

## CLAUSE NOTES

### *Security and Investigations Agents Amendment Bill 2010*

<b>Clause 1</b>	<b>Short Title</b>  The Act is referred to as the <i>Security and Investigations Agents Amendment Act 2010</i>
<b>Clause 2</b>	<b>Commencement</b>  The Act commences on a day, or days, to be proclaimed.
<b>Clause 3</b>	<b>Principal Act</b>  The <i>Security and Investigations Agents Act 2002</i> is referred to as the Principal Act
<b>Clause 4</b>	<b>Interpretation</b>  This clause defines a range of terminology such as “close associate” and “director”.  The Act covers all security activities, including ‘commercial agent’ and ‘commercial employee’ activities, ‘crowd control agent’ and employee activities, ‘security agent’ and employee activities.
<b>Clause 5</b>	<b>Meaning of crowd control activities</b>  Amends the meaning of ‘crowd control activities’ by deleting the words ‘monetary or other considerations’.
<b>Clause 6</b>	<b>Meaning of security activities</b>  Defines ‘security activities’, ‘commercial agent activities’, ‘crowd control agent activities’ and ‘security agent activities’.  Also, defines ‘commercial employee activities’, ‘crowd control employee activities’ and ‘security employee activities’, ‘commercial, crowd control’ and ‘security employee activities’.  Defines ‘close associate’.

<b>Clause 7</b>	<p><b>Sections 4, 4A and 5 substituted</b></p> <p>Sections 4, 4A and 5 of the Principal Act are repealed and replaced.</p> <p>These sections require that persons must be licensed to operate as commercial agents, crowd control agents, security agents and inquiry agent.</p> <p>The clause sets out the licensing requirements and provides for penalties for persons undertaking agent or employee activities without a licence.</p>
<b>Clause 8</b>	<p><b>Section 6 amended (Application)</b></p> <p>Replaces 'Commissioner' with 'Director' and omits 'activities' and substitutes 'activities or classes of activities'.</p>
<b>Clause 9</b>	<p><b>Section 7 amended (Character report)</b></p> <p>Replaces 'Commissioner' with 'Director' and substitutes 'Commissioner' with 'Commissioner of Police'.</p> <p>Provides for the Commissioner of Police to take fingerprints and palm prints from applicants for a licence.</p>
<b>Clause 10</b>	<p><b>Section 8 amended (Grant or refusal of application)</b></p> <p>Omits 'Commissioner' and substitutes 'Director' Omits 'convicted' and substitutes 'found guilty'.</p> <p>Provides for the Director to refuse to grant an application for a licence if the applicant 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.</p> <p>Provides for the Director to refuse to grant an application for a licence if a close associate is found guilty of a prescribed offence or close associate of the applicant (other than a close associate of an applicant for an employee licence) is bankrupt or insolvent.</p>

<b>Clause 10 (cont'd)</b>	<p>Provides that the Director need not to give reasons for refusing to grant an application for a licence to the extent that it would disclose the existence of content of any criminal intelligence information.</p> <p>Defines 'criminal intelligence' and 'a person who is bankrupt or insolvent'.</p>
<b>Clause 11</b>	<p><b>Section 9 amended (Competency standards)</b></p> <p>Omits 'Commissioner' and substitutes 'Director'.</p>
<b>Clause 12</b>	<p><b>Section 10 amended (Issue of licence)</b></p> <p>Omits 'Commissioner' and substitutes 'Director'.</p> <p>Specifies the activities, or classes of activities, that are authorised by a licence – for agents and employees.</p>
<b>Clause 13</b>	<p><b>Sections 11 and 12 substituted</b></p> <p><b>Authority of an Agent and Employee licence</b></p> <p>Details what activities can be undertaken by those persons holding an 'agent' licence or 'employee' licence.</p> <p>The 'agent licence' categories are commercial activities, the undertaking of crowd control agent activities, the undertaking of security agent activities and the undertaking of inquiry agent activities.</p> <p>The 'employee' activities include commercial employee activities, crowd control employee activities and the undertaking of security employee activities.</p>
<b>Clause 14</b>	<p><b>Section 13 amended (Conditions)</b></p> <p>Omits 'Commissioner' and substitutes 'Director'.</p>
<b>Clause 15</b>	<p><b>Section 14A (Amendment of licence)</b></p> <p>Omits 'Commissioner' and substitutes 'Director'.</p> <p>Provides for the amendment of agent licences and activities or classes of activities in regard to employee activities.</p>

