

Security and Related Activities (Control) Amendment Bill 2007

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Western Australia

LEGISLATIVE ASSEMBLY

**Security and Related Activities (Control)
Amendment Bill 2007**

A Bill for

An Act to —

- **amend the *Security and Related Activities (Control) Act 1996*; and**
 - **make related amendments to the *Firearms Act 1973* and the *Spent Convictions Act 1988*,**
- and for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Security and Related Activities (Control) Amendment Act 2007*.

5 **2. Commencement**

This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- 10 (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. The Act amended

Except in Part 3, the amendments in this Act are to the *Security and Related Activities (Control) Act 1996*.

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

4. Long title amended

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

“ **the protection of persons and property;** ”.

5. Section 3 amended

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

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

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

“
“**class**”, in relation to a security consultant’s licence or
a security installer’s licence, means a class
20 prescribed in relation to that licence;
“**compliance officer**” means a compliance officer
appointed under section 7(1)(a);
“**court**” includes a court (however described) of a
foreign jurisdiction;
25 “**crowd control agent**” has the meaning given by
section 34;
“**crowd controller**” has the meaning given by
section 35;
30 “**disqualifying offence**” means an offence of a kind
prescribed as being a disqualifying offence;

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- “**finding of guilt**” has the meaning given in section 4B;
- “**inquiry agent**” has the meaning given by section 27;
- “**investigator**” has the meaning given by section 28;
- 5 “**investigator’s licence**” means a licence issued for the purposes of section 30;
- “**licensing officer**” means a licensing officer appointed under section 7(1)(b);
- 10 “**prohibited person**” has the meaning given in section 4A;
- “**relevant body**” means —
- (a) a police force of the Commonwealth, of this State, of another State or of a Territory; or
 - 15 (b) another body established, or continued, for a public purpose and prescribed for the purpose of this definition;
- “**relevant conduct**”, in relation to a person who is, or was, a member, officer or employee of a relevant body, means actual or suspected conduct in the nature of criminal or corrupt activity by the person while a member, officer or employee of the relevant body;
- 20 “**security bodyguard’s licence**” means a licence issued for the purposes of section 18A;
- 25 “**security consultant’s licence**” means a licence issued for the purposes of section 17;
- “**security installer’s licence**” means a licence issued for the purposes of section 18;
- 30 “**temporary licence**” means a licence referred to in section 42A or 42B.
- ”.
- (3) Section 3 is amended by deleting the full stop after the definition of “supplies” and inserting a semicolon instead.

6. Sections 4A and 4B inserted

After section 4 the following sections are inserted —

“

4A. Meaning of “prohibited person”

- 5 (1) In this Act, a person is a prohibited person —
- (a) if there has been a finding of guilt in relation to a disqualifying offence committed by the person; and
 - (b) during the disqualifying period prescribed in respect of the offence.
- 10 (2) Subsection (1) applies to a person in respect of a finding of guilt made on, or after, 1 January 1996.
- (3) A disqualifying period may be prescribed to apply in respect of —
- 15 (a) all disqualifying offences; or
 - (b) a particular kind of disqualifying offence, or particular kinds of disqualifying offences; or
 - (c) disqualifying offences of a particular class or description, including offences described by reference to the type of finding of guilt that applies in relation to the offences.
- 20

4B. Meaning of “finding of guilt”

- 25 (1) In this Act, a reference to a finding of guilt in relation to an offence committed by a person is a reference to any of the following —
- (a) a court making a formal finding of guilt in relation to the offence;
 - (b) a court convicting the person of the offence, if there has been no formal finding of guilt before conviction;
- 30

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- 5
- (c) a court accepting a plea of guilty from the person in relation to the offence;
- (d) a finding under *The Criminal Code* section 27 that the person is not guilty of the offence on account of unsoundness of mind or a finding under equivalent provisions of the laws of another jurisdiction.
- 10
- (2) For the purposes of this Act —
- (a) a reference to a finding of guilt does not include a finding of guilt that is subsequently quashed or set aside by a court; and
- (b) a reference to a conviction includes a reference to a spent conviction.
- 15
- (3) For the purposes of subsection (2)(b), the conviction of a prohibited person becomes spent if, under a law in any jurisdiction, the prohibited person is permitted not to disclose the fact that a finding of guilt has been made in relation to the offence.

”.

