

SECURITY AND INVESTIGATIONS AGENTS AMENDMENT (CROWD CONTROLLERS) BILL 75 OF 2005

TASMANIA

SECURITY AND INVESTIGATIONS AGENTS
AMENDMENT (CROWD CONTROLLERS) BILL

2005

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AGENTS

AMENDMENT (CROWD CONTROLLERS) BILL

2005

(Brought in by the Minister for Justice and Industrial
Relations, the Honourable Judith Louise Jackson)

A BILL FOR

An Act to amend the Security and Investigations Agents Act
2002, to repeal the Crowd Controllers Act 1999 and to
consequentially amend certain Acts and revoke or rescind
certain statutory rules

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 - PRELIMINARY

1. Short title

This Act may be cited as the Security and
Investigations Agents Amendment (Crowd
Controllers) Act 2005.

2. Commencement

This Act commences on 1 January 2006.

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PART 2 - SECURITY AND INVESTIGATIONS

AGENTS ACT 2002 AMENDED

3. Principal Act

In this Part, the Security and Investigations Agents Act 2002* is referred to as the Principal Act.

4. Long title amended

The long title of the Principal Act is amended by omitting "and investigations agents" and

substituting "agents, commercial agents, inquiry agents and crowd control agents and certain employees of such agents and for related purposes".

5. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of "agent licence" and substituting the following definition:

"agent licence" means an agent licence issued under section 10(1);

- (b) by omitting the definitions of "commercial agent" and "commercial

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sub-agent" and substituting the following definitions:

"code of conduct" means a code of conduct issued under section 38A;

"commercial agent" means a person who holds an agent licence authorising the person to operate a commercial agency;

"commercial sub-agent" means a person who holds an employee licence authorising the undertaking of commercial sub-agent activities;

"commercial sub-agent activities" means the doing of any one or more of the following activities for monetary or other consideration:

(a) ascertaining the

whereabouts of, or
repossessing, a good or
chattel that is the subject
of a security interest;

(b) collecting or requesting
the payment of a debt;

(c) executing legal process
for the enforcement of a
judgment or order of a
court;

(d) levying distress;

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(e) any other prescribed
activity;

(c) by inserting the following definitions
after the definition of "creditor":

"crowd control activities" has the
meaning given by section 3A;

"crowd control agent" means a
person who holds an agent
licence authorising the person to
operate a crowd control agency;

"crowd controller" means a person
who holds an employee licence
authorising the undertaking of
crowd control activities;

(d) by omitting the definition of "employee
licence" and substituting the following
definition:

"employee licence" means an
employee licence issued under
section 10(2);

(e) by inserting the following definition after
the definition of "harassment":

"identifying number" means the

unique identifying number issued
to a crowd control agent or crowd
controller under section 35A;

(f) by omitting the definitions of "inquiry
agent" and "licence" and substituting the
following definitions:

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"infringement offence" means an
offence against this Act or the
regulations that is prescribed by
the regulations to be an
infringement offence;

"inquiry agent" means a person who
holds an agent licence authorising
the person to undertake inquiry
agent activities;

"inquiry agent activities" means the

doing of any one or more of the following activities for monetary or other consideration and on behalf of another person:

(a) obtaining or providing information with respect to -

(i) the personal character or actions of any person; or

(ii) the business or occupation of any person;

(b) obtaining evidence for the purpose of legal proceedings;

(c) searching for missing persons;

(d) any other prescribed

activity;

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"licence" means an agent licence or an
employee licence;

"licensed premises" has the same
meaning as in the Liquor
Licensing Act 1990;

"licensee" has the same meaning as in
the Liquor Licensing Act 1990;

(g) by inserting the following definitions
after the definition of "officer":

"operate a commercial agency" has
the meaning given by
section 3C(1);

"operate a crowd control agency"

has the meaning given by
section 3C(2);

"operate a security agency " has the
meaning given by section 3C(3);

(h) by inserting the following definition after
the definition of "place of business":

"police officer" includes a trainee
police officer, and junior
constable, within the meaning of
the Police Service Act 2003;

(i) by omitting paragraph (c) from the
definition of "prescribed offence" and
substituting the following paragraph:

(c) an offence under the Poisons Act
1971 or Misuse of Drugs Act
2001, or a similar offence under
the law of another State or a

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Territory of the Commonwealth;

or

- (j) by omitting the definitions of "register",
"security agent" and "security guard" and
substituting the following definitions:

"register of licences" means the
register of licences kept under
section 20;

"security agent" means a person who
holds an agent licence authorising
the person to operate a security
agency ;

"security guard" means a person who
holds an employee licence
authorising the undertaking of
security guard activities;

"security guard activities" has the
meaning given by section 3B;

6. Sections 3A, 3B and 3C inserted

After section 3 of the Principal Act, the following sections are inserted in Part 1:

3A. Meaning of "crowd control activities"

- (1) A person undertakes crowd control activities if, for monetary or other consideration, he or she does any of the following activities in, or in respect of, licensed premises, or premises or a place in which entertainment or sport is offered or occurs, a business or social function is

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being held or a protest or riot is taking or may take place, whether the premises or place is open to the public or is private:

(a) screening entry into those premises or that place;

(b) monitoring or controlling

behaviour of persons, or
otherwise maintaining order, in
those premises or that place;

(c) removing persons from those
premises or that place.

