

TASMANIA

SECURITY AND INVESTIGATIONS AGENTS AMENDMENT BILL 2010

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 3A amended (Meaning of “crowd control activities”)
6. Sections 3B and 3C substituted
 - 3B. Meaning of “security activities”
 - 3C. Meaning of “commercial agent activities”, “crowd control agent activities” and “security agent activities”
 - 3D. Meaning of “commercial employee activities”, “crowd control employee activities” and “security employee activities”
 - 3E. Meaning of “close associate”
7. Sections 4, 4A and 5 substituted
 4. Requirement for licence
 5. Ineligibility to apply for licence
8. Section 6 amended (Application)
9. Section 7 amended (Character report)
10. Section 8 amended (Grant or refusal of application)
11. Section 9 amended (Competency standards)
12. Section 10 amended (Issue of licence)

13. Sections 11 and 12 substituted
 11. Authority of agent licence
 12. Authority of employee licence
14. Section 13 amended (Conditions)
15. Section 14A amended (Amendment of licence)
16. Section 15 amended (Cancellation of licence)
17. Section 16 amended (Suspension of licence)
18. Section 17 amended (Surrender of licence and identity card)
19. Section 18 amended (Death of licensee)
20. Section 19 amended (Duplicate licences and identity cards)
21. Section 20 amended (Register of licences)
22. Section 21 amended (Change of address)
23. Section 21A amended (Employing unlicensed person)
24. Section 23 amended (Fees if not licensed)
25. Section 27 amended (Producing licences and wearing identity cards and identifying numbers)
26. Section 28 amended (Trust accounts)
27. Section 29 amended (Financial records)
28. Section 30 amended (Audits)
29. Section 31 amended (Reports)
30. Section 35B amended (Register to be maintained by licensee)
31. Section 35C amended (Register to be maintained by crowd control agent)
32. Section 35D amended (Infringement notices)
33. Section 37 amended (Appeals)
34. Section 38 amended (Investigations)
35. Section 38A amended (Codes of conduct)
36. Section 39 amended (Delegation)
37. Section 40 amended (Evidentiary provisions)
38. Section 41 amended (Exemptions)
39. Section 42 amended (Regulations)
40. Section 43B inserted

- 43B. Savings and transitional provisions relating to security activities
- 41. Schedule 3 inserted
 - Schedule 3 – Savings and Transitional Provisions Relating to Commercial Sub-agent Activities, Crowd Control Activities and Security Activities
- 42. Repeal of Act

SECURITY AND INVESTIGATIONS AGENTS AMENDMENT BILL 2010

*(Brought in by the Minister for Corrections and Consumer
Protection, the Honourable Nicholas James McKim)*

A BILL FOR

An Act to amend the *Security and Investigations Agents Act 2002*

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:

1. Short title

This Act may be cited as the *Security and
Investigations Agents Amendment Act 2010*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

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

*No. 19 of 2002

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 4

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “Commissioner;” from the definition of “approved” and substituting “Director;”;
- (b) by omitting “Commissioner;” from the definition of “authorised person” and substituting “Director;”;
- (c) by inserting the following definition after the definition of “authorised person”:

“close associate” has the meaning given by section 3E;

- (d) by omitting “operate a commercial agency;” from the definition of “commercial agent” and substituting “undertake commercial agent activities;”;
- (e) by inserting the following definitions after the definition of “commercial agent”:

“commercial agent activities” has the meaning given by section 3C(1);

“commercial employee activities” has the meaning given by section 3D(1);

- (f) by omitting “undertaking of commercial sub-agent activities;” from the definition of “commercial sub-agent” and

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 4

substituting “person to undertake commercial employee activities;”;

- (g) by omitting the definition of “Commissioner”;
- (h) by omitting “operate a crowd control agency;” from the definition of “crowd control agent” and substituting “undertake crowd control agent activities;”;
- (i) by inserting the following definitions after the definition of “crowd control agent”:

“crowd control agent activities” has the meaning given by section 3C(2);

“crowd control employee activities” has the meaning given by section 3D(2);

- (j) by omitting “undertaking of crowd control activities;” from the definition of “crowd controller” and substituting “person to undertake crowd control employee activities;”;
- (k) by inserting the following definition after the definition of “debtor”:

“Director” means the Director of Consumer Affairs and Fair Trading appointed under section