20 **7. Section 7 amended**

- (1) Section 7(1) is amended by deleting “of licensing officers as are required for the purposes of this Act.” and inserting instead —
- “
- of —
- 25 (a) compliance officers; and
- (b) licensing officers,
- as are required for the purposes of this Act.
- 30
- (2) Section 7(3) is amended by inserting after “done by” —
- “ a compliance officer or ”.

”.

8. Section 7A inserted

After section 7 the following section is inserted —

“

7A. Cards to identify compliance and licensing officers

- 5 (1) The Commissioner is to issue a card to each compliance officer and each licensing officer for the purpose of identifying the officer.
- (2) A card referred to in subsection (1) must —
- 10 (a) include a statement to the effect that the person identified by the card is a compliance officer or a licensing officer, as is relevant, under this Act; and
- (b) include a photograph of the person identified by the card.
- 15 (3) If a person to whom a card is issued under this section ceases to be a compliance officer or a licensing officer, the person must immediately return the card to the Commissioner.
- Penalty: a fine of \$2 000.
- 20 (4) A compliance officer or a licensing officer is to produce the card issued to the officer under this section for inspection if requested to do so by —
- (a) a police officer; or
- 25 (b) a person in respect of whom a power under section 61, 75, 85 or 86 is being exercised by the compliance officer or licensing officer.

”.

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9. Section 8A inserted

After section 8 the following section is inserted —

“

5 **8A. Disclosure of exempted matter under *Freedom of Information Act 1992***

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

”.

15 **10. Section 9A inserted**

After section 9 the following section is inserted —

“

9A. Delegation by the Commissioner

20 (1) The Commissioner may delegate any of the following powers or duties of the Commissioner —

- (a) to approve a form under section 46 or 49; or
- (b) a power or duty under section 10A, 47(1)(b), 58, 63(2)(a) or 80,

as is specified in the delegation, to —

- 25 (c) an officer of the Department; or
- (d) a police officer who is specified, or is of a rank specified, in the delegation.

30 (2) The Commissioner may delegate any power or duty of the Commissioner under section 67, 67A or 81 as is specified in the delegation, to an officer of the Department.

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

”.

11. Section 10 amended

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

15 “ and, where relevant, the class, ”.

12. Section 10A inserted

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

“

20 **10A. Information relevant to section 79A may be given to holder of agent’s licence**

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

25

”.

13. Section 11 amended

Section 11 is amended as follows:

- (a) at the end of paragraph (a) by inserting —
“ or ”;

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(b) at the end of paragraph (c) by deleting the full stop and inserting instead —

“

; or

5

(d) security bodyguards.

”.

14. Section 13 amended

Section 13 is amended as follows:

(a) by inserting after “who” —

10

“ carries out all, or any, of the following activities ”;

(b) by deleting “or” after paragraph (a).

15. Section 14 amended

Section 14(1) is amended as follows:

(a) by inserting after “repairs” —

15

“ all, or any, of the following ”;

(b) by deleting “or” after paragraph (f).

16. Section 14A inserted

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

20

“

14A. Definition of “security bodyguard”

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

”.

25

17. Section 17 amended

(1) Section 17 is amended by inserting before “A” the subsection designation “(1)”.

- (2) The penalty provision at the end of section 17 is deleted and the following is inserted instead —

“

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

Penalty: a fine of \$15 000.

”.

18. Section 18 amended

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

“

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

Penalty: a fine of \$15 000.

”.

19. Section 18A inserted

After section 18 the following section is inserted —

18A. Security bodyguards to be licensed

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

Penalty: a fine of \$15 000.

”.

s. 20

20. Section 19 amended

(1) Section 19(1) is amended as follows:

(a) at the end of paragraph (a) by inserting —

“ or ”;

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

“

; or

10 (d) security bodyguard,

”;

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

(2) Section 19(2) is amended by deleting “holds the relevant licence referred to in section 16, 17 or 18.” and inserting instead —

15 “

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

”.

21. Section 20 replaced

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

“

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

25 (1) A person must not employ as a —

(a) security officer a person who does not hold a security officer’s licence; or

(b) security consultant a person who does not hold a security consultant’s licence; or

30 (c) security installer a person who does not hold a security installer’s licence; or

(d) security bodyguard a person who does not hold a security bodyguard's licence.

(2) A person must not employ a person to carry out any activity as a security officer, security consultant, security installer or security bodyguard unless the person holds a licence authorising the person to carry out the activities the person is employed to carry out.

Penalty: a fine of \$15 000.