(2) Despite subsection (1), a person who
does an activity specified in that
subsection is not undertaking crowd
control activities if -

(a) that person is a police officer who
does that activity as part of his or
her duty as a police officer; or

(b) that person does nothing more
than check that persons seeking
admission to any premises or
place have paid the required
admission fee or have invitations
or passes allowing entry to those
premises or that place.

3B. Meaning of "security guard activities"

(1) A person undertakes security guard activities if, for monetary or other consideration, he or she does any of the following activities:

(a) guards property;

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(b) keeps property under surveillance.

(2) For the purposes of subsection (1), a person employed in a shop for the purposes of preventing or minimising shoplifting is guarding property and keeping property under surveillance.

3C. Meaning of "operate a commercial agency",
"operate a crowd control agency" and
"operate a security agency "

(1) A person operates a commercial agency
if that person -

(a) for monetary or other consideration, agrees to undertake commercial sub-agent activities; and

(b) employs or engages another person to undertake commercial sub-agent activities with that person or in that person's stead.

(2) A person operates a crowd control agency if that person -

(a) for monetary or other consideration, agrees to undertake crowd control activities; and

(b) employs or engages another person to undertake crowd control activities with that person or in that person's stead.

(3) A person operates a security agency if that person -

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(a) for monetary or other consideration, agrees to undertake security guard activities; and

(b) employs or engages another person to undertake security guard activities with that person or in that person's stead.

7. Section 4 substituted

Section 4 of the Principal Act is repealed and the following sections are substituted:

4. Acting as commercial agent, crowd control agent, security agent or inquiry agent without licence

A person must not operate a commercial agency, operate a crowd control agency, operate a security agency or undertake inquiry agent activities unless that person

holds an agent licence authorising the operation of such an agency or the undertaking of those activities.

Penalty: In the case of -

(a) a body corporate, 1 000 penalty units; and

(b) a natural person, 200 penalty units.

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4A. Acting as commercial sub-agent, crowd controller or security guard without licence

A person must not undertake commercial sub-agent activities, crowd control activities or security guard activities unless that person -

(a) holds an agent licence authorising
the operation of a commercial
agency, crowd control agency or
security agency ; or

(b) holds an employee licence
authorising the undertaking of
those activities and undertakes
those activities as part of his or
her employment with, or as an
agent or subcontractor of, a
commercial agent, crowd control
agent or security agent.

Penalty: In the case of -

(a) a body corporate, 500
penalty units; and

(b) a natural person, 100
penalty units.

8. Section 5 amended (Ineligibility to apply for licence)

Section 5 of the Principal Act is amended as

follows:

- (a) by inserting the following subsection
after subsection (1):

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(1A) A person is ineligible to apply for
a licence while a suspension
under section 16 is in effect in
respect of any licence held by the
person.

- (b) by inserting in subsection (2) "under
subsection (1)" after "licence".

9. Section 6 amended (Application)

Section 6(2)(c) of the Principal Act is amended
as follows:

(a) by omitting "prescribed";

(b) by inserting "that the Commissioner
requires" after "applicant".

10. Section 7 substituted

Section 7 of the Principal Act is repealed and the
following section is substituted:

7. Character report

(1) On receipt of an application for a licence,
the Commissioner may require -

(a) the applicant; and

(b) if the applicant is a body
corporate, each officer of the
applicant -

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to have his or her photograph,
fingerprints and palm prints taken as
specified in the requirement.

(2) On receipt of an application for a licence,
the Commissioner is to refer to the
Commissioner of Police -

(a) the name of the applicant and, if
the applicant is a body corporate,
the name of each officer of the
applicant; and

(b) any photographs, fingerprints and
palm prints taken from a person
referred to in paragraph (a); and

(c) any other information and
documentation relating to the
application.

(3) The Commissioner of Police must
inquire into and report to the

Commissioner on any matters concerning the application that the Commissioner requests.

(4) Despite an order of a court or a provision of any Act that would otherwise prevent the disclosure of information, the Commissioner of Police may include that information in the report provided under subsection (3).

(5) The Commissioner -

(a) is to destroy any fingerprints or palm prints obtained under this section and any copies of them as

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soon as the Commissioner has no further use for them; and

(b) may destroy any such fingerprints or palm prints in any circumstances he or she considers appropriate.

(6) The Commissioner is taken to have no further use for fingerprints or palm prints obtained in respect of an application for a licence if -

(a) the Commissioner refuses to grant the application; or

(b) following the grant of the licence, the licence is cancelled or surrendered.