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 4

9 of the *Consumer Affairs Act*
1988;

- (l) by omitting the definitions of “operate a commercial agency”, “operate a crowd control agency” and “operate a security agency”;
- (m) by inserting “theft or robbery, or any other offence involving” after “involving” in paragraph (a) of the definition of “prescribed offence”;
- (n) by inserting “assault, or any other offence involving” after “involving” in paragraph (b) of the definition of “prescribed offence”;
- (o) by inserting the following paragraph after paragraph (b) in the definition of “prescribed offence”:
 - (ba) an offence involving abduction, kidnapping or stalking, whether committed in the State or elsewhere; or
- (p) by omitting “Territory of the Commonwealth;” from paragraph (c) of the definition of “prescribed offence” and substituting “Territory;”;
- (q) by omitting “relating to the possession and use of a firearm, or any other weapon, that would disqualify the applicant from holding a licence under the *Firearms Act 1996*,” from paragraph

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 4

- (d) of the definition of “prescribed offence” and substituting “involving a weapon, whether committed in the State or elsewhere;”;
- (r) by omitting paragraph (e) from the definition of “prescribed offence” and substituting the following paragraph:
 - (e) an offence under Part 5.3 of the *Criminal Code* of the Commonwealth or a similar offence under the law of a State or a Territory or an overseas jurisdiction;
- (s) by omitting “operate a security agency;” from the definition of “security agent” and substituting “undertake security agent activities;”;
- (t) by inserting the following definitions after the definition of “security agent”:
 - “security agent activities”** has the meaning given by section 3C(3);
 - “security employee activities”** has the meaning given by section 3D(3);
- (u) by omitting “undertaking of security guard activities;” from the definition of “security guard” and substituting “person to undertake security employee activities;”;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 5

- (v) by omitting the definition of “security guard activities” and substituting the following definition:

“security activities” has the meaning given by section 3B;

5. Section 3A amended (Meaning of “crowd control activities”)

Section 3A(1) of the Principal Act is amended by omitting “if, for monetary or other consideration,” and substituting “if”.

6. Sections 3B and 3C substituted

Sections 3B and 3C of the Principal Act are repealed and the following sections are substituted:

3B. Meaning of “security activities”

A person undertakes security activities if, for monetary or other consideration, he or she does any of the following activities in the course of carrying on a business or in the course of his or her employment:

- (a) patrols, protects, watches or guards property by physical means with the use of a guard dog;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 6

- (b) patrols, protects, watches or guards property by physical means while in possession of a firearm, within the meaning of the *Firearms Act 1996*;
- (c) patrols, protects, watches or guards property by any other physical or electronic means;
- (d) checks or screens persons leaving property to prevent the unlawful removal of property;
- (e) acts as a bodyguard;
- (f) provides training in respect of an activity referred to in paragraph (a), (b), (c), (d) or (e).

3C. Meaning of “commercial agent activities”, “crowd control agent activities” and “security agent activities”

- (1) A person undertakes commercial agent activities if –
 - (a) the person undertakes any commercial sub-agent activities (other than as part of his or her employment with, or as an agent or subcontractor of, a commercial agent); or
 - (b) the person –

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 6

- (i) agrees to undertake any commercial sub-agent activities for monetary or other consideration; and
 - (ii) employs or engages another person to undertake those activities with that person or in that person's stead.
- (2) A person undertakes crowd control agent activities if –
 - (a) the person undertakes any crowd control activities (other than as part of his or her employment with, or as an agent or subcontractor of, a crowd control agent); or
 - (b) the person –
 - (i) agrees to undertake any crowd control activities for monetary or other consideration; and
 - (ii) employs or engages another person to undertake those activities with that person or in that person's stead.
- (3) A person undertakes security agent activities if –

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 6

- (a) the person undertakes any security activities (other than as part of his or her employment with, or as an agent or subcontractor of, a security agent); or
- (b) the person –
 - (i) agrees to undertake any security activities for monetary or other consideration; and
 - (ii) employs or engages another person to undertake those activities with that person or in that person's stead.

3D. Meaning of “commercial employee activities”, “crowd control employee activities” and “security employee activities”

- (1) A person undertakes commercial employee activities if the person undertakes any commercial sub-agent activities as part of his or her employment with a commercial agent.
- (2) A person undertakes crowd control employee activities if the person undertakes any crowd control activities as part of his or her employment with a crowd control agent.