”.

10 **22. Section 21 amended**

Section 21(1) is amended as follows:

(a) at the end of paragraph (a) by inserting —
“ or ”;

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

“

; or

(d) security bodyguards,

”.

20 **23. Section 23 amended**

Section 23 is amended as follows:

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

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

“

(b) he or she complies with —

(i) the terms of the endorsement and any permit held by the officer under section 25; and

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- (ii) any condition or restriction to which the endorsement or permit is subject.

”.

24. Section 24 amended

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

“

10 prescribed medical examinations in prescribed circumstances or at prescribed times.

”.

25. Section 25 amended

(1) Section 25(1) is amended by inserting after “protecting” —
“ money or ”.

15 (2) After section 25(1) the following subsection is inserted —

“

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

20

”.

26. Section 31 amended

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

27. Section 38 amended

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

28. Section 41 amended

(1) Section 41(1) is amended by inserting after “armed” —
“ security ”.

(2) Section 41(2) is amended as follows:

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

10 **29. Part 6A inserted**

After section 42 the following Part is inserted —

“

**Part 6A — Temporary licences for
interstate visitors**

15 **42A. Temporary licence — security activities**

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

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- (3) The holder of a temporary licence under this section does not commit an offence under this Act while acting under and in accordance with that licence.

42B. Temporary licence — agent services

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

”.

20 **30. Section 46 amended**

Section 46(1) is amended as follows:

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

31. Section 47 amended

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

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

“

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

”.

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

“

10 (c) testimonials as to the applicant’s character from 2 persons who have known the applicant for the whole of the 5 year period before the application was made;

”.

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

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

“

20 course of training prescribed in respect of the licence;

”;

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

“

25 test or examination prescribed in respect of the licence;

”.

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

“

30 (2a) An application for the issue of a temporary licence is to be accompanied by —

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

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- 5 (b) evidence that the person is licensed or registered or otherwise authorised in his or her State or Territory of residence to carry out the activity or activities for which the licence is sought; and
- (c) other evidence of a nature or in a form that is prescribed.
- 10 (2b) If requested by a licensing officer to do so, the applicant must do everything that is, in the opinion of the licensing officer, within the applicant's power to procure or facilitate the release to the licensing officer of all information held by a relevant body concerning relevant conduct by —
- 15 (a) the applicant; or
- (b) a natural person who is relevant to the application under section 56.
- 20 (2c) Subsection (2b) applies in respect of an applicant even if the application for the licence was made before the commencement of the *Security and Related Activities (Control) Amendment Act 2007* section 31, unless the application has been refused, or the licence issued, before that time.
- ”.
- 25 (6) Section 47(3) is amended as follows:
- (a) by inserting after “information” —
- “ and evidence ”;
- (b) by deleting the full stop at the end of the subsection and inserting instead —
- “
- 30 , including all or any of the following —
- (a) further information and evidence that the licensing officer reasonably needs to establish the applicant's identity;

- 5
- 10
- 15
- 20
- 25
- (b) if the applicant is a relevant applicant, information as to all or any of the following —
 - (i) the country, or countries, in which the applicant has spent time during the period of 5 years commencing immediately before the making of the application;
 - (ii) the length of time the applicant spent in that country, or those countries;
 - (iii) the reason why the applicant spent time in that country, or those countries;
 - (iv) the persons that the applicant associated with in that country, or those countries;
 - (v) the background, and the reputation, honesty and integrity of, any such persons;
 - (c) if the applicant is a relevant applicant, a record of the criminal convictions, if any, of the applicant for offences under the law of any country, or countries, in which the applicant spent time during the period of 5 years commencing immediately before the making of the application, provided by a competent authority of the government of that country.

”.

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

“

- 30
- (4) In subsection (3) —
 - “**relevant applicant**” means an applicant who —
 - (a) has spent more than 12 consecutive months outside Australia during the period of 5 years commencing immediately before the making of the application; or

s. 32

(b) has not been a resident of Australia for the whole of the period of 5 years commencing immediately before the making of the application.

5

”.

32. Section 48 amended

(1) Section 48(1) is amended as follows:

(a) by deleting “A licensing” and inserting instead —
“ Subject to subsection (1a), a licensing ”;

10

(b) by deleting paragraphs (a) to (d) and “and” after paragraph (c) and inserting the following paragraphs instead —

“

(a) a person who has applied for a licence; or

15

(b) a person who has applied for —

(i) the renewal of a licence; or

(ii) a permit under section 25; or

(iii) an endorsement under section 24 or 26,

20

if the person has not previously had his or her fingerprints and palm prints taken under this section, or if such prints previously taken under this section have been destroyed at the person’s election.

