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Robyn Webb
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Dated 13 January 2023



TASMANIA

SECURITY AND INVESTIGATIONS AGENTS ACT 2002

No. 19 of 2002

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**SECURITY AND INVESTIGATIONS AGENTS ACT
2002**

No. 19 of 2002

An Act to provide for the licensing and control of security agents, commercial agents, inquiry agents and crowd control agents and certain employees of such agents and for related purposes

[Royal Assent 25 June 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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Security and Investigations Agents Act 2002*.

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2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act –

agent licence means –

- (a) an agent licence issued and in force under section 10(1); or
- (b) an agent licence held by a person by virtue of holding deemed registration;

application, in relation to a licence, means an application to the Director for a licence made in accordance with section 6;

approved means approved by the Director;

authorised person means a person authorised by the Director;

close associate has the meaning given by section 3E;

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 undertake commercial agent activities;

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

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

commercial sub-agent means a person who holds an employee licence authorising the person to undertake commercial employee 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;

competency standards means the competency standards referred to in section 9;

creditor means a person on behalf of whom a commercial agent is acting, or has been engaged to act, in recovering or attempting to recover a debt;

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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 undertake crowd control agent activities;

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

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

crowd controller means a person who holds an employee licence authorising the person to undertake crowd control employee activities;

debt includes any interest, costs or other charges for which a debtor is legally liable to a creditor;

debtor means a person from whom a commercial agent has recovered or is attempting to recover a debt on behalf of a creditor;

deemed registration means an entitlement to automatic deemed registration, within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth;

Director means the Director of Consumer Affairs and Fair Trading appointed under section 9 of the *Consumer Affairs Act 1988*;

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employee licence means –

- (a) an employee licence issued and in force under section 10(2); or
- (b) an employee licence held by a person by virtue of holding deemed registration;

harassment means any conduct that –

- (a) tends to intimidate, embarrass, ridicule or shame; or
- (b) involves any undue frequent visits to premises or communications with the occupants of premises; or
- (c) involves any statement or suggestion made to a person that action may be taken to embarrass or shame the person if the person fails to pay any debt owed by the person;

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

identity card means –

- (a) an identity card referred to in section 10(4); or
- (b) an identity card that is similar to the identity card referred to in

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paragraph (a) that is issued to a person who holds an agent licence, or an employee licence, by virtue of holding deemed registration;

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

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

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

- (a) obtaining or providing information with respect to –
 - (i) the personal character or actions of any person; or
 - (ii) the business or occupation of any person;
- (b) obtaining evidence for the purpose of legal proceedings;
- (c) searching for missing persons;
- (d) any other prescribed activity;

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licence means an agent licence or an employee licence;

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

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

officer, in relation to a body corporate, means –

- (a) in the case of a company formed or incorporated under the Corporations Act that is taken to be registered in Tasmania, a director, manager or secretary of that company; and
- (b) in the case of any other company incorporated under the Corporations Act, the person who has the control and management of the business carried on by that company in the State;

place of business means any premises in the State, commercial or residential, at which business is carried on under a licence;

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

prescribed offence means –

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- (a) an offence involving theft or robbery, or any other offence involving dishonesty, whether committed in the State or elsewhere; or
- (b) an offence involving assault, or any other offence involving violence, whether committed in the State or elsewhere; or
- (ba) an offence involving abduction, kidnapping or stalking, whether committed in the State or elsewhere; or
- (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; or
- (d) an offence involving a weapon, whether committed in the State or elsewhere; or
- (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;

prescribed record means a prescribed record as defined in the *Records of Offences (Access) Act 1981*;

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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 undertake security agent activities;

security agent activities has the meaning given by section 3C(3);

security employee activities has the meaning given by section 3D(3);

security guard means a person who holds an employee licence authorising the person to undertake security employee activities;

security activities has the meaning given by section 3B;

security interest means any interest in, or power over, goods or chattels that secures payment of a debt or performance of any other obligation;

trust account means a trust account maintained under section 28 in the State.