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 6

- (3) A person undertakes security employee activities if the person undertakes any security activities as part of his or her employment with a security agent.

3E. Meaning of “close associate”

- (1) In this section –

“relevant financial interest” means –

- (a) a share in the capital of a business; or
- (b) an entitlement to receive income derived from the business, whether the entitlement arises at law or in equity or otherwise;

“relevant position”, in relation to a business, means –

- (a) the position of director, manager, executive officer or secretary, however that position is designated in that business; or
- (b) any other prescribed position in that business;

“relevant power” means a power, whether exercisable by voting or otherwise and whether

exercisable alone or in
association with others, to –

- (a) participate in a directorial,
managerial or executive
decision; or
- (b) elect or appoint a person
to a relevant position.

(2) A person is a close associate of an
applicant for, or holder of, a licence if the
person –

- (a) holds or will hold a relevant
financial interest, or is or will be
entitled to exercise a relevant
power in the business of the
applicant or holder and, by reason
of that relevant financial interest
or relevant power, is or will be
able to exercise a significant
influence over or with respect to
the management or operation of
the business; or
- (b) holds or will hold a relevant
position in the business of the
applicant or holder.

7. Sections 4, 4A and 5 substituted

Sections 4, 4A and 5 of the Principal Act are
repealed and the following sections are
substituted:

4. Requirement for licence

- (1) A person must not undertake any commercial agent activities, crowd control agent activities, security agent activities or inquiry agent activities unless the person undertakes those activities under the authority of an agent licence.

Penalty: In the case of –

- (a) a body corporate, 1 000 penalty units; and
 - (b) a natural person, 200 penalty units.
- (2) A person must not undertake any commercial employee activities, crowd control employee activities or security employee activities unless the person undertakes those activities under the authority of an employee licence.

Penalty: Fine not exceeding 100 penalty units.

5. Ineligibility to apply for licence

- (1) In this section –

“minor offence” means an offence for which a minor penalty has been imposed, being –

- (a) an offence referred to in paragraph (a), (b) or (d) of

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 7

the definition of
“prescribed offence” in
section 3; or

- (b) an offence involving possession of a prohibited plant, prohibited substance or scheduled substance, within the meaning of the *Poisons Act 1971*; or
- (c) an offence involving possession of a controlled drug, a controlled plant or a controlled plant product, within the meaning of the *Misuse of Drugs Act 2001*; or
- (d) an offence under section 23 of the *Misuse of Drugs Act 2001* or a similar offence under the law of another State or a Territory;

“minor penalty” means –

- (a) no penalty; or
- (b) a penalty that does not include –
 - (i) a term of imprisonment; or

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 7

- (ii) a fine of \$500 or more.
- (2) A person is ineligible to apply for a licence if –
 - (a) the person has been found guilty, in Tasmania or elsewhere, of one or more indictable offences and sentenced to –
 - (i) imprisonment for a term or terms in the aggregate of 3 years or more; or
 - (ii) a period of detention for 3 years or more under a restriction order made under section 75(1)(e) of the *Sentencing Act 1997* or an equivalent order elsewhere; or
 - (b) the person has been found guilty, in Tasmania or elsewhere, of a prescribed offence other than a minor offence.
- (3) Ineligibility to apply for a licence under subsection (2) extends for a period of 10 years from –
 - (a) in the case of a person who is sentenced to a term of imprisonment or a period of detention, the completion of the

term of imprisonment or period of detention; or

- (b) in any other case, the day on which the person is found guilty of the relevant offence.
- (4) 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.
- (5) A person is ineligible to apply for a licence if the person has not attained the age of 18 years.
- (6) A conviction in respect of which a free pardon has been granted is to be disregarded for the purposes of subsection (2).
- (7) A person who is on parole is taken to be serving a sentence of imprisonment for the purposes of subsection (3).

8. Section 6 amended (Application)

Section 6 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner” and substituting “Director”;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 9

- (b) by omitting from subsection (2)(b) “activities” and substituting “activities, or classes of activities,”;
- (c) by omitting from subsection (2)(c) “Commissioner” and substituting “Director”.

