

WESTERN AUSTRALIA

**SECURITY AND RELATED
ACTIVITIES (CONTROL) ACT 1996**

(No. 27 of 1996)

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**SECURITY AND RELATED
ACTIVITIES (CONTROL) ACT 1996**

No. 27 of 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 unauthorized persons from acting as armed bodyguards, and for related purposes.

[Assented to 22 July 1996.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

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

Commencement

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

Interpretation

3. 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.

Meaning of employment

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

Police officers etc. not required to be licensed etc.

5. (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.

Regulations may provide for exemptions

6. (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

Licensing officers

7. (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.

Secrecy

8. (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.

Protection from liability

9. 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.

Commissioner to keep register of licences

10. (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).

PART 3 — LICENSING OF SECURITY ACTIVITIES

Division 1 — Definitions

Definition of “security agent”

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

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

Definition of “security officer”

12. (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.

Definition of “security consultant”

13. 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.

Definition of “security installer”

14. (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

Security agents to be licensed

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

Penalty: see section 88.

Security officers to be licensed

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

Penalty: see section 88.

Security consultants to be licensed

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

Penalty: see section 88.

Security installers to be licensed

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

Penalty: see section 88.

Security officers to be employed by security agent

19. (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.

Unlicensed person not to be employed as security officer etc.

20. 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.

Advertising

21. (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***

Definitions

22. In this Division —

“**possession**” means actual possession.

Security officers, possession of firearms

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

- (a) his or her licence is endorsed under section 24 to authorize 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.

Permits for particular occasions

25. (1) A licensing officer may on application issue a permit to a security officer authorizing 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.

Security officers, possession of batons

26. (1) Except as provided in this section, a security officer's licence does not authorize the holder to be in possession of a baton while engaged in activities authorized 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 authorized by the licence if —

- (a) his or her licence is endorsed under subsection (3) to permit such possession; and

PART 4 — LICENSING OF INQUIRY ACTIVITIES

Division 1 — Definitions

Definition of “inquiry agent”

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

Definition of “investigator”

28. (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 practitioner holding a current practice certificate under the *Legal Practitioners Act 1893*, 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 authorized 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.

Division 2 – Licensing and related requirements

Inquiry agents to be licensed

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

Penalty: see section 88.

Investigators to be licensed

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

Penalty: see section 88.

Investigators to be employed by inquiry agent

31. (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.

Unlicensed person not to be employed as an investigator

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

Penalty: see section 88.

Advertising

33. (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

Definition of “crowd control agent”

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

Definition of “crowd controller”

35. (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 Licensing Act 1988*.

Division 2 — Licensing and related requirements

Crowd control agents to be licensed

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

Penalty: see section 88.

Crowd controllers to be licensed

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

Penalty: see section 88.

Crowd controllers to be employed by crowd control agent

38. (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.

Unlicensed person not to be employed as a crowd controller

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

Penalty: see section 88.

Advertising

40. (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

Authorization of armed bodyguards

41. (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 authorized 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.

Revocation etc. of authorization

42. (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.

PART 7 — LICENSING PROCEDURES

Division 1 — Who may hold licence

Natural persons only to be licensed

- 43.** (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.

Residence requirements for licences on behalf of partnership etc.

44. (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.

Automatic termination of licence held on behalf of partnership etc.

45. (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

Application for licence

- 46.** (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.

Material to support application for licence

- 47.** (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 authorized 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.

Taking of fingerprints and palm prints

48. (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 an appeal lies under section 72, the destruction of fingerprints and palm prints under subsection (3) is not required until —

- (a) the time for bringing an appeal has expired; and
- (b) if an appeal is brought, it has been determined in a way that does not result in the grant or continuation of the relevant licence, permit or endorsement.

How and when to apply for renewal

49. (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.

Material to support application for renewal

50. 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.

False or misleading information

51. (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

Issue of licences

52. 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.

Exemption from section 52 (g)

53. (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 authorized 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.

Transitional provision as to completion of training courses

54. (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.

Refusal of renewal

55. A licensing officer is not to renew a licence if in his or her opinion there are sufficient grounds for the exercise of the power to revoke the licence under section 67.

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

56. 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 shareholding, within the meaning in Part 6.7 of the Corporations Law, in the body corporate as if the prescribed percentage for the purposes of that Part were 25%.

Notice of refusal to issue or renew licence

57. (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.

Form of licences

58. (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.

Licence to specify employers

59. (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.

Duration of licences

60. 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.

Identity cards

61. (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.

Conditions and restrictions

62. (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.

Regulations may prescribe conditions and restrictions

63. (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 authorized 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 authorized by the licence.

Breach of condition or restriction

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

Penalty: see section 88.

Licences not transferable

65. A licence is not transferable.

Issue of duplicate licence or identity card

66. 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 — Revocation of licences

Power of licensing officer to revoke

67. (1) Subject to this section, a licensing officer may revoke a licence if he or she considers —

- (a) that 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, that 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); or
- (c) that 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) Subject to subsection (3), a revocation of a 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) 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 stating the grounds on which the revocation is made, and the licence is revoked when the notice is received or deemed to be received by the licensee.

(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.

Cancellation of endorsement

68. (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) Section 67 (2), (3) and (4) apply to the cancellation of an endorsement under subsection (1) in the same way as they apply to the revocation of a licence.

(3) A licence that is delivered up under section 67 (4) as applied by subsection (2), is to be amended to delete the endorsement and returned to the licensee.