(7) A person who in connection with an application for a licence has possession of fingerprints or palm prints obtained under this section, or copies of them, must deliver the fingerprints, palm prints or copies to the Commissioner, in accordance with the directions of the Commissioner, so as to enable the Commissioner to comply with

subsection (5).

Penalty: Fine not exceeding 20 penalty
units.

- (8) On surrendering a licence, the holder of
the licence may request that his or her
fingerprints or palm prints be retained by
the Commissioner for a period not
exceeding 3 years and the Commissioner

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is to comply with the request despite
subsection (5).

11. Section 8 amended (Grant or refusal of application)

Section 8 of the Principal Act is amended as
follows:

- (a) by omitting from subsection (2)(a)(v) "in
respect of a security guard," and
substituting "authorising the undertaking

of crowd control activities or security guard activities,";

(b) by inserting the following subsection after subsection (2):

(3) In determining whether to grant or refuse an application, the Commissioner is to take into account any information or matter that the Commissioner considers relevant.

12. Sections 10, 11 and 12 substituted

Sections 10, 11 and 12 of the Principal Act are repealed and the following sections are substituted:

10. Issue of licence

(1) If the Commissioner grants an application for a licence in respect of one or more of the following, the Commissioner is to issue to the applicant an agent licence:

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- (a) the operation of a commercial agency;
 - (b) the operation of a crowd control agency;
 - (c) the operation of a security agency ;
 - (d) the undertaking of inquiry agent activities.
- (2) If the Commissioner grants an application for a licence in respect of one or more of the following, the Commissioner is to issue to the applicant an employee licence:
- (a) the undertaking of commercial sub-agent activities;

(b) the undertaking of crowd control activities;

(c) the undertaking of security guard activities.

(3) A licence is to -

(a) be in an approved form; and

(b) specify the type of licence; and

(c) specify the name and business address of the holder; and

(d) specify the date on which the licence is issued; and

(e) specify the date on which the licence expires; and

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(f) specify any conditions of the

licence.

(4) At the time of issuing a licence under this section to an applicant, the Commissioner is to also issue to the applicant -

(a) an identity card; and

(b) a copy of any relevant code of conduct.

(5) An identity card is to be in an approved form.

11. Authority of agent licence

(1) An agent licence authorises the holder to undertake one or more of the following as specified in the licence:

(a) the operation of a commercial agency;

(b) the operation of a crowd control agency;

(c) the operation of a security agency ;

(d) the undertaking of inquiry agent activities.

(2) An agent licence that -

(a) authorises the holder to operate a commercial agency also authorises the holder to undertake

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commercial sub-agent activities if
the holder is an individual; and

(b) authorises the holder to operate a crowd control agency also authorises the holder to undertake

crowd control activities if the
holder is an individual; and

- (c) authorises the holder to operate a security agency also authorises the holder to undertake security guard activities if the holder is an individual.

12. Authority of employee licence

An employee licence authorises the holder to undertake one or more of the following as specified in the licence:

- (a) commercial sub-agent activities;
- (b) crowd control activities;
- (c) security guard activities.

13. Section 13 amended (Conditions)

Section 13 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

(3) The Commissioner, by an endorsement on a licence, may -

(a) add a condition to the licence; or

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(b) remove a condition from the licence; or

(c) vary a condition of the licence.

14. Section 14A inserted

After section 14 of the Principal Act, the following section is inserted in Part 2:

14A. Amendment of licence

(1) On the request of the holder of a licence

or at the Commissioner's discretion, the
Commissioner may amend a licence.

(2) A request to amend a licence is to be -

(a) in writing; and

(b) accompanied by any documents
and information the
Commissioner requires; and

(c) accompanied by any prescribed
fee.

(3) Without limiting the manner in which a
licence may be amended, it may be
amended by adding to it, or removing
from it, the authority to undertake any of
the following activities:

(a) the operation of a commercial
agency;

(b) the operation of a crowd control
agency;

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(c) the operation of a security
agency ;

(d) inquiry agent activities;

(e) commercial sub-agent activities;

(f) crowd control activities;

(g) security guard activities.

15. Section 15 amended (Cancellation of licence)

Section 15(2) of the Principal Act is amended by
inserting "a prescribed offence or" after "of".

16. Section 16 amended (Suspension of licence)

Section 16 of the Principal Act is amended as

follows:

(a) by inserting in subsection (2) "a prescribed offence or" after "of";

(b) by inserting in subsection (4) "under subsection (1)" after "licence".

17. Section 17 amended (Surrender of licence and identity card)

Section 17 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(3) If a person fails to surrender a licence or identity card as required by

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subsection (1) or (2), a police officer or authorised person may do one or more of the following:

- (a) require the person to surrender
the licence or identity card to the
police officer or authorised
person;

- (b) seize the licence or identity card.

18. Section 20 amended (Register of licences)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)
"register" and substituting "register of
licences";

- (b) by omitting from subsection (3)
"register" and substituting "register of
licences".