9. Section 7 amended (Character report)

Section 7 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner may” and substituting “Director is to”;
- (b) by omitting from subsection (1) “specified in the requirement.” and substituting “directed by the Commissioner of Police.”;
- (c) by omitting from subsection (2) “Commissioner” first occurring and substituting “Director”;
- (d) by omitting paragraph (b) from subsection (2);
- (e) by omitting from subsection (3) “Commissioner” second occurring and substituting “Director”;
- (f) by omitting from subsection (3) “Commissioner” third occurring and substituting “Director”;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 9

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- (g) by inserting the following subsection after subsection (4):
- (4A) Subject to subsection (5), the Commissioner of Police may use any fingerprints or palm prints obtained from a person under this section –
- (a) for the purpose of determining the identity of the person; or
- (b) as evidence in any legal proceedings against the person.
- (h) by omitting from subsection (5) “Commissioner –” and substituting “Commissioner of Police –”;
- (i) by inserting in subsection (5)(a) “of Police” after “Commissioner”;
- (j) by inserting in subsection (6) “of Police” after “Commissioner”;
- (k) by omitting from subsection (6)(a) “Commissioner” and substituting “Director”;
- (l) by omitting from subsection (7) “Commissioner,” twice occurring and substituting “Commissioner of Police,”;
- (m) by inserting in subsection (7) “of Police” after “enable the Commissioner”;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 10

- (n) by inserting in subsection (8) “of Police” after “by the Commissioner”;
- (o) by inserting in subsection (8) “of Police” after “and the Commissioner”.

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

Section 8 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner” first occurring and substituting “Director”;
- (b) by omitting from subsection (1)(a) “Commissioner” and substituting “Director”;
- (c) by omitting from subsection (2) “Commissioner” first occurring and substituting “Director”;
- (d) by omitting subparagraph (ii) from subsection (2)(a);
- (e) by omitting from subsection (2)(a)(iv) “convicted” and substituting “found guilty”;
- (f) by omitting from subsection (2)(a)(iv) “offence;” and substituting “offence or an offence under this Act;”;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 10

- (g) by inserting the following subparagraph after subparagraph (iv) in subsection (2)(a):
 - (iva) has been found guilty of any other offence, or a series of other offences, that, in the opinion of the Director, makes the applicant unsuitable to hold a licence; or
- (h) by inserting in subsection (2)(a)(v) “any” after “of”;
- (i) by omitting from subsection (2)(a)(v) “activities or security guard activities, is an undischarged bankrupt or a person who has made any arrangement with creditors that have not been completed; or” and substituting “employee activities or security employee activities, is bankrupt or insolvent; or”;
- (j) by omitting from subsection (2)(a)(vi) “Commissioner,” and substituting “Director,”;
- (k) by omitting from subsection (2)(a)(vi) “activity” and substituting “activities”;
- (l) by inserting the following subsections after subsection (2):
 - (2A) Despite subsection (1) and (2)(a)(iv), the Director must refuse to grant an application for a licence if the applicant is

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 10

ineligible under section 5 to apply for a licence.

(2B) The Director may also refuse to grant an application for a licence if satisfied that –

- (a) a close associate of the applicant has been found guilty of a prescribed offence or an offence against this Act; or
 - (b) a close associate of the applicant (other than a close associate of an applicant for an employee licence) is bankrupt or insolvent.
- (m) by omitting from subsection (3) “Commissioner” twice occurring and substituting “Director”;
- (n) by omitting from subsection (3) “relevant.” and substituting “relevant, including, without limitation, criminal intelligence information.”;
- (o) by inserting the following subsections after subsection (3):
 - (4) The Director, under this or any other Act or law, is not required to give reasons for refusing to grant an application for a licence to the extent that to do so would

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 10

disclose the existence or content of any criminal intelligence information.

(5) For the purposes of this section, a person is bankrupt or insolvent if –

(a) in the case of an individual, the individual is bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the individual's creditors or makes an assignment of the individual's remuneration or estate for their benefit; or

(b) in the case of a corporation within the meaning of the Corporations Act, the corporation is insolvent or is subject to external administration under that Act.

(6) In this section –

“criminal intelligence information” means information that relates to

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 11

criminal activities and is
obtained by –

- (a) the Commissioner of
Police; or
- (b) any other person, or body,
responsible for the
enforcement of laws of
the Commonwealth or of
this or any other State or
of a Territory.

11. Section 9 amended (Competency standards)

Section 9 of the Principal Act is amended by
omitting “Commissioner” and substituting
“Director”.