”.

25

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

“

(1a) A requirement under subsection (1) may be made orally if the person is present at the place where the fingerprints and palm prints are to be taken.

30

”.

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

“ a requirement under subsection (1) ”.

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

5

“

(2a) An application —

(a) for the issue of a licence, permit or endorsement; or

(b) for the renewal of a licence,

10

is to set out an election to be made by the applicant as to whether any fingerprints and palm prints taken from the applicant under this section, and any copy of them —

15

(c) can be kept by the Commissioner indefinitely; or

(d) are to be dealt with in accordance with subsections (3) and (4).

20

(2b) The fingerprints and palm prints of an applicant who makes an election referred to in subsection (2a)(c) are to be kept by the Commissioner in accordance with that election and, unless the applicant subsequently changes the election, subsections (3) and (4) do not apply in respect of those prints or copies.

25

(2c) Before making an election referred to in subsection (2a) the applicant is to be informed as to the following matters —

30

(a) that the prints taken may be compared with or put in a forensic database, within the meaning of the *Criminal Investigation (Identifying People) Act 2002*;

(b) that the prints taken may provide evidence that could be used in court against the applicant;

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- (c) that the applicant may subsequently change an election made under subsection (2a) by notifying the Commissioner;
- 5 (d) that the applicant may get legal advice before deciding whether or not to have the prints taken and making an election under subsection (2a);
- (e) such other matters as may be prescribed.

(2d) The information in subsection (2c) may be provided in writing.

10 ”.

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

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

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

15 “

(5) If a person subsequently changes an election made under subsection (2a) and elects that prints taken are to be dealt with in accordance with subsections (3) and (4), and the time for destroying the prints under those provisions has already passed, the Commissioner is to cause the prints and any copy of them to be destroyed as soon as is practicable after the election is changed.

20

”.

33. Section 49 amended

25 Section 49(1) is amended as follows:

(a) after paragraph (a) by inserting —

“ and ”;

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

30 “ fee prescribed in respect of the licence. ”.

34. Section 50 amended

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

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

“

(2) If requested by a licensing officer to do so, an applicant for renewal of a licence must do everything that is, in the opinion of the licensing officer, within the applicant’s power to procure or facilitate the release to the licensing officer of all information held by a relevant body concerning relevant conduct by —

- (a) the applicant; or
- (b) a natural person who is relevant to the application under section 56.

(3) Subsection (2) applies to an application lodged before, on or after the day on which the *Security and Related Activities (Control) Amendment Act 2007* section 34, comes into operation unless the application has been refused, or the licence renewed, before that time.

”.

35. Section 52 amended

(1) Section 52 is amended as follows:

(a) by inserting before “A licensing” the subsection designation “(1)”;

(b) by inserting after “issue a licence” —
“ , other than a temporary licence, ”;

(c) by inserting after paragraph (c) the following —

“

(ca) that the applicant is not a prohibited person;
and

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- (cb) where there is a charge pending in relation to the applicant for a disqualifying offence, that extenuating circumstances exist; and
”;
- 5 (d) in paragraph (g)(i) by deleting “prescribed course of training;” and inserting instead —
“
course of training prescribed in respect
of the licence;
10 ”;
- (e) in paragraph(g)(ii) by deleting “prescribed test or examination;” and inserting instead —
“
test or examination prescribed in respect
of the licence;
15 ”;
- (f) after each of paragraphs (a) to (c) and (d) to (i) by inserting —
“ and ”.
- 20 (2) At the end of section 52 the following subsections are inserted —
“
- (2) A licensing officer is not to issue a temporary licence unless the officer is satisfied —
- 25 (a) that there is sufficient evidence of the applicant’s identity; and
(b) that the applicant is not a prohibited person;
and
(c) where there is a charge pending in relation to
30 the applicant for a disqualifying offence, that extenuating circumstances exist; and

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

”.

