for the management of a firm or corporation named in the licence is, are or have been

during the currency of the licence guilty of conduct which would constitute grounds for a refusal to renew a licence; or

- (c) a licensee is convicted by any court of an offence against this Act, whether or not pursuant to a summons issued under this section,

that court may order that the licence be suspended for such period as the court determines, or shall be cancelled, and that the licensee be disqualified from holding or taking the benefit of a licence either for such period as the court specifies in the order or permanently.

(4) When making any order under this section the court may, if it thinks fit, defer the operation of the order pending an appeal.

(5) A licence the operation of which is suspended under this section shall for the period of that suspension be deemed not to be in force.

(6) Where a licensee is disqualified from holding or taking the benefit of a licence by an order of the court made under this section he or it shall not, for the period of that disqualification, be eligible to apply for any further or other licence under this Act.

(7) Where an order suspending or cancelling a licence has been made by a court and—

- (a) the court does not defer the operation of the order pending appeal; or
- (b) the court does defer the operation of the order pending appeal but—
 - (i) no appeal is lodged; or
 - (ii) on appeal the licence remains cancelled,

the holder of the licence shall forthwith deliver up the licence to the court for transmission to the licensing officer and any such licence holder who fails so to deliver up his licence commits an offence.

(8) In any proceedings under this section the court may make such order as to costs as it thinks just.

21. (1) The clerk of a Court of Petty Sessions shall at the times and in the manner prescribed forward to the licensing officer returns in the prescribed form of licences granted, suspended or cancelled and of persons refused or disqualified from holding licences by that court.

Returns by
clerks of
Petty
Sessions.

(2) In every case where a licence is delivered up to a court under this Act the licence and a copy of any order of the court in relation thereto shall be transmitted forthwith by the clerk or other proper officer of the court to the licensing officer.

22. (1) A licence shall be in the form prescribed.

Form of
licence.

(2) A licence shall specify—

- (a) the name of the holder, and where it is granted on behalf of a firm or corporation the name of that firm or corporation;
- (b) the address of the place or places of business to which it relates;
- (c) the trade name, if any, under which the business is to be carried on; and
- (d) where appropriate, the class or classes of business that may be carried on or the kinds of function that may be performed.

(3) Where the licensing officer is satisfied that a licence has been lost or destroyed, he may issue a duplicate licence on payment of the prescribed fee.

23. (1) The licensing officer shall keep a Register in the prescribed manner of all persons licensed, and all firms and corporations on behalf of which a licence has been granted, under this Act.

Register.

(2) Particulars of every condition, limitation and restriction imposed in relation to a licence shall be specified in the Register.

(3) The licensing officer shall, upon receipt of the prescribed fee, make the Register available for inspection or furnish a certificate as to the contents of the Register.

(4) A certificate under the hand of the licensing officer as to any matter contained in the Register shall, in the absence of proof to the contrary, be taken as proof of the matter so certified.

Misrepresentation
and allied
offences.

24. (1) A licensee who by any false, misleading or deceptive statement, representation or promise or by any wilful concealment of a material fact induces or attempts to induce any person to enter into an agreement or contract in connection with his business as such commits an offence.

(2) A person who, in relation to any application or testimonial for the purposes of this Act or in the course of any business or the performance of any function in respect of which he is licensed under this Act, wilfully conceals or omits to furnish any information which he is required to furnish under this Act or who knowingly makes or publishes or causes to be made or published any representation or statement which he knows or reasonably ought to know—

(a) is false or misleading in a material particular; or

(b) is likely to deceive in a material way, commits an offence.

(3) If in a proceeding against any person for making or publishing or causing to be made or published any representation or statement in contravention of this section it is proved that the representation or statement was in contravention of this section when made or published that person

shall be deemed to have had knowledge that the representation or statement contravened this section unless he proves—

- (a) that he took all reasonable precautions against committing the contravention; and
- (b) that at the time of making or publishing the representation or statement he had reasonable grounds to believe and did believe that the representation or statement did not contravene this section when so made or published and that he had no reason to suspect otherwise.

(4) Any holder of a licence who untruthfully and wilfully publishes, advertises, or otherwise represents or holds himself out as being authorized by any person or body of persons, whether corporate or unincorporate, to carry on any business or perform any of the functions for which a licence is required under this Act commits an offence.

25. (1) No person other than a person licensed under this Act in that behalf shall in any manner hold himself out as or pretend to be or make use of any words or any name, title, addition, identification or description implying or tending to the belief that he is authorized to carry on any business or perform any function required to be licensed by this Act or is recognised by law as so authorized.

Unlicensed
persons.

Penalty: Four hundred dollars.