12. Section 10 amended (Issue of licence)

Section 10 of the Principal Act is amended as
follows:

- (a) by omitting from subsection (1)
“Commissioner” twice occurring and
substituting “Director”;
- (b) by omitting from subsection (1)(a)
“operation of a commercial agency;” and
substituting “undertaking of commercial
agent activities;”;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 12

- (c) by omitting from subsection (1)(b) “operation of a crowd control agency;” and substituting “undertaking of crowd control agent activities;”;
- (d) by omitting from subsection (1)(c) “operation of a security agency;” and substituting “undertaking of security agent activities;”;
- (e) by omitting from subsection (2) “Commissioner” twice occurring and substituting “Director”;
- (f) by omitting from subsection (2)(a) “sub-agent” and substituting “employee”;
- (g) by inserting in subsection (2)(b) “employee” after “control”;
- (h) by omitting from subsection (2)(c) “guard” and substituting “employee”;
- (i) by inserting the following paragraph after paragraph (b) in subsection (3):
 - (ba) specify the activities, or classes of activities, that are authorised by the licence; and
- (j) by inserting the following subsections after subsection (3):
 - (3A) For the purpose of subsection (3)(ba), an agent licence may specify activities, or

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 12

classes of activities, in respect of
one or more of the following:

- (a) the undertaking of
commercial agent
activities;
- (b) the undertaking of crowd
control agent activities;
- (c) the undertaking of
security agent activities;
- (d) the undertaking of inquiry
agent activities.

(3B) For the purpose of
subsection (3)(ba), an employee
licence may specify activities, or
classes of activities, in respect of
one or more of the following:

- (a) the undertaking of
commercial employee
activities;
- (b) the undertaking of crowd
control employee
activities;
- (c) the undertaking of
security employee
activities.

(k) by omitting from subsection (4)
“Commissioner” and substituting
“Director”.

13. Sections 11 and 12 substituted

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

11. Authority of agent licence

An agent licence authorises the holder to undertake such activities, or classes of activities, in respect of one or more of the following as are specified in the licence:

- (a) the undertaking of commercial agent activities;
- (b) the undertaking of crowd control agent activities;
- (c) the undertaking of security agent activities;
- (d) the undertaking of inquiry agent activities.

12. Authority of employee licence

An employee licence authorises the holder to undertake such activities, or classes of activities, in respect of one or more of the following as are specified in the licence:

- (a) the undertaking of commercial employee activities;
- (b) the undertaking of crowd control employee activities;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 14

- (c) the undertaking of security employee activities.

14. Section 13 amended (Conditions)

Section 13(3) of the Principal Act is amended by omitting “Commissioner,” and substituting “Director,”.

15. Section 14A amended (Amendment of licence)

Section 14A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner’s” and substituting “Director’s”;
- (b) by omitting from subsection (1) “Commissioner” and substituting “Director”;
- (c) by omitting from subsection (2)(b) “Commissioner” and substituting “Director”;
- (d) by omitting subsection (3) and substituting the following subsection:
 - (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 –

(a) one or more of the following activities:

- (i) commercial agent activities;
- (ii) crowd control agent activities;
- (iii) security agent activities;
- (iv) inquiry agent activities; or

(b) any activities, or classes of activities, in respect of one or more of the following:

- (i) the undertaking of commercial employee activities;
- (ii) the undertaking of crowd control employee activities;
- (iii) the undertaking of security employee activities.

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 16

16. Section 15 amended (Cancellation of licence)

Section 15 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner,” and substituting “Director,”;
- (b) by omitting from subsection (1)(a) “section 8(2)” and substituting “section 8(2) or (2B)”;
- (c) by omitting subsection (2) and substituting the following subsections:
 - (2) A licence is cancelled if the holder of the licence becomes ineligible under section 5 to apply for a licence.
 - (2A) If a court finds the holder of a licence guilty of an offence under this Act, the court, in addition to imposing any penalty, may cancel the licence.

17. Section 16 amended (Suspension of licence)

Section 16 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner,” and substituting “Director,”;

- (b) by omitting from subsection (2) “a prescribed offence or”.