<b>Clause 16</b>	<b>Section 15 amended (Cancellation of licence)</b>  Omits 'Commissioner' and substitutes 'Director'.  Provides for the cancellation of a licence and for the court to impose any penalty and the option to cancel the licence.
<b>Clause 17</b>	<b>Section 16 amended (Suspension of licence)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 18</b>	<b>Section 17 amended (Surrender of licence and identity card)</b>  Omits 'Commissioner' and substitutes 'Director'.  Makes provision for the Director to return a card that has been surrendered due to suspension at the end of the period of suspension.
<b>Clause 19</b>	<b>Section 18 amended (Death of a licensee)</b>  Omits 'Commissioner' and substitutes 'Director' and substitutes 'activity' with 'activity or class of activities'.
<b>Clause 20</b>	<b>Section 19 amended (Duplicate licences and identity cards)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 21</b>	<b>Section 20 amended (Register of licences)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 22</b>	<b>Section 21 amended (Change of address)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 23</b>	<b>Section 21A amended (Employing unlicensed person)</b>  Creates an offence for employing unlicensed persons in their capacity as an agent or employee. 'Activity' is substituted for 'activities'.

<b>Clause 24</b>	<b>Section 23 amended (Fees if not licensed)</b>  Amends the section by omitting 'guard'.
<b>Clause 25</b>	<b>Section 27 amended (Producing licences and wearing identity cards and identifying numbers)</b>  Omits 'guard' and omits 'Commissioner', substituting 'Director'.
<b>Clause 26</b>	<b>Section 28 amended (Trust Accounts)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 27</b>	<b>Section 29 amended (Financial records)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 28</b>	<b>Section 30 amended (Audits)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 29</b>	<b>Section 31 amended (Reports)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 30</b>	<b>Section 35B amended (Register to be maintained by licensee)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 31</b>	<b>Section 35C amended (Register to be maintained by crowd control agent)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 32</b>	<b>Section 35D amended (Infringement notices)</b>  Omits 'Commissioner' and substitutes 'Director'.

<b>Clause 33</b>	<b>Section 37 amended (Appeals)</b>  Omits 'Commissioner' and substitutes 'Director'.  Provides that in determining an application for review that the Magistrates Court (Administrative Appeals Division) does not disclose the existence or content of any criminal intelligence and is to hear argument in the absence of the public, the applicant for the review and the applicant's representative of any criminal intelligence information.
<b>Clause 34</b>	<b>Section 38 amended (Investigations)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 35</b>	<b>Section 38 amended (Codes of conduct)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 36</b>	<b>Section 39 amended (Delegation)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 37</b>	<b>Section 40 amended (Evidentiary provisions)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 38</b>	<b>Section 41 amended (Exemptions)</b>  Omits 'Territory of the Commonwealth' and substitutes 'Territory'.
<b>Clause 39</b>	<b>Section 42 amended (Regulations)</b>  Omits 'Commissioner' and substitutes 'Director'.
<b>Clause 40</b>	<b>Section 43B inserted</b>  Provides savings and transitional provisions in accordance with <b>Schedule 3</b> , relating to security activities.
<b>Clause 41</b>	<b>Schedule 3 inserted-</b>  Inserts a Schedule 3 after Schedule 2. Schedule 3 sets out savings and transitional provisions relating to commercial sub-agent activities, crowd control activities and security activities.