19. Section 21A inserted

Before section 22 of the Principal Act, the
following section is inserted in Division 1:

21A. Employing unlicensed person

(1) A person must not -

- (a) employ or engage another person to undertake any activity for which a licence is required; or

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- (b) direct another person to undertake any such activity -

unless that other person holds a licence authorising the undertaking of that activity.

Penalty: In the case of -

- (a) a body corporate, a fine not exceeding 1 000 penalty units; and

(b) a natural person, a fine
not exceeding 200 penalty
units.

(2) It is a defence to a charge of an offence under subsection (1)(a) for the person to show that he or she sighted the identity card of the other person before employing or engaging him or her to undertake the activity for which the licence was required.

(3) It is a defence to a charge of an offence under subsection (1)(b) for the person to show that he or she reasonably believed that the other person held the relevant licence.

20. Section 23 amended (Fees if not licensed)

Section 23 of the Principal Act is amended by omitting "undertaking any activity of a commercial agent, a security agent or an inquiry agent" and substituting "undertaking any commercial sub-agent activities, crowd control

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activities, security guard activities or inquiry agent activities or providing, in the course of operating a commercial agency, crowd control agency or security agency , another person to undertake any such activity".

21. Section 24 substituted

Section 24 of the Principal Act is repealed and the following section is substituted:

24. Advertising

(1) In this section -

"advertise" includes hold out in any way and advertise in any form.

(2) A person must not advertise that the person is able to undertake an activity authorised by a licence unless the person holds a licence authorising that activity.

Penalty: In the case of -

(a) a body corporate, a fine
not exceeding 100 penalty
units; and

(b) a natural person, a fine
not exceeding 20 penalty
units.

(3) In an advertisement relating to the
undertaking of an activity authorised by a
licence, the holder of the licence must
state the licence number.

Penalty: In the case of -

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(a) a body corporate, a fine
not exceeding 100 penalty
units; and

(b) a natural person, a fine
not exceeding 20 penalty
units.

22. Section 25 amended (Display of notice)

Section 25 of the Principal Act is amended by
omitting "a licence" and substituting "an agent
licence".

23. Section 26 amended (Use of licence, identity card or
identifying number by others)

Section 26 of the Principal Act is amended by
omitting "licence or his or her identity card" and
substituting "licence, his or her identity card or
his or her identifying number".

24. Section 27 amended (Producing licences and
wearing identity cards and identifying numbers)

Section 27 of the Principal Act is amended as
follows:

(a) by omitting from subsection (2) "the

activities of a security agent or security guard" and substituting "security guard activities";

- (b) by inserting the following subsections after subsection (2):

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- (3) Subsection (2) does not apply to a security agent or security guard who the Commissioner has exempted, in writing provided to the security agent or security guard, from having to comply with that subsection.

- (4) For the purposes of subsection (3), the Commissioner may provide the exemption if -

- (a) he or she is satisfied that the duties of the security agent or security guard

are of a special nature that
requires the provision of
the exemption in the
interests of safety; and

(b) the security agent or
security guard has paid
any prescribed fee.

(5) When undertaking crowd control
activities, a crowd control agent
or crowd controller must wear his
or her identifying number so that
it is clearly visible.

Penalty: In the case of -

(a) a body corporate,
a fine not
exceeding 500
penalty units; and

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- (b) a natural person, a
fine not exceeding
100 penalty units.

25. Sections 27A, 27B, 27C and 27D inserted

After section 27 of the Principal Act, the
following sections are inserted in Division 1:

27A. Defacing or altering licence, identity card or
identifying number

The holder of a licence must not -

- (a) alter or deface the holder's
licence, identity card or
identifying number; or
- (b) allow another person to alter or
deface the holder's licence,

identity card or identifying
number; or

- (c) wear or use the holder's licence,
identity card or identifying
number if he or she knows that it
has been altered or defaced.

Penalty: In the case of -

- (a) a body corporate, a fine
not exceeding 500 penalty
units; and

- (b) a natural person, a fine
not exceeding 100 penalty
units.

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27B. Stating name, &c., to police officer or
authorised person

(1) If a police officer or authorised person reasonably suspects that a person is the holder of a licence, the police officer or authorised officer, verbally or in writing, may require the person to provide his or her name, residential address, date of birth and age.

(2) A person must comply with a request made under subsection (1).

Penalty: Fine not exceeding 100 penalty units.

(3) If a police officer who makes a request under subsection (1) reasonably believes that a person has failed to comply with the request, the police officer may arrest the person without warrant.

27C. Undertaking licence activity while intoxicated

(1) The holder of a licence must not undertake an activity authorised by the licence while under the influence of

alcohol, a drug or both to such an extent that he or she is incapable of properly undertaking that activity.

Penalty: Fine not exceeding 100 penalty units.

- (2) If a police officer or an authorised person reasonably suspects that the holder of a licence is undertaking an activity in

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contravention of subsection (1), the police officer or authorised person, verbally or in writing, may require the licence holder to cease undertaking the activity and leave the premises or place in which, or in respect of which, that activity is being undertaken.

- (3) The holder of a licence must comply with a requirement made under subsection (2).