36. Section 52A inserted

After section 52 the following section is inserted —

- 15 “
- 52A. Matters to be taken into account in deciding whether to issue licence**
- (1) In deciding whether, under section 52(1)(c), an applicant is of good character and is a fit and proper person to hold a licence, the licensing officer must take into consideration —
- 20 (a) the reputation, honesty and integrity of —
- (i) the applicant; and
- (ii) where the licence is to be held on behalf of a partnership or body corporate, the partners of the partnership and the officers of the body corporate;
- 25 and
- (b) the reputation, honesty and integrity of people with whom —
- 30 (i) the applicant associates; and

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- (ii) where the licence is to be held on behalf of a partnership or body corporate, the partners of the partnership and the officers of the body corporate associate.

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

”.

37. Section 53 amended

- 10 (1) Section 53(2) is amended by deleting “prescribed course of training” and inserting instead —

“ course of training prescribed in respect of the licence ”.

- (2) Section 53(1), (2) and (3) are amended by deleting “52(g)(i)” in each place where it occurs and inserting instead —

15 “ 52(1)(g)(i) ”.

38. Section 54 repealed

Section 54 is repealed.

39. Section 55 replaced

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

“

55. Refusal of renewal

- (1) Subject to subsection (2), a licensing officer is not to renew an applicant’s licence —

- 25 (a) if in the officer’s opinion there are sufficient grounds —

- (i) to make an allegation to the State Administrative Tribunal under section 67(1) in respect of the applicant;
 - or
- 30

- (ii) for the exercise of the power to revoke the licence under section 67A(1)(a) or 81(1); or
 - (iii) for the exercise of the power to suspend the licence under section 67A(2);
 - or
 - (b) if the officer is satisfied that the applicant is a prohibited person.
- (2) Despite subsection (1)(a)(i), a licensing officer may renew an applicant's licence if —
- (a) the allegation that may be made under section 67(1) is that there is proper cause for disciplinary action as mentioned in section 67(1a)(c), (d) or (e); and
 - (b) the licensing officer is of the opinion that it is appropriate to do so in the circumstances of the particular case.

”.

40. Section 56 amended

- (1) Section 56 is amended by deleting “52” and inserting instead —
- “ 52(1) ”.
- (2) Section 56(d) is deleted and the following paragraph is inserted instead —
- “
- (d) a person who would have a substantial holding in the body corporate under the definition of “substantial holding” in the *Commonwealth Corporations Act 2001* section 9 if the reference in that definition to 5% were a reference to 25%.

”.

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

“ and ”.

41. Section 59 repealed

5 Section 59 is repealed.

42. Section 60 amended

Section 60 is amended as follows:

(a) by deleting “section 67,” and inserting instead —

“ this Act, ”;

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

“

15 , a licence shall be issued or renewed —

(a) for a period of 3 years, or such shorter period as is requested; or

(b) for the duration of a special event or events, as is specified in the licence.

20

”.

43. Section 61 amended

Section 61(2) is amended as follows:

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

“ compliance officer or a ”;

25 (b) in the penalty provision by inserting before “\$200” —

“ a fine of ”.

44. Heading to Part 7 Division 4 amended

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

45. Section 66A inserted

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

“

66A. Interpretation

In this Division —

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

”.

46. Section 67 amended

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

“

against a person who —

(a) holds a licence; or

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

”.

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

(a) in paragraph (a) —

25 (i) by deleting “no longer meets” and inserting instead —

“ does not meet ”;

(ii) by deleting “52(c),” and inserting instead —

“ 52(1)(c), ”;

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- (b) in paragraph (b) —
- (i) by deleting “no longer” and inserting instead —
“ does not ”;
- (ii) by deleting “52(c),” and inserting instead —
“ 52(1)(c), ”;
- (c) at the end of paragraph (e) by deleting the full stop and inserting instead —
“
; or
”;
- (f) it would be contrary to the public interest if the licensee were to continue to be licensed.
- (d) at the end of paragraphs (a), (b) and (c) by inserting —
“ or ”.
- (3) Section 67(2) is amended by deleting “Tribunal may revoke the licence of the licensee or cancel an endorsement on the licence under section 24 or 26.” and inserting instead —
“
Tribunal —
(a) may —
(i) revoke the licence of the licensee; or
(ii) cancel an endorsement on the licence under section 24 or 26; or
(iii) suspend the operation of the licence for a particular period;
and
(b) if an order is made under paragraph (a), or the licensee is a person referred to in subsection (1)(b), order that the licensee be disqualified from holding —
(i) a licence, or a licence of a particular type or class; or

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

for a particular period not exceeding 3 years.

5

”.

- (4) Section 67(3), (3a), (3b) and (4) are repealed.

