

TASMANIA

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**SECURITY AND INVESTIGATIONS AGENTS  
AMENDMENT (CROWD CONTROLLERS) BILL  
2005**

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**SECURITY AND INVESTIGATIONS 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.

**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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\*No. 19 of 2002

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;

- (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:



**“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;

**“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

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

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;

(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 –

- (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.

**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):

(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 –



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

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

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:

- (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

- (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

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

- (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;

- (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



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

- (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

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 –

- (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):

- (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

- (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.

**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

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



- (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”.

**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:

***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;

- (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

- (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

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) –

- (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;

- (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.

### **35D. Service of infringement notices**

- (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 –



- (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;

- (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

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

- (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.

**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

- (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.

- (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.

- (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



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.

**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.

- (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 –

- (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

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.

**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

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.

**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.



**PART 3 – ANNULLED CONVICTIONS ACT 2003  
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*.

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\*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*;

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\*No. 23 of 1996

**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

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\*No. 77 of 1959

**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.

2005	<i>Security and Investigations Agents Amendment (Crowd Controllers)</i>	No.	<b>sch. 1</b>
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# **SCHEDULE 1 – LEGISLATION REPEALED**

Section 44

*Crowd Controllers Act 1999* (No. 5 of 1999)

<b>sch. 2</b>	No.	<i>Security and Investigations Agents Amendment (Crowd Controllers)</i>	2005
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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 2000)

*Crowd Controllers Amendment Regulations 2005* (No. 36 of 2005)

2005	<i>Security and Investigations Agents Amendment (Crowd Controllers)</i>	No.	<b>sch. 3</b>
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### **SCHEDULE 3 – LEGISLATION REVOKED**

Section 46

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