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

Section 17 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “cancelled” and substituting “cancelled or suspended”;
- (b) by omitting from subsection (1) “Commissioner.” and substituting “Director.”;
- (c) by omitting from subsection (2) “Commissioner.” and substituting “Director.”;
- (d) by inserting the following subsection after subsection (3):
 - (4) If a person has surrendered his or her suspended licence and identity card as required by subsection (1), the Director is to return the licence and identity card to the person as soon as practicable after the end of the period of suspension.

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 19

19. Section 18 amended (Death of licensee)

Section 18 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner –” and substituting “Director –”;
- (b) by omitting from subsection (3) “activity” and substituting “activity, or class of activities,”.

20. Section 19 amended (Duplicate licences and identity cards)

Section 19 of the Principal Act is amended by omitting “Commissioner” and substituting “Director”.

21. Section 20 amended (Register of licences)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner” twice occurring and substituting “Director”;
- (b) by omitting from subsection (2)(g) “Commissioner” and substituting “Director”;

- (c) by omitting from subsection (4) “Commissioner” twice occurring and substituting “Director”.

22. Section 21 amended (Change of address)

Section 21 of the Principal Act is amended by omitting “Commissioner” and substituting “Director”.

23. Section 21A amended (Employing unlicensed person)

Section 21A(1) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) and substituting the following paragraph:
 - (a) employ or engage another person to undertake any of the following activities:
 - (i) commercial agent activities or commercial employee activities;
 - (ii) crowd control agent activities or crowd control employee activities;
 - (iii) security agent activities or security employee activities;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 24

- (iv) inquiry agent activities; or
- (b) by omitting from paragraph (b) “activity –” and substituting “activities –”;
- (c) by omitting “that activity.” and substituting “those activities.”.

24. Section 23 amended (Fees if not licensed)

Section 23 of the Principal Act is amended by omitting “guard”.

25. 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) “guard” second occurring;
- (b) by omitting from subsection (3) “Commissioner” and substituting “Director”;
- (c) by omitting from subsection (4) “Commissioner” and substituting “Director”.

26. Section 28 amended (Trust accounts)

Section 28(3) of the Principal Act is amended as follows:

- (a) by omitting “Commissioner,” and substituting “Director,”;
- (b) by omitting “Commissioner” second occurring and substituting “Director”.

27. Section 29 amended (Financial records)

Section 29(1) of the Principal Act is amended by omitting “Commissioner,” and substituting “Director,”.

28. Section 30 amended (Audits)

Section 30(2)(b) of the Principal Act is amended by omitting “Commissioner” and substituting “Director”.

29. Section 31 amended (Reports)

Section 31 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner” and substituting “Director”;

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 30

(b) by omitting from subsection (2)(a) “Commissioner” and substituting “Director”;

(c) by omitting from subsection (3) “Commissioner” twice occurring and substituting “Director”.

30. Section 35B amended (Register to be maintained by licensee)

Section 35B(1)(e) of the Principal Act is amended by omitting “Commissioner” and substituting “Director”.

31. Section 35C amended (Register to be maintained by crowd control agent)

Section 35C(1)(d) of the Principal Act is amended by omitting “Commissioner” and substituting “Director”.

32. Section 35D amended (Infringement notices)

Section 35D(1) of the Principal Act is amended by omitting “Commissioner,” twice occurring and substituting “Director,”.

33. Section 37 amended (Appeals)

Section 37 of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Commissioner” and substituting “Director”;

(b) by inserting the following subsection after subsection (3):

(4) In determining an application for a review under subsection (1), the Magistrates Court (Administrative Appeals Division) –

(a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence information as defined in section 8(6); and

(b) in order to prevent the disclosure of any such report or other information, is to receive evidence and hear argument in the absence of the public, the applicant for the review and the applicant’s representative.

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 34

34. Section 38 amended (Investigations)

Section 38 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner” and substituting “Director”;
- (b) by omitting from subsection (2) “Commissioner” and substituting “Director”;
- (c) by omitting from subsection (5)(a) “Commissioner” and substituting “Director”;
- (d) by omitting from subsection (5)(b) “Commissioner” and substituting “Director”;
- (e) by omitting from subsection (5)(c) “Commissioner,” and substituting “Director,”;
- (f) by omitting from subsection (5)(c) “Commissioner” second occurring and substituting “Director”;
- (g) by omitting from subsection (5)(c) “Commissioner” third occurring and substituting “Director”;
- (h) by omitting from subsection (6) “Commissioner” and substituting “Director”.