3A. Meaning of “crowd control activities”

- (1) A person undertakes crowd control activities if 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

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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 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:

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

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- (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 –
 - (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

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- (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.
- (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 –

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- (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

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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.

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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 is –
- (a) the holder of an agent licence granted by the Director in accordance with this Part;
or
 - (b) entitled to hold an agent licence by virtue of holding deemed registration.

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 is –
- (a) the holder of an employee licence granted by the Director under this Part;
or
 - (b) entitled to hold an employee licence by virtue of holding deemed registration.

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Penalty: Fine not exceeding 100 penalty units.

4A.

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 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 –

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- (a) no penalty; or
 - (b) a penalty that does not include –
 - (i) a term of imprisonment;
or
 - (ii) a fine of \$500 or more.
- (2) A person is ineligible to hold 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) A person is ineligible, under subsection (2), to hold a licence 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

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- (b) in any other case, the day on which the person is found guilty of the relevant offence.
- (4) A person is ineligible to hold 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 hold 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).

5A. Deemed registration of licence holders

- (1) In this section –

occupation has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth;

participating jurisdiction has the meaning it has in section 4(1) of the *Mutual Recognition Act 1992* of the Commonwealth.

- (2) A person who intends to undertake any commercial agent activities, crowd control agent activities, security agent activities, inquiry agent activities, commercial employee activities, crowd control employee activities or security

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employee activities in the State, in accordance with a licence held by the person by virtue of holding deemed registration, must notify the Director of the person's entitlement to hold deemed registration before undertaking the activities.

Penalty: Fine not exceeding 10 penalty units.

- (3) A notification under subsection (2) –
- (a) must be in a manner approved by the Director; and
 - (b) must be in a form approved by the Director; and
 - (c) is to contain any information that the Director considers necessary.
- (4) If there is a change in the information provided by a person in a notification to the Director under subsection (2), the person must, as soon as practicable, in a form approved by the Director, notify the Director of the change.

Penalty: Fine not exceeding 10 penalty units.

- (5) A person who holds a licence by virtue of holding deemed registration must not undertake any commercial agent activities, crowd control agent activities, security agent activities, inquiry agent activities, commercial employee activities, crowd control employee activities or security employee activities in the State unless the work is within the scope of the work that the person is

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authorised to carry out for that occupation in the relevant participating jurisdiction.

Penalty: Fine not exceeding 10 penalty units.

- (6) If a person is found guilty of an offence against subsection (2), (4) or (5), the Director may –
- (a) suspend or cancel the deemed registration held by the holder of the licence; and
 - (b) disqualify the person from holding a licence by virtue of holding deemed registration for a specified period or until the person fulfils a specified condition.

6. Application

- (1) Subject to subsection (3), a person who is eligible to hold a licence may make an application to the Director for a licence.
- (2) An application for a licence is to –
- (a) be in an approved form; and
 - (b) state the activities, or classes of activities, in respect of which the application is sought; and
 - (c) be accompanied by any record relating to the applicant that the Director requires; and
 - (d) be accompanied by the prescribed fee.

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- (3) A person who is entitled to hold a licence by virtue of holding deemed registration is not required to make an application for the licence in accordance with this Act.

7. Character report

- (1) On receipt of an application for a licence, the Director is to 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 directed by the Commissioner of Police.

- (2) On receipt of an application for a licence, the Director 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)
 - (c) any other information and documentation relating to the application.
- (3) The Commissioner of Police must inquire into and report to the Director on any matters concerning the application that the Director requests.

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- (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).
- (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.
- (5) The Commissioner of Police –
- (a) is to destroy any fingerprints or palm prints obtained under this section and any copies of them as soon as the Commissioner of Police 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 of Police is taken to have no further use for fingerprints or palm prints obtained in respect of an application for a licence if –
- (a) the Director refuses to grant the application; or

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- (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 of Police, in accordance with the directions of the Commissioner of Police, so as to enable the Commissioner of Police 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 of Police for a period not exceeding 3 years and the Commissioner of Police is to comply with the request despite subsection (5).