(2) No fee or other moneys shall be chargeable by any person, and if charged shall not be sued for, recovered, or retained, in relation to the performance of any function or the supply of any service or the carrying on of any business in respect of which a licence is required under this Act where the person by or on whose behalf those moneys are charged or sought to be recovered or retained is not, or was not, at the material time, the holder of a relevant licence.

Licence not to confer additional powers.

26. (1) No holder of a licence shall by virtue of being licensed have any power or authority which he would not have if this Act had not been passed.

(2) A person who in any way—

(a) suggests or implies that by virtue of his licence he may exercise any power or authority which he could not exercise if this Act had not been passed; or

(b) uses or attempts to use his licence to exercise any such power or authority,

commits an offence.

Licence to be produced on demand.

27. The holder of a licence under this Act shall on demand produce his licence for inspection—

(a) to the licensing officer or to a member of the police force; and

(b) to any person with whom he has dealings when carrying on any business or performing any function required to be licensed under this Act.

Licencee not to sell or dispose of his licence.

28. Any holder of a licence under this Act who sells, disposes of, delivers, lets out, hires or rents his licence to any other person or permits any other person to use his licence commits an offence.

Prohibition of delegation of functions.

29. Any holder of a licence under this Act who delegates his functions to a person other than a licence holder of the same category commits an offence.

Licencee not to employ persons in respect of whom a licence is refused, suspended or cancelled.

30. The holder of a general licence shall not knowingly employ in any capacity whatsoever in his business a person who has been refused a licence under this Act or whose licence has been suspended or cancelled unless the licence has subsequently been granted or restored.

31. (1) Any person who—

- (a) fails to comply with any of the requirements of this Act within the time or in the manner thereby provided; or
- (b) contravenes or fails to comply with any provision of this Act,

commits an offence.

(2) Any person convicted of an offence against this Act is liable, where no penalty is expressly provided for the offence, to a penalty not exceeding two hundred dollars.

(3) Where a corporation is charged with an offence against this Act, a person who is concerned or takes part in the management of that corporation may be charged with a like offence and where the corporation is convicted of the offence a person who is so concerned or takes part in the management of the corporation may be convicted of the like offence unless he proves that—

- (a) the offence committed by the corporation was committed without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

(4) Where by reason of or arising out of any act or omission of the holder of a licence granted on behalf of a firm or corporation a person is charged with an offence under this Act, or is required to show cause for the purposes of subsection (2) of section 20 or to satisfy the court as to the question of fitness or repute upon any application for the

Offences.
"This Act"
includes
regulations,
see S. 4
Act No. 30
of 1918.

grant or renewal of a licence, it shall be an answer in any such case for the firm or corporation to show that—

- (a) the act or omission complained of was committed or occurred without the knowledge of the firm or corporation and that the firm or corporation could not reasonably be expected to have known that any provisions of this Act had been contravened or had not been complied with;
- (b) the firm or corporation was not in a position to influence the conduct of the holder of the licence in relation to the act or omission; or
- (c) the firm or corporation used all due diligence to prevent the commission or occurrence of such act or omission.

Facilitation
of proof.

32. In any prosecution for an offence against this Act—

- (a) it is not necessary to prove the appointment of the Commissioner or of the licensing officer or his authority, but nothing in this paragraph prevents the right of the defendant to prove the extent of that authority;
- (b) a signature purporting to be that of the Commissioner or of the licensing officer shall be taken to be the signature of the person whose signature it purports to be until the contrary is proved;
- (c) a statement signed by the licensing officer that a licence of the description mentioned in the statement has or has not been granted under this Act to or in relation to any person, firm or corporation specified in the statement, or as to the date of issue or renewal and the particulars contained in any such licence or the conditions, limitations or restrictions imposed thereon, is evidence of the matters specified in the statement;

- (d) the allegation in or averment in any complaint that any premises were used, at the time stated therein, for the purposes of the carrying on of a business required to be licensed pursuant to this Act is evidence thereof; and
- (e) any act done in or in relation to any premises, or in respect of any person, in connection with the carrying on of a business required to be licensed under this Act shall be deemed to have been done, and any person employed in any premises used for the purposes of that business shall be deemed to have been so employed, with the knowledge and by the authority of the person responsible for the management of that business unless the contrary is proved.

33. Regulations made under this Act may provide that the holder of a licence under this Act shall be required to carry, and to produce in prescribed circumstances, a prescribed means of identification. Identi-
fication.

34. (1) For the purposes of this section the expression "licensee" includes— Records.

- (a) a person whose licence has expired or has been cancelled, suspended or surrendered; and
- (b) any firm or corporation named in a licence as that for the benefit of which it is or was to be used.

(2) Regulations made under this Act may provide that a licensee shall be required to prepare and maintain, and to produce in prescribed circumstances, a record clearly showing the prescribed particulars of the business in which he is or was for the time being engaged.