47. Sections 67A and 67B inserted

After section 67 the following sections are inserted —

“

10

67A. Summary power to revoke and suspend licences

- (1) If the Commissioner —

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

15

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

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

20

- (c) stating the grounds on which the revocation is, or revocations are, made; and

- (d) in the case of the grounds set out in paragraph (a), advising that the Commissioner will refer the matter to the State Administrative Tribunal within 14 days of the making of the notice,

25

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

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(2) If the Commissioner is satisfied that —

- 5
- (a) a security officer whose licence is endorsed under section 24 has, without reasonable excuse, refused or failed to undergo a prescribed medical examination or in any way obstructed the examination; or
 - (b) a licensee has, without reasonable excuse, refused or failed to comply with a request made under section 68A(2); or
 - 10 (c) there is a charge pending in relation to a licensee for a disqualifying offence and that no extenuating circumstances exist,

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

- (d) stating that the licence is, or licences are, suspended under this subsection and —
 - 20 (i) if the suspension is, or suspensions are, under paragraph (a), giving details of the prescribed medical examination; or
 - (ii) if the suspension is, or suspensions are, under paragraph (b), giving details of the request made under section 68A(2); or
 - 25 (iii) if the suspension is, or suspensions are, under paragraph (c), referring to the charge on which the decision was based;

and

- (e) stating —
 - 30 (i) the period of time for which the licence, or licences, are suspended; or
 - (ii) that the suspension is, or suspensions are, until the occurrence of a specified event;

and

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

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

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

10

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

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

15

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

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

20

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

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

25

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

30

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67B. Return of revoked licence and identity card

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

Penalty: a fine of \$2 000.

”.

48. Section 68A inserted

After section 68 the following section is inserted —

“

68A. Consent to release information

(1) In this section —

“**relevant person**”, in relation to a licensee, means —

- (a) the licensee; or
- (b) if the licensee holds the licence on behalf of a partnership, a partner in the partnership; or
- (c) if the licensee holds the licence on behalf of a body corporate —
 - (i) an officer of the body corporate; or
 - (ii) a person who would have a substantial holding in the body corporate under the definition of “substantial holding” in the *Commonwealth Corporations Act 2001* section 9 if the reference in that definition to 5% were a reference to 25%.

(2) If requested by a licensing officer to do so, a licensee must do everything that is, in the opinion of the licensing officer, within the licensee’s power to procure or facilitate release to the licensing officer of

all information held by a relevant body concerning relevant conduct by a relevant person.

- 5 (3) A licensee must comply with a request made under subsection (2) within the period of time specified in writing by the licensing officer, being a period of time not less than 7 days.

”.

49. Section 69 amended

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

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

“

15 Where a finding of guilt has been made by a court in respect of an offence against this Act, or any other Act, committed by a licensee the court may, in addition to any penalty imposed or order made in respect of the matter —

20

”;

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

“

or

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

”.

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

“

- 30 (1a) Subsection (1) does not apply in relation to a disqualifying offence.

”.

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

“

(3) When making an order under subsection (1)(a) the court may, if it thinks fit, order that the licensee be disqualified from holding —

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

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

for a particular period not exceeding 3 years.

”.

50. Section 72 amended

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

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

“ , a permit under section 25 ”;

(b) by inserting after paragraph (c) —

“

(ca) to refuse to issue a permit under section 25;
or

(cb) as to the period for which a permit under section 25 is issued; or

”;

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

“ or suspend ”;

(d) after each of paragraphs (a) to (c) by inserting —

“ or ”.

51. Section 73 repealed

Section 73 is repealed.

52. Section 75 amended

Section 75 is amended by inserting after “force,” —

“ , a compliance officer or a licensing officer, ”.

53. Section 76 amended

5 Section 76(b) is amended as follows:

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

“

; or

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

”;

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

15

“

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

”.

20 **54. Section 77 amended**

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

“

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

”.

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

“

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

”.

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55. Section 77A inserted

After section 77 the following section is inserted —

“

77A. Licensee to give notice about offences

- 5 (1) A licensee must give to a licensing officer written
notice within 7 days after —
- (a) being charged with a disqualifying offence; or
 - (b) there has been a finding of guilt in relation to
an offence committed by the licensee,
- 10 setting out details of the charge, offence, conviction,
finding or plea.
Penalty: a fine of \$2 000.
- 15 (2) As soon as is possible after receiving notice under this
section, the licensing officer to whom the notice was
given is to consider the notice and any other
information he or she considers relevant and take such
action as he or she considers appropriate, including to
refer the matter to the Commissioner as to either or
both of the following matters —
- 20 (a) whether the licence of the person should be
revoked or suspended under section 67A;
 - (b) whether an allegation should be made under
section 67(1).