8. Grant or refusal of application

- (1) After receiving a character report from the Commissioner of Police under section 7(3) in respect of an application for a licence, the Director may –
 - (a) grant the application subject to any conditions that the Director determines;
or
 - (b) refuse to grant the application.

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- (2) The Director may refuse to grant an application for a licence if satisfied that –
- (a) the applicant –
 - (i) is not a fit and proper person to hold a licence; or
 - (ii)
 - (iii) does not have the required competency standards; or
 - (iv) has been found guilty of a prescribed offence or an offence under this Act; or
 - (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
 - (v) other than an applicant for an employee licence authorising the undertaking of any crowd control employee activities or security employee activities, is bankrupt or insolvent; or
 - (vi) is unable to demonstrate, to the satisfaction of the Director, that he or she will be actively involved in the activities to be authorised under the licence; or

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- (b) in the case of a body corporate, the licence would not be granted to an officer of that body; or
 - (c) the granting of the licence is contrary to the public interest.
- (2A) Despite subsection (1) and (2)(a)(iv), the Director must refuse to grant an application for a licence if the applicant is 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.
- (3) In determining whether to grant or refuse an application, the Director is to take into account any information or matter that the Director considers relevant, including, without limitation, criminal intelligence information.
- (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 disclose the existence or content of any criminal intelligence information.

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- (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.
- (5A) The Director must be satisfied in relation to the matters set out in this section, other than as set out in subsections (1) and (2)(a)(i), in respect of a person who is entitled to hold a licence by virtue of holding deemed registration, despite the person not making an application for a licence under this Act.
- (6) In this section –
- criminal intelligence information*** means information that relates to 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

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of this or any other State or of a Territory.

9. Competency standards

The Director may determine competency standards relating to the education, practical skills and experience required of a person as a holder of a licence.

10. Issue of licence

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

- (2) If the Director grants an application for a licence in respect of one or more of the following, the Director is to issue to the applicant an employee licence:
 - (a) the undertaking of commercial employee activities;

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- (b) the undertaking of crowd control employee activities;
 - (c) the undertaking of security employee activities.
- (3) A licence issued in accordance with subsection (1) or (2) is to –
- (a) be in an approved form; and
 - (b) specify the type of licence; and
 - (ba) specify the activities, or classes of activities, that are authorised by the 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.
- (3A) For the purpose of subsection (3)(ba), an agent licence may specify activities, or 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;

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- (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.
- (4) At the time of issuing a licence under this section to an applicant, the Director 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, other than an identity card that is issued to a person who holds an agent licence, or an employee licence, by virtue of holding deemed registration, is to be in an approved form.
- (6) This section does not apply to a person who holds a licence by virtue of holding deemed registration.

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;
- (c) the undertaking of security employee activities.

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13. Conditions

- (1) A licence issued by the Director in accordance with section 10 is subject to any condition specified in the licence.
- (2) The holder of a licence issued by the Director in accordance with section 10 must comply with a condition of the licence.

Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 100 penalty units.
- (3) The Director, by an endorsement on a licence issued by the Director in accordance with section 10, 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. Duration of licence

- (1) A licence issued by the Director under section 10 is in force for the period specified in the licence unless sooner cancelled.
- (2) A licence held by a person by virtue of holding deemed registration is valid for the period in

respect of which the deemed registration is in force.

14A. Amendment of licence

- (1) On the request of the holder of a licence or at the Director's discretion, the Director 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 Director 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 –
 - (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;

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

15. Cancellation of licence

- (1) The Director, by notice served on the holder of a licence, may cancel the licence –
 - (a) if satisfied that any matter referred to in section 8(2) or (2B) applies; or
 - (b) if satisfied that the holder of the licence –
 - (i) gave information that is false or misleading; or
 - (ii) failed to comply with this Act; or
 - (iii) failed to comply with any condition of the licence; or
 - (c) for any other prescribed reason.
- (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.
- (3) The cancellation of a licence under subsection (1) takes effect on the date of service of the notice.