Penalty: Fine not exceeding 100 penalty units.

- (4) If the holder of a licence fails or refuses to comply with a requirement made under subsection (2), a police officer may arrest the licence holder without warrant.

27D. False or misleading information

A person must not, in giving any information under this Act -

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: In the case of -

- (a) a body corporate, a fine

not exceeding 500 penalty
units; and

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(b) a natural person, a fine
not exceeding 100 penalty
units.

26. Section 28 amended (Trust accounts)

Section 28 of the Principal Act is amended as
follows:

(a) by omitting from subsection (1) "who
undertakes any activity of a commercial
agent" and substituting "in respect of the
operation of a commercial agency";

(b) by omitting from subsection (3)

"undertakes any activity of a commercial agent" and substituting "operates or operated a commercial agency".

27. Section 32 amended (Records)

Section 32(1) of the Principal Act is amended as follows:

- (a) by omitting "who undertakes any activity of a commercial agent" and substituting "in respect of the operation of a commercial agency";
- (b) by omitting from paragraph (a) "the activity" and substituting "activities under that licence";
- (c) by omitting from paragraph (b) "undertaking the activity" and substituting "the operation of the commercial agency".

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28. Section 33 amended (Possession of motor vehicles)

Section 33 of the Principal Act is amended by omitting "a commercial sub-agent" and substituting "or a commercial sub-agent,".

29. Section 34 amended (Place of business)

Section 34 of the Principal Act is amended by omitting "undertakes any activity of a commercial agent must not invite any person to do business, or any debtor from whom he or she is seeking to recover a debt," and substituting "operates a commercial agency must not invite any person to do business, or demand directly or indirectly from a debtor any payment of the debt,".

30. Section 35 amended (Recovery of money)

Section 35 of the Principal Act is amended by omitting "who undertakes any activity of a commercial agent or the holder of an employee licence who undertakes any activity of a commercial sub-agent" and substituting "or

employee licence who undertakes any commercial sub-agent activities".

31. Part 3, Division 3 inserted

After section 35 of the Principal Act, the following Division is inserted in Part 3:

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Division 3 - Crowd control

35A. Identifying number

A person who engages a crowd control agent or crowd controller to undertake crowd control activities in, or in respect of, any premises or event on any occasion must ensure that each crowd control agent and crowd controller who is present at those premises or event on

that occasion is issued for that occasion
with a unique identifying number that is
in an approved form.

Penalty: In the case of -

(a) a body corporate, 500
penalty units; and

(b) a natural person, 100
penalty units.

35B. Register to be maintained by licensee

(1) A licensee who engages a crowd control
agency, crowd control agent or crowd
controller to undertake crowd control
activities on any occasion must maintain
a register containing the following
information in respect of each such
occasion:

(a) the date of the occasion;

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(b) the full name of the crowd control agency, crowd control agent or crowd controller so engaged;

(c) the full name, identity card number and identifying number of each crowd control agent or crowd controller undertaking crowd control activities;

(d) full details of any incident where -

(i) while preventing entry to, or removing a person from, the licensed premises the crowd control agent or crowd controller had physical

contact with that person,
another patron or an
intending patron of the
licensed premises; or

(ii) the crowd control agent or
crowd controller had
physical contact with a
patron of the licensed
premises;

(e) any other information that the
Commissioner requires by notice
provided to the licensee.

Penalty: In the case of -

(a) a body corporate, 500
penalty units; and

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(b) a natural person, 100

penalty units.

(2) If -

(a) a crowd control agent or crowd controller undertakes crowd control activities in, or in respect of, licensed premises under a contract between the licensee and either that or another crowd control agent; and

(b) that crowd control agent or crowd controller is involved in an incident of a kind referred to in subsection (1)(d) -

the licensee must provide a copy of the details of the incident to the crowd control agent with whom the contract was made within 7 days after the occurrence of the incident.

Penalty: In the case of -

(a) a body corporate, 500

penalty units; and

(b) a natural person, 100
penalty units.

(3) A licensee who maintains a register
under subsection (1) must keep that
register in a place that -

(a) is readily accessible to any crowd
control agent or crowd controller
undertaking crowd control

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activities in the licensed
premises; but

(b) is not readily accessible to
patrons of the licensed premises.

Penalty: In the case of -

(a) a body corporate, 500
penalty units; and

(b) a natural person, 100
penalty units.

35C. Register to be maintained by crowd control
agent

(1) A crowd control agent must maintain a
register containing the following
information:

(a) the full name and identity card
number of the agent and each
crowd controller and other crowd
control agent employed or
engaged by the agent;

(b) the date on which, and the place
at which or in respect of which,
the agent or a crowd controller or
other crowd control agent
employed or engaged by the

agent undertakes crowd control
activities;

(c) in respect of each occasion
referred to in paragraph (b) -

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(i) whether the agent
undertook crowd control
activities and, if so, his or
her identifying number;
and

(ii) the name and identifying
number of each crowd
controller or other crowd
control agent who
undertook the crowd
control activities in the
course of his or her
employment or
engagement with the

agent; and

(iii) full details of any incident where the agent or such a crowd controller or other crowd control agent, while preventing entry to or removing a person from that place, had physical contact with that person, another patron or an intending patron of that place or the event held at that place; and

(iv) full details of any incident where the agent or such a crowd controller or other crowd control agent had physical contact with a person while undertaking the crowd control activities;

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- (d) any other information that the Commissioner requires by notice provided to the crowd control agent.