(3) Any document or other record required by this Act to be signed or kept by a licensee may be so signed or kept on his behalf by a person

authorized by him, but the responsibility for ensuring that the requirement has been complied with remains with the licensee.

(4) Every entry in a record kept for the purposes of this Act by or for the holder of a licence is deemed, unless the contrary is proved, to have been made by or with the authority of the holder of the licence.

(5) Every record required to be prepared for the purposes of this Act shall be retained by the person required to prepare it, or some other prescribed person, for a period of not less than three years after the date of its preparation unless the licensing officer otherwise directs.

(6) All records required to be prepared or kept under this Act by the holder of a licence shall at all reasonable times be open to inspection by the licensing officer, any police officer or any other person duly authorized in that behalf by the Commissioner either generally or in any particular case.

(7) Any police officer or, upon the production of his written authority a person authorized by the Commissioner pursuant to subsection (6) of this section, may require any holder of a licence under this Act or in his absence any employee or agent of his for the time being having the apparent control or charge of the office or place of business—

(a) to produce for inspection—

- (i) all records, accounts, or other documents required to be kept in accordance with this Act; and
- (ii) all books, papers, contracts, agreements, documents or other records relating to any transaction by or with the licensee in connection with the business to which his licence relates in the possession custody or control of the licensee;

- (b) to furnish all authorities and orders to the manager or other principal officer of a bank or other financial institution as may be reasonably required of him; and
- (c) to answer any questions or supply any information with respect to any of those accounts, books, papers, contracts, agreements, documents or other records or any entry in any of them.

(8) The Manager or other principal officer of a bank or other financial institution with which a licensee has deposited any money whether in his own account or in any other account, shall, without requiring any warrant other than this provision upon demand in writing delivered to him personally by the person authorized, disclose each such account to any person authorized in writing by the Commissioner to examine the accounts of the licensee either generally or in relation to any particular account and shall, whether or not the licensee consents, permit the person so authorized to inspect any book, account, document or record in the possession of the Manager or principal officer that relates to any of those accounts.

(9) Without prejudice to any of the other powers conferred on him by this Act a person authorized under this section may, at any reasonable hour by day or night—

- (a) enter any place that he has reasonable cause to believe is used as, or intended to be used as or was at any time within the preceding three months used as, the office of a licensee for the purposes to which this Act relates and inspect and examine that place and any documents or records found therein;
- (b) call to his assistance any member of the police force where he has reasonable cause to apprehend any obstruction in the exercise of his powers or in the execution of his duties;

- (c) take with him into any place referred to in paragraph (a) of this subsection any person he may require as an interpreter or adviser and whose assistance he deems necessary in the performance of his duties under this Act;
- (d) require any person who he finds committing or whom he reasonably suspects has committed an offence against this Act, or whom he is authorized to question under this Act, or whose name and address is, in the opinion of that authorized person, reasonably required for the purpose of carrying out his duties under this Act, to state his name and address, and, if he has reasonable ground for suspecting that the name or address as stated is false, require evidence of the correctness thereof; and
- (e) exercise such powers and authorities as are conferred on him by this Act or as may be prescribed.

(10) A person authorized to carry out any inspection for the purposes of this section is also thereby authorized, and shall be permitted, to make and take with him notes, copies or extracts of or from any document or other thing so inspected.

(11) A person is not required under this section to answer any question or give any information that tends to incriminate him, and before any person is questioned he shall be so informed.

(12) A person shall not—

- (a) fail to prepare or keep the records required to be so prepared or kept in accordance with this Act, or omit to make any entry therein, or knowingly make any false or misleading entry therein, or deliver a false transcript of an entry therein;

- (b) wilfully delay or obstruct any person so authorized in the exercise of his powers under this section;
- (c) on demand refuse or fail to produce any accounts, books, papers, contracts, agreements, documents or other records required for inspection under this section in his possession, custody or control;
- (d) on demand refuse or fail without lawful excuse to answer truthfully any questions relating to any accounts, books, papers, contracts, agreements, records or other documents required for inspection under this section.

Penalty: Five hundred dollars.

(13) Where the Minister considers that for the protection of the public it is desirable so to do he may, by notice in writing, appoint an auditor, at the expense of the licensee, to arrange for and carry out an audit of the accounts of the licensee in connection with any business in relation to which he is or was licensed under this Act in respect of the period specified in the notice, and the auditor so appointed has in respect of those accounts similar powers to those powers conferred upon the Auditor General by the Audit Act, 1904, in relation to public accounts and shall prepare and deliver to the Minister a report on the audit.

(14) A person who contravenes any of the provisions of this section commits an offence.

Penalty: Five hundred dollars.

35. (1) A person shall not—

Offences as to
inspection.