16. Suspension of licence

- (1) The Director, by notice served on the holder of a licence, may suspend the licence for a period not exceeding 90 days if satisfied that it is in the public interest to do so.
- (2) If a court convicts a person of an offence under this Act, the court, in addition to imposing any penalty, may suspend the licence held by the person.
- (3) A suspended licence ceases to have effect during the period of suspension.
- (4) The suspension of a licence under subsection (1) takes effect on the date of service of the notice.

17. Surrender of licence and identity card

- (1) A person whose licence has expired or has been cancelled or suspended must surrender the licence and his or her identity card to the Director.

Penalty: In the case of –

- (a) a body corporate, 100 penalty units; and
 - (b) a natural person, 20 penalty units.
- (2) The holder of a licence who no longer intends to undertake any activity under the authority of the licence must surrender the licence and his or her identity card to the Director.

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Penalty: In the case of –

- (a) a body corporate, 100 penalty units; and
 - (b) a natural person, 20 penalty units.
- (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.
- (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.

18. Death of licensee

- (1) If the holder of a licence issued by the Director in accordance with section 10 dies, the person's legal personal representative is to notify the Director –
- (a) of that fact; and
 - (b) of the name of the person nominated to undertake any activity under the licence.

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- (2) A person nominated under subsection (1)(b) must be a person to whom a licence may be issued under this Act.
- (3) A person nominated under subsection (1)(b) may only undertake any activity, or class of activities, specified in the licence for a period not exceeding 3 months after the death of the holder of the licence.
- (4) If a person who holds a licence by virtue of holding deemed registration dies –
 - (a) the person’s legal personal representative is to notify the Director of that fact; and
 - (b) no other person may undertake any activity under the licence.

19. Duplicate licences and identity cards

- (1) The Director may issue a duplicate licence or identity card on request and on payment of a prescribed fee if satisfied that the licence or identity card has been lost, destroyed or mutilated.
- (2) This section does not apply to a licence held by a person by virtue of holding deemed registration.

20. Register of licences

- (1) The Director is to keep a register of licences in any form the Director considers appropriate.

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- (2) The register of licences is to contain details of the following:
- (a) the date on which a licence is issued;
 - (b) the date on which the licence expires;
 - (c) the name and business address of the holder of a licence;
 - (d) the renewal of a licence;
 - (e) the cancellation or suspension of a licence;
 - (f) the surrender of a licence;
 - (fa) any information that the Director considers appropriate in relation to a licence held by a person by virtue of holding deemed registration;
 - (g) any other matter the Director considers appropriate.
- (3) A person, at any reasonable time and on payment of a prescribed fee, may inspect the register of licences.
- (4) The Director may publish a list of all current licences in any manner or form the Director determines.

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21. Change of address

The holder of a licence must notify the Director of any change of address within 30 days after that change.

Penalty: In the case of –

- (a) a body corporate, 100 penalty units; and
- (b) a natural person, 20 penalty units.

PART 3 – OFFENCES

Division 1 – General

21A. Employing unlicensed person

(1) A person must not –

(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;

(iv) inquiry agent activities; or

(b) direct another person to undertake any such activities –

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

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.

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- (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.

22. Harassment

- (1) The holder of a licence must not engage in harassment while undertaking any activity under the licence.

Penalty: In the case of –

- (a) a body corporate, 100 penalty units; and
 - (b) a natural person, 20 penalty units.
- (2) A person who is exempted from holding an agent licence under section 41 must not engage in harassment while undertaking any activity referred to in that section.

Penalty: In the case of –

- (a) a body corporate, 100 penalty units; and

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- (b) a natural person, 20 penalty units.

23. Fees if not licensed

A person must not charge or recover any fee, commission or other consideration for undertaking any commercial sub-agent activities, crowd control activities, security 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 unless at that time the person was the holder of the appropriate licence.

Penalty: In the case of –

- (a) a body corporate, 100 penalty units; and
- (b) a natural person, 20 penalty units.

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.

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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.