Penalty: In the case of -

- (a) a body corporate, 500 penalty units; and
- (b) a natural person, 100 penalty units.

- (2) Subsection (1)(c) does not apply if the place at which or in respect of which the crowd control agent, or crowd controller or other crowd control agent, undertakes crowd control activities is licensed premises.

(1) The Commissioner, an authorised person or a police officer may serve an infringement notice on a person if the Commissioner, authorised person or police officer is of the opinion that the person has committed an infringement offence.

(2) An infringement notice is not to relate to 4 or more infringement offences.

35E. Form of infringement notices

(1) An infringement notice is to be in an approved form and is to specify -

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(a) the offence to which it relates;
and

(b) the prescribed penalty for the offence; and

- (c) the total amount payable under the notice; and
 - (d) how the penalty may be paid; and
 - (e) the place where a written undertaking to pay the penalty may be lodged; and
 - (f) any other prescribed details.
- (2) For the purposes of subsection (1)(b), a fine not exceeding 25 penalty units may be prescribed for the offence.
- (3) An infringement notice is to state that the person on whom it is served may disregard the infringement notice but that, on so doing, the person may be prosecuted for the offence to which it relates.

35F. Acceptance of infringement notices

A person may accept an infringement notice by doing either of the following

within 21 days after being served with
the infringement notice:

- (a) paying the total amount payable
in accordance with the
infringement notice;

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- (b) lodging, at the place specified in
the infringement notice, a written
undertaking to pay that amount.

35G. Extension of acceptance periods

If an infringement notice is not accepted
within 21 days after it has been served, a
clerk of petty sessions may allow one
further period of 14 days commencing on
the expiry of that 21 day period for the

acceptance of the infringement notice.

35H. Payment

- (1) A person who undertakes under section 35F(b) to pay the amount payable under an infringement notice may make representations to a clerk of petty sessions in relation to the person's ability to pay the amount.
- (2) The clerk of petty sessions is to take the person's representations into account before determining the period within which the amount is to be paid.
- (3) The clerk of petty sessions may determine the period, not exceeding 60 days from the day on which the infringement notice was served, within which the amount is to be paid.
- (4) If a person fails to pay any amount in accordance with an undertaking, proceedings may be taken against the

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person in respect of the amount
remaining outstanding as if it were a
penalty imposed on the person on
summary conviction.

35I. Effect of acceptance

(1) The acceptance of an infringement notice

is not an admission of liability in any
civil proceedings.

(2) Proceedings against a person for an
offence to which an infringement notice
that has not been withdrawn relates are
not to be brought -

(a) if the person has accepted the
infringement notice; or

(b) if the person has not been allowed
an additional period under
section 35G, within 28 days after

the infringement notice is served;

or

- (c) if the person has been allowed an additional period under section 35G, within 42 days after the infringement notice is served.

35J. Withdrawal of infringement notices

- (1) The Commissioner may withdraw an infringement notice if he or she is of the opinion that -

- (a) it should not have been served; or

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- (b) the person on whom it was served should not be proceeded against for the offence to which it relates.

(2) Subsection (1) applies whether or not the infringement notice has been accepted.

(3) The infringement notice may be withdrawn by serving the person with a notice of withdrawal within 108 days after the service of the infringement notice.

(4) As soon as practicable after the notice of withdrawal is served, any amount that the person has paid by way of penalty under the infringement notice must be repaid to the person.

35K. Certain evidence not admissible

Evidence of the service, acceptance or withdrawal of an infringement notice is not admissible in any proceedings for the offence to which the notice relates unless the court hearing the proceedings determines otherwise.

35L. Penalties to be paid into Consolidated Fund

Any amount paid under this Part by way
of penalty is to be paid into the
Consolidated Fund.

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32. Section 38 amended (Investigations)

Section 38 of the Principal Act is amended as
follows:

(a) by omitting subsection (2) and
substituting the following subsection:

(2) In carrying out an investigation,
the Commissioner or an
authorised person or police
officer may -

(a) enter at any reasonable
time any place where he

or she reasonably
believes -

(i) an activity for
which a licence is
required has been
or is being
undertaken; or

(ii) a register
maintained under
section 35B or
35C is being kept;
and

(b) require any person to
provide any relevant
information, including
financial and other
confidential information,
within the period, and in
the manner, specified in
the requirement; and

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(c) in any place entered under paragraph (a), gain access to, and take copies of, any relevant documents, including a register maintained under section 35B or 35C; and

(d) seize any relevant document.