Courts may revoke licence

69. (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.

Returns by courts

70. Where a court has made an order under section 69 (1) the clerk or 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.

Division 5 — Appeal against licensing decisions

Definition

71. In this Division, “**Court**” means a court of petty sessions constituted by a magistrate.

Appeal

72. (1) A person who is aggrieved by a licensing officer’s 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,

may appeal to a Court within 21 days after receiving notice of the decision.

(2) The licensing officer is entitled to be a party to the appeal and to be represented at the hearing of the appeal by a member of the police force or an officer of the Department.

(3) A Court may determine an appeal on the material that was before the licensing officer or on such additional or fresh evidence, either oral or by affidavit, as the Court may allow.

- (4) On an appeal the Court may —
- (a) confirm, vary, or reverse the decision of the licensing officer;
 - (b) remit the matter to the, or another, licensing officer, with or without directions; and
 - (c) make any further order, including an order as to costs or that a licence or identity card be delivered up to the Court or be delivered up for amendment by the Court.
- (5) If an appeal is instituted under this section in relation to a decision of a licensing officer, the decision is to continue to have effect pending the appeal unless the Court otherwise orders.

Practice and procedure on appeal

- 73.** The Governor may make regulations —
- (a) for the purpose of regulating the practice and procedure of the Court;
 - (b) for fees to be taken by the Court; and
 - (c) as to costs,

in relation to appeals under section 72.

Clerks of Courts to give copies of orders to Commissioner

- 74.** On the determination of an appeal under this Division the clerk of the Court is to send to the Commissioner a copy of any relevant order and where a licence has been revoked any licence and identity card that has been delivered up to the Court.

PART 8 — FURTHER OBLIGATIONS OF LICENSEES

Production of licence

75. 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.

Return of licence

76. 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.

Change of address of licensee

77. (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.

Records to be kept

78. (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.

Disposal of licence to another

79. 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**

Licensee may be directed to provide blood or urine for analysis

80. (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.

Licence may be revoked

81. (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.

(2) Section 67 (2), (3) and (4) apply to the revocation of a licence under subsection (1) as if the revocation were made under that section.

Cost of test may be recovered

82. 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.

Regulations relating to drug tests

83. 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 authorization 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

Records to be kept by person who engages crowd controller

84. A person for whom a licensed crowd controller is performing any services authorized 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.

Inspection of records

85. (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.

Police may retain records for certain purposes

86. (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.

Obstruction of police

87. 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.

Penalty for contravention of certain sections

88. 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.

Liability of partners and bodies corporate

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

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

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

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

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

(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.

Liability of officers

90. 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.

Liability of employer of crowd controller for damages

91. (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.

Evidentiary provisions

92. (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;
- (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.

Onus of proof

93. 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.

Regulations

94. (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 ground on which a licence may be revoked under section 67.

(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.

Repeals, savings and transitional

95. (1) The *Inquiry Agents Licensing Act 1954* and the *Security Agents Act 1976* are repealed.

(2) Schedule 1 has effect to make transitional provisions.

Consequential amendments

96. The Acts referred to in the first column of Schedule 2 are amended in the manner set out in the second column of that Schedule.

SCHEDULE 1

[Section 95 (2)]

SAVINGS AND TRANSITIONAL

Interpretation

1. (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).

Existing licences to be treated as licences under this Act

2. (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.

Transitional provision for crowd control activities

3. (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.

Existing register etc.

4. (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.

Existing applications etc.

5. 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.

Further transitional provision may be made

6. (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.

(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

[Section 96]

CONSEQUENTIAL AMENDMENTS

Short title	Amendment
<i>Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981</i>	<p>(1) In section 14, in the definition of “security officer” the passage “licence as a guard under the <i>Security Agents Act 1976</i>” is deleted and the following is substituted —</p> <p>“ security officer’s licence under the <i>Security and Related Activities (Control) Act 1996</i> ”.</p> <p>(2) Section 26 is repealed and the following section is substituted —</p> <p>“ <i>Security and Related Activities (Control) Act 1996 to apply</i></p> <p>26. The provisions of the <i>Security and Related Activities (Control) Act 1996</i> that are applicable to a security officer licensed under that Act shall apply to and in relation to a security officer. ”.</p>
<i>Firearms Act 1973</i>	<p>(1) In section 16 (c) after “ammunition therefor, and” the following is inserted —</p> <p>“ , subject to section 16A, ”.</p> <p>(2) After section 16, the following section is inserted —</p> <p>“ Possession of firearms by security officers</p> <p>16A. A Corporate Licence referred to in section 16 (c) authorizes an organization for which a security agent’s licence is held under the <i>Security and Related Activities (Control) Act 1996</i></p>

to permit an employee to possess a firearm or ammunition to the extent only that the employee is authorized to do so by a security officer's licence endorsed under section 24 of that Act; ”.

Spent Convictions
Act 1988

In Schedule 3, in clause 1, in item 8 of the Table, “or security guard under the *Security Agents Act 1976*” is deleted and the following is substituted —

“ , security officer, security consultant or security installer under the *Security and Related Activities (Control) Act 1996* ”.

Travel Agents
Act 1985

In the Schedule —

- (a) item 8 is deleted; and
- (b) item 15 is deleted and the following item is substituted —

“ 15. *Security and Related Activities (Control) Act 1996* or an Act repealed by that Act. ”.