”.

25 **56. Section 78 amended**

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

“

30 , in accordance with the regulations, notify a licensing
officer

”.

57. Section 79A inserted

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

“

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

(1) In subsection (1) —

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

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

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

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

Penalty: a fine of \$15 000.

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

”.

s. 58

58. Heading to Part 9 amended

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

59. Section 79B inserted

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

“

79B. Interpretation

In this Part —

“**licensee**” means the holder of —

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

15

”.

60. Section 80 amended

- (1) Section 80(1) is amended by deleting “the holder of a crowd controller’s licence” and inserting instead —

“ a licensee ”.

- 20 (2) Section 80(5) is repealed.

61. Section 81 amended

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

“

25

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

”.

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

“

- 5 (2) If a licence is revoked under subsection (1), the Commissioner may also, in the notice of revocation, disqualify the licensee from holding —
- (a) a licence, or a licence of a particular type or class; or
- 10 (b) a licence, or a licence of a particular type or class, that is endorsed under section 24 or 26, for a period not exceeding 3 years.
- (2a) Before taking action under this section, the Commissioner must —
- 15 (a) give the licensee written notice of the intention to take the action, stating the grounds on which the action is intended to be made and allowing the licensee 21 days within which to respond to the notice; and
- 20 (b) give due regard to any response to the notice within that time.
- (2b) The Commissioner is to give to the licensee written notice of the revocation, and if relevant the disqualification, at least 14 days before the revocation is to take effect —
- 25 (a) stating the grounds on which the action is taken; and
- (b) stating when the revocation is to take effect; and
- 30 (c) advising that the matter will be referred to the State Administrative Tribunal within 14 days of the making of the notice.

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(2c) Within 14 days of a notice of the revocation of a licence being given under this section the Commissioner must refer the matter in respect of which the notice was given to the State Administrative Tribunal.

5

”.

- (3) Section 81(3) is amended —
- (a) by deleting “a licensing officer” and inserting instead —
“ the Commissioner ”; and
 - (b) by deleting “67(3).” and inserting instead —
“ 67A(1). ”.
- (4) Section 81(4) is repealed.

62. Section 82 amended

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

15 “ a licensee ”.

63. Heading inserted

Before section 84 in Part 10 the following is inserted —

“ **Division 1 — Records** ”.

64. Section 84 amended

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

20 “ Penalty: a fine of \$15 000. ”.

65. Section 85 amended

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

25 “ a compliance officer, ”.

66. Section 86 amended

Section 86(1) is amended by inserting before “a member of the police force” —

“ a compliance officer, a licensing officer or ”.

5 **67. Section 87 amended**

Section 87 is amended by inserting before “a member of the police force” —

“ a compliance officer, a licensing officer or ”.

68. Part 10 Division 2 inserted

10 Section 88 is repealed and the following is inserted instead —

“

Division 2 — Legal proceedings

88. Designated persons

(1) In sections 88A and 88B —

15 “**designated person**” means a person appointed under subsection (2) to be a designated person for the purposes of the provision in which the term is used.

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

88A. Infringement notices

- 5
- (1) A member of the police force, or a compliance officer,
who has reason to believe that a person —
- (a) has committed a prescribed offence under this
Act; or
- (b) is to be treated as having committed such an
offence by reason of section 89, 90 or 90A,
may, within 6 months after the alleged offence is
believed to have been committed, give an infringement
10 notice to the alleged offender.
- (2) An infringement notice must —
- (a) be in the prescribed form; and
- (b) contain a description of the alleged offence; and
- (c) advise that if the alleged offender does not wish
15 to be prosecuted for the alleged offence, the
amount of money specified in the notice as the
modified penalty for the offence may be paid to
a designated person within 28 days after the
date of the notice; and
- (d) inform the alleged offender how and where the
money may be paid.
- (3) In an infringement notice the amount specified as the
modified penalty for the alleged offence must be the
amount that was the prescribed modified penalty at the
25 time the alleged offence is believed to have been
committed.
- (4) A designated person may, in a particular case, extend
the period of 28 days within which the modified
penalty may be paid and the extension may be allowed
30 whether or not the period of 28 days has elapsed.