(b) by inserting the following subsections after subsection (4):

(5) If a document is seized -

(a) the Commissioner has possession of it; and

(b) the Commissioner may retain possession of it for so long as is necessary for

the purposes of this Act;

and

- (c) on the request of a person who would be entitled to possession of the document if it were not in the possession of the Commissioner, the Commissioner must provide that person with access to peruse the document or with a copy of the document certified by the Commissioner as a true copy.

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- (6) A copy of a document seized under this section that is certified by the Commissioner as a true copy of the document is to be

received in all courts and
elsewhere as if it were the
original document.

33. Section 38A inserted

After section 38 of the Principal Act, the
following section is inserted in Part 1:

38A. Codes of conduct

- (1) The Commissioner may issue, in a
manner determined by the
Commissioner, codes of conduct in
respect of the undertaking of operations
and activities under a licence.

- (2) On issuing a code of conduct, the
Commissioner may give notice of its
issue in any manner he or she considers
appropriate including, but not limited
to -
 - (a) the publication of the notice in
one or more newspapers
circulating in the State; or

(b) the publication of the notice on
the internet; or

(c) the provision of a copy of the
notice to each holder of a licence
to which the code of conduct
relates.

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(3) The Commissioner, on the request of any
person and the payment of any
prescribed fee, is to provide a copy of a
code of conduct or part of a code of
conduct to that person.

(4) The Commissioner may amend or
substitute a code of conduct.

(5) A code of conduct is not -

(a) a statutory rule for the purposes
of the Rules Publication Act

1953; or

- (b) subordinate legislation for the purposes of the Subordinate Legislation Act 1992.

34. Section 40 amended (Evidentiary provisions)

Section 40(4) of the Principal Act is amended by omitting "register" and substituting "register of licences".

35. Section 41 amended (Exemptions)

Section 41 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) A police officer is not required to hold an agent licence authorising the operation of a crowd control agency, or an employee licence authorising the undertaking of crowd control activities, while undertaking a crowd control activity in

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the ordinary performance of his or her
functions as a police officer.

(4) A licensee is not required to hold an
agent licence authorising the operation of
a crowd control agency, or an employee
licence authorising the undertaking of
crowd control activities -

(a) for the purpose of employing a
crowd controller to undertake
crowd control activities in, or in
relation to, the licensed premises;
or

(b) while undertaking crowd control
activities in the ordinary
performance of his or her
functions as a licensee.

(5) A crowd controller employed by a
licensee to undertake crowd control
activities in, or in respect of, the licensed

premises is taken to be employed by a crowd control agent while undertaking those activities.

36. Section 43A inserted

After section 43 of the Principal Act, the following section is inserted in Part 1:

43A. Savings and transitional provisions relating to crowd control

The savings and transitional provisions set out in Schedule 2 have effect.

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37. Schedule 2 inserted

After Schedule 1 to the Principal Act, the following Schedule is inserted:

SCHEDULE 2 - SAVINGS AND TRANSITIONAL

PROVISIONS RELATING TO CROWD CONTROL

Section 43A

1. Interpretation

In this Schedule -

"commencement day" means
1 January 2006;

"repealed Act" means the Crowd
Controllers Act 1999.

2. Certain persons taken to hold crowd control
agent licences

(1) In this clause -

"prescribed person" means a person
who, immediately before the
commencement day, holds the
competency requirements
prescribed for the purposes of
section 5(2) of the repealed Act,
other than -

(a) a licensee; or

(b) a person in respect of whom an order under section 6 or 9(3) of the repealed Act is in effect.

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(2) If immediately before the commencement day a prescribed person was taken under section 13 of the repealed Act to be the employer of crowd controllers, that person is taken to hold an agent licence authorising the operation of a crowd control agency until 1 April 2006 and this Act applies in respect of that licence.

3. Certain persons taken to hold crowd controller licences

(1) In this clause -

"prescribed person" means a person

who holds the competency
requirements prescribed for the
purposes of section 5(1) of the
repealed Act, other than -

- (a) a licensee; or
- (b) a person in charge of licensed
premises; or
- (c) a person to whom clause 2
applies; or
- (d) a person in respect of whom an
order under section 6 or 9(3) of
the repealed Act is in effect.

(2) A prescribed person is taken to hold an
employee licence authorising the
undertaking of crowd control activities
until 1 April 2006, and this Act applies in
respect of that licence, if -

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- (a) at any time during the year 2005
the prescribed person carried out
the functions of a crowd
controller, within the meaning of
the repealed Act; or

- (b) immediately before the
commencement day the
prescribed person was eligible to
carry out the functions of a crowd
controller, within the meaning of
the repealed Act.

4. Competency requirements

- (1) A person -
 - (a) who has the competency
requirements prescribed for the
purposes of section 5(1) of the
repealed Act is taken to have the
competency standards determined
under section 9 in relation to the
holder of an employee licence

authorising the undertaking of
crowd control activities; or

(b) who -

(i) was undertaking a course
of study or training
immediately before the
commencement day; and

(ii) on successful completion
of that course of study or
training would have the
competency requirements

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prescribed for the
purposes of section 5(1)
of the repealed Act -

is taken on and after that successful
completion to have the competency
standards determined under section 9 in

relation to the holder of an employee licence authorising the undertaking of crowd control activities.