- (a) assault, resist or impede, delay or in any way obstruct an inspector in the exercise of his powers or in the discharge of his duties under this Act;

- (b) fail, without lawful excuse, to answer any question put to him in pursuance of this Act by an inspector or a person acting as professional, or expert adviser to, or interpreter for, an inspector or give a false or misleading answer to any such question;
- (c) fail to comply in any respect with the lawful request, requirement, direction or order of an inspector;
- (d) when required by or under this Act to furnish any assistance or to furnish any information to an inspector—
 - (i) fail to furnish that assistance or information;
 - (ii) furnish false or misleading information; or
 - (iii) refuse to sign any declaration that he is required to sign by or under this Act;
- (e) fail, when so required by an inspector, to produce any permit, certificate or authority held or had by him, or any book, notice, record, list or other document of whatsoever kind required by this Act to be held or kept by him, or required by this Act to be produced to an inspector, or fail to allow the inspector, upon him so producing the same, to make copies of or take extracts from it or of any part thereof or of any entries therein;
- (f) directly or indirectly prevent any person from appearing before or being questioned by an inspector in accordance with this Act, or attempt to do so;
- (g) use any threat or any abusive or insulting language to any inspector or any employee with respect to any inspection, examination or interrogation made by an inspector; or
- (h) impersonate an inspector.

(2) For the purposes of this section, the term "inspector" means the licensing officer, any police officer, and any person authorized by the Commissioner pursuant to subsection (6) of section 34.

36. (1) A person who acts as a professional or expert adviser to, or interpreter for, a person authorized to perform any duty under this Act, and who discloses to any person not authorized by the Act to receive it any information respecting any business acquired by him in the exercise of his functions under this Act, commits an offence.

Secrecy.

(2) A person who, either directly or indirectly, except in the performance of a duty under or in connection with this Act, makes a record of, or divulges or communicates to any person, any information concerning the affairs of any other person, firm or corporation acquired by him by reason of his office or employment under or for the purposes of this Act, commits an offence.

Penalty: Five hundred dollars.

37. No liability shall attach to the Commissioner, the licensing officer, or any other person for any act or omission by him in good faith and in the exercise or purported exercise of his powers or functions, or in the discharge or purported discharge of his duties, under this Act.

Immunity.

38. Subject to the direction of the Commissioner, any proceedings for an offence against this Act may be instituted and conducted by the licensing officer or any member of the police force on his behalf.

Proceedings.

39. The provisions of the Justices Act, 1902, shall have effect in relation to proceedings under this Act in so far as they are applicable, save that a

Justices Act to apply.

complaint for an offence under this Act may be made at any time within two years from the time when the matter of complaint arose.

Regulations.

40. (1) The Governor may make regulations for or with respect to any matter or thing which is required to give effect to the provisions of this Act.

(2) Without limiting the general powers conferred by subsection (1) of this section, any regulations made under this Act may—

- (a) be of general or limited application;
- (b) impose penalties not exceeding a fine of two hundred dollars in respect of a contravention of any of the regulations;
- (c) prescribe that fees shall be payable in relation to any application, licence, or other matter under this Act;
- (d) prescribe the forms to be used and the records to be kept for the purposes of this Act, and the manner of, and time for, their completion including a requirement that information supplied be verified by statutory declaration; and
- (e) make such transitional, incidental or supplementary provisions as the Governor considers necessary or expedient for the purposes of this Act.

(3) No regulation shall be deemed to be invalid by reason only that it delegates to, or confers on, any person or body a discretionary authority.

PART III—SECURITY AGENTS AND GUARDS.

41. (1) Subject to subsection (3) of this section, a person (whether or not he carries on any other business or is engaged in the capacity of a security agent only part time or from time to time) who, whether as principal or agent, undertakes to supply

guards (including the supplying of himself as a guard) for protecting or watching any property on behalf of any other person for or in the expectation of any remuneration, reward, payment, forbearance or other valuable consideration (whether monetary or otherwise) is deemed for the purposes of this Act to be carrying on the business of a security agent.

(2) A person who, being in the direct employ of or acting for or by arrangement with a security agent, for salary, wages, commission or other remuneration of any kind performs or carries on for that security agent the functions of patrolling, watching, protecting or guarding any property is deemed for the purposes of this Act to be performing the function of a guard.

(3) Nothing in this Act requires any person employed to inspect, patrol, watch, guard or protect the property of one employer only (that employer not being a security agent) to hold a licence under or to observe the provisions of this Act.

(4) Subject to subsection (3) of this section, a person who—

(a) not being the holder of a licence as a security agent under this Act, carries on, or advertises or in any way holds out himself as being willing to undertake, the business of a security agent; or

(b) not being the holder of a licence as a guard under this Act, acts as, or performs any of the functions of, or advertises or in any way holds out himself as willing to be, a guard,

commits an offence.

Penalty: One thousand dollars or imprisonment for six months, or both.