- (5) The modified penalty that may be prescribed for an offence is not to exceed 20% of the maximum penalty that could be imposed for that offence by a court.

88B. Withdrawal of infringement notice

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

88C. Benefit of paying modified penalty

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

20

88D. No admission implied by payment

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

25 **88E. Application of penalties collected**

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

”.

s. 69

69. Section 89 amended

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

“

- 5 (2a) A partner or a body corporate may be proceeded against and convicted of an offence against this Act by virtue of subsection (1) whether or not proceedings are taken against the licensee and whether or not the licensee was convicted of the offence.

”.

10 **70. Section 90 amended**

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

“

- 15 (2) An officer of a body corporate may be proceeded against and convicted of an offence against this Act by virtue of section 89 and subsection (1) whether or not proceedings are taken against the body corporate or the licensee and whether or not the body corporate or
- 20 licensee was convicted of the offence.

”.

71. Section 90A inserted

After section 90 the following section is inserted —

“

25 **90A. Liability of agent for licensee**

- (1) Subject to subsection (2), where a licensee commits an offence against this Act, a licensee’s agent is to be treated as having committed an offence and is liable to the penalty prescribed for the offence committed by the
- 30 licensee.

- (2) Subsection (1) does not apply to an agent who proves that —
- (a) the offence was committed without the agent’s consent or connivance; and
 - 5 (b) the agent exercised all such due diligence to prevent the commission of the offence as ought to have been exercised in the circumstances.
- (3) Proceedings under this section may be taken against an agent whether or not proceedings are taken against the licensee and whether or not the licensee was convicted of the offence.
- 10 (4) In this section —
- “agent”, in relation to a licensee, means a person who —
- 15 (a) holds an agent’s licence; and
 - (b) employed the licensee at the time the licensee committed the offence.

”.

72. Section 91 amended

20 Section 91(4) is repealed.

73. Section 92 amended

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

“ legal proceedings before a court or tribunal ”.

25 **74. Section 93 amended**

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

“ 18A, ”.

s. 75

75. Heading inserted

After section 93 the following heading is inserted —

“ **Division 3 — General provisions** ”.

76. Section 93A inserted

5 Before section 94 the following section is inserted —

“

93A. Licensee to provide name of agent

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

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

Penalty: a fine of \$2 000.

”.

77. Section 94 amended

20 (1) Section 94(2) is amended as follows:

(a) by deleting paragraph (a) and “and” after it and inserting
instead —

“

25 (a) the preparation and, with the approval of the
Minister, publication of codes of conduct
setting out minimum standards of conduct to be
observed by all licensees or licensees who hold
licences of a particular type or class; and

”;

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

“

; and

5 (c) different classes of —

(i) security consultant’s licence; or

(ii) security installer’s licence,

10 restricting the services of security consultant or security installer, as is relevant, that a person holding a particular class of licence is authorised to perform.

”.

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

15

“

application for the issue or renewal —

20 (a) of a security officer’s licence includes an application for an endorsement under section 24 or 26; or

(b) of a licence includes the taking of fingerprints or palm prints.

”.

78. Section 95 amended

25 Section 95(2) is repealed.

79. Schedule 1 repealed

Schedule 1 is repealed.

s. 80

80. Certain provisions amended regarding penalties

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

5 “ a fine of ”.

Table

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

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

10 “ a fine of \$15 000. ”.

Table

s. 8(1)	s. 36
s. 15	s. 37
s. 16	s. 38(1)
s. 19(1)	s. 39
s. 21(1)	s. 40(1)
s. 23	s. 41(1)
s. 29	s. 51(1)
s. 30	s. 64
s. 31(1)	s. 78(1)
s. 32	s. 79
s. 33(1)	

Part 3 — Amendments to other Acts

81. *Firearms Act 1973* amended

- (1) The amendment in this section is to the *Firearms Act 1973*.
- (2) Section 16A is amended by inserting after “section 24” —

5 “ , or a permit issued under section 25, ”.

82. *Spent Convictions Act 1988* amended

- (1) The amendments in this section are to the *Spent Convictions Act 1988*.
- (2) Schedule 3 clause 1(1) is amended in the Table by deleting

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8.	A person who holds a licence or permit, or who is applying for the issue or renewal of a licence or permit, under the <i>Security and Related Activities (Control)</i> <i>Act 1996</i> .	Section 22 and Division 4
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