(2) A person who has the competency requirements prescribed for the purposes of section 5(2) of the repealed Act is taken to have the competency standards determined under section 9 in relation to the holder of an agent licence authorising the operation of a crowd control agency.

(3) A person who -

(a) was undertaking a course of study or training immediately before the commencement day; and

(b) on successful completion of that course of study or training would have the competency requirements prescribed for the purposes of section 5(2) of the repealed Act -

is taken on and after that successful

completion to have the competency standards determined under section 9 in relation to the holder of an agent licence authorising the operation of a crowd control agency.

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5. Orders under section 6 of repealed Act

(1) In this clause -

"section 6 order" means an order under section 6 of the repealed Act that is in effect immediately before the commencement day.

(2) A section 6 order prohibiting a person from carrying out the functions of a crowd controller -

(a) continues to have effect for the period specified in it; and

(b) is taken to prohibit the person
from undertaking crowd control
activities.

(3) A section 6 order prohibiting a person
from engaging in the business of
supplying the services of crowd
controllers -

(a) continues to have effect for the
period specified in it; and

(b) is taken to prohibit the person
from undertaking crowd control
activities and operating a crowd
control agency.

6. Applications under section 7 of repealed Act

(1) If immediately before the
commencement day an application had
been made under section 7 of the

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repealed Act but not finally determined, proceedings in respect of that application may be continued and, subject to subclause (2), the repealed Act continues to apply in relation to that application and those proceedings.

- (2) If on an application referred to in subclause (1) the court considers it appropriate to make an order under section 9(3) of the repealed Act in respect of a person, instead of making that order the court is to make an order under section 16(2) of this Act suspending the licence held by that person.
- (3) An order under subclause (2) has effect for the period of not less than 12 months specified in the order.
- (4) A person in respect of whom an order under subclause (2) or under section 9(3)

of the repealed Act is in effect may apply to a magistrate for the amendment or revocation of that order.

(5) In determining an application referred to in subclause (4), the magistrate may -

(a) amend the order; or

(b) revoke the order; or

(c) confirm the order and dismiss the application.

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7. Ineligibility to apply for licence

A person in respect of whom an order under clause 6(2), or under section 6 or

9(3) of the repealed Act, is in effect is
ineligible to apply for a licence.

8. Prosecution for offence under repealed Act

(1) The repeal of the repealed Act does not
affect the taking or continuation of
proceedings for an offence under that Act
committed before the commencement
day.

(2) If a court convicts a person of an offence
under the repealed Act, the court may
suspend a licence held by that person
under section 16(2) of this Act.

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AMENDED

38. Principal Act

In this Part, the Annulled Convictions Act 2003*
is referred to as the Principal Act.

39. Schedule 1 amended (Non-exempt applications)

Schedule 1 to the Principal Act is amended by
inserting after item 4 in Part 8 the following
item:

5. Licence of any kind under the Security
and Investigations Agents Act 2002.

*No. 46 of 2003

PART 4 - FIREARMS ACT 1996 AMENDED

40. Principal Act

In this Part, the Firearms Act 1996* is referred to as the Principal Act.

41. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting the definitions of "security agent" and "security guard" and substituting the following definitions:

"security agent" has the same meaning as in the Security and Investigations Agents Act 2002;

"security guard" has the same meaning as in the Security and Investigations Agents Act 2002;

*No. 23 of 1996

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PART 5 - JUSTICES ACT 1959 AMENDED

42. Principal Act

In this Part, the Justices Act 1959* is referred to as the Principal Act.

43. Section 106A amended (Interpretation of Part XA)

Section 106A(1A) of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

(d) by a commercial agent, commercial sub-agent or inquiry agent, within the meaning of the Security and Investigations Agents Act 2002, as part of his or her professional occupation; or

*No. 77 of 1959

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PART 6 - LEGISLATION REPEALED, RESCINDED
AND REVOKED

44. Legislation repealed

The legislation specified in Schedule 1 is
repealed.

45. Legislation rescinded

The legislation specified in Schedule 2 is
rescinded.

46. Legislation revoked

The legislation specified in Schedule 3 is
revoked.

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SCHEDULE 1 - LEGISLATION REPEALED

Section 44

Crowd Controllers Act 1999 (No. 5 of 1999)

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SCHEDULE 2 - LEGISLATION RESCINDED

Section 45

Crowd Controllers Regulations 2000 (No. 21 of 2000)

Crowd Controllers Amendment Regulations 2000 (No. 235 of
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Crowd Controllers Amendment Regulations 2005 (No. 36 of
2005)

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SCHEDULE 3 - LEGISLATION REVOKED

Section 46

Proclamation under the Crowd Controllers Act 1999 (No. 108
of 2000)