35. Section 38A amended (Codes of conduct)

Section 38A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Commissioner” first occurring and substituting “Director”;
- (b) by omitting from subsection (1) “Commissioner,” and substituting “Director,”;
- (c) by omitting from subsection (2) “Commissioner” and substituting “Director”;
- (d) by omitting from subsection (3) “Commissioner,” and substituting “Director,”;
- (e) by omitting from subsection (4) “Commissioner” and substituting “Director”.

36. Section 39 amended (Delegation)

Section 39 of the Principal Act is amended as follows:

- (a) by omitting “Commissioner” and substituting “Director”;
- (b) by omitting “Commissioner’s” and substituting “Director’s”.

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 37

37. Section 40 amended (Evidentiary provisions)

Section 40 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “Commissioner” and substituting “Director”;
- (b) by omitting from subsection (4) “Commissioner” and substituting “Director”.

38. Section 41 amended (Exemptions)

Section 41(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “Territory of the Commonwealth” and substituting “Territory”;
- (b) by omitting from paragraph (b) “Territory of the Commonwealth” and substituting “Territory”.

39. Section 42 amended (Regulations)

Section 42(3) of the Principal Act is amended by omitting “Commissioner.” and substituting “Director.”.

40. Section 43B inserted

After section 43A of the Principal Act, the following section is inserted in Part 4:

43B. Savings and transitional provisions relating to security activities

The savings and transitional provisions set out in Schedule 3 have effect.

41. Schedule 3 inserted

After Schedule 2 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 3 – SAVINGS AND TRANSITIONAL
PROVISIONS RELATING TO COMMERCIAL SUB-
AGENT ACTIVITIES, CROWD CONTROL
ACTIVITIES AND SECURITY ACTIVITIES**

Section 43B

1. Interpretation

In this Schedule –

“former Act” means this Act as in force immediately before the day on which the *Security and Investigations Agents Amendment Act 2010* commences.

2. Pending agent licence applications

- (1) An application for a licence under the former Act in respect of the operation of a commercial agency, within the meaning of the former Act, is taken to be an application for a licence in respect of the undertaking of commercial agent activities under this Act.
- (2) An application for a licence under the former Act in respect of the operation of a crowd control agency, within the meaning of the former Act, is taken to be an application for a licence in respect of the undertaking of crowd control agent activities under this Act.
- (3) An application for a licence under the former Act in respect of the operation of a security agency, within the meaning of the former Act, is taken to be an application for a licence in respect of the undertaking of security agent activities under this Act.

3. Pending employee licence applications

- (1) An application for a licence under the former Act in respect of the undertaking of commercial sub-agent activities, within the meaning of the former Act, is taken to be an application for a licence in respect of the undertaking of commercial employee activities under this Act.

- (2) An application for a licence under the former Act in respect of the undertaking of crowd control activities, within the meaning of the former Act, is taken to be an application for a licence in respect of the undertaking of crowd control employee activities under this Act.
- (3) An application for a licence under the former Act in respect of the undertaking of security guard activities, within the meaning of the former Act, is taken to be an application for a licence in respect of the undertaking of security employee activities under this Act.

4. Existing agent licences

- (1) A licence issued under the former Act authorising the operation of a commercial agency, within the meaning of the former Act, is taken to authorise the undertaking of commercial agent activities under this Act.
- (2) A licence issued under the former Act authorising the operation of a crowd control agency, within the meaning of the former Act, is taken to authorise the undertaking of crowd control agent activities under this Act.
- (3) A licence issued under the former Act authorising the operation of a security agency, within the meaning of the former

Security and Investigations Agents Amendment Act 2010
Act No. of

s. 42

Act, is taken to authorise the undertaking of security agent activities under this Act.

5. Existing employee licences

- (1) A licence issued under the former Act authorising the undertaking of commercial sub-agent activities, within the meaning of the former Act, is taken to authorise the undertaking of commercial employee activities under this Act.
- (2) A licence issued under the former Act authorising the undertaking of crowd control activities, within the meaning of the former Act, is taken to authorise the undertaking of crowd control employee activities under this Act.
- (3) A licence issued under the former Act authorising the undertaking of security guard activities, within the meaning of the former Act, is taken to authorise the undertaking of security employee activities under this Act.

42. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.