25. Display of notice

The holder of an agent licence must display the licence in a conspicuous position in his or her place of business.

Penalty: In the case of –

- (a) a body corporate, 100 penalty units; and
- (b) a natural person, 20 penalty units.

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26. Use of licence, identity card or identifying number by others

The holder of a licence must not allow the licence, his or her identity card or his or her identifying number to be used by another person.

Penalty: In the case of –

- (a) a body corporate, 1 000 penalty units; and
- (b) a natural person, 200 penalty units.

27. Producing licences and wearing identity cards and identifying numbers

(1) The holder of a licence must produce his or her identity card on demand from –

- (a) a police officer; or
- (b) an authorised person; or
- (c) any other person requiring confirmation.

Penalty: In the case of –

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

(2) A security agent or security guard must wear his or her identity card while undertaking security activities so that it is clearly visible.

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Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 100 penalty units.
- (3) Subsection (2) does not apply to a security agent or security guard who the Director 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 Director may provide the exemption if –
- (a) he or she is satisfied that the duties of the security agent or security guard are of a special nature that requires the provision of the exemption in the interests of safety; and
 - (b) the security agent or security guard has paid any prescribed fee.
- (5) When undertaking crowd control activities, a crowd control agent or crowd controller must wear his or her identifying number so that it is clearly visible.

Penalty: In the case of –

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

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

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

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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.

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- (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.

Division 2 – Commercial agents

28. Trust accounts

- (1) The holder of an agent licence in respect of the operation of a commercial agency must –
- (a) maintain a trust account in an authorised deposit-taking institution in this State; and

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- (b) deposit any money received for or on behalf of a client into that trust account; and
- (c) keep that money in that trust account until –
 - (i) paid to the client or reimbursed as the client directs; or
 - (ii) ordered otherwise by an order of a court.

Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 100 penalty units.
- (2) The holder of an agent licence must not use money in a trust account of the holder –
- (a) for the payment of debts of the holder; or
 - (b) for the payment of any creditor of the holder; or
 - (c) for an attachment or execution under an order of a court at the instance of any creditor of the holder.

Penalty: In the case of –

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

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- (b) a natural person, 100 penalty units.

- (3) The Director, by notice in writing, may require the holder or previous holder of an agent licence who operates or operated a commercial agency to provide any information the Director considers necessary to investigate whether or not an offence has been committed under this section.

29. Financial records

- (1) The Director, by notice in writing, may require the manager of an authorised deposit-taking institution to –
 - (a) provide written information as to –
 - (i) whether or not there is or was any trust account in the name of a specified person; and
 - (ii) the address at which any document or record relevant to that trust account is kept; and
 - (b) produce for inspection to an authorised person any document or record relating to that trust account; and
 - (c) allow an authorised person to inspect, and take copies of, or extracts from, any such document or record.

- (2) A person must comply with a requirement.

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Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 200 penalty units.
- (3) A requirement under subsection (1)(b) is taken not to be complied with if the document or record is not produced at the address given by the authorised deposit-taking institution under subsection (1)(a)(ii) as the address at which the document or record is kept.

30. Audits

- (1) A commercial agent who is required to maintain a trust account under section 28(1) must arrange for that trust account to be audited in accordance with this section within 2 months after 30 June in each year.

Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 100 penalty units.
- (2) An audit is to be carried out –
- (a) by a person who is a member of any of the following:

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- (i) the Institute of Chartered Accountants;
 - (ii) the Australian Society of Certified Practising Accountants;
 - (iii) the Institute of Public Accountants; and
- (b) in accordance with any requirements the Director determines relating to the matters to be covered.
- (3) A person conducting an audit is to issue a certified report of the audit in an approved form.

31. Reports

- (1) A commercial agent must provide a report to the Director by 30 September in each year.

Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 100 penalty units.
- (2) A report –
- (a) is to contain any information the Director determines; and
 - (b) is to be accompanied by the certified report of the audit issued under section 30(3).

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- (3) The Director may require a commercial agent to provide further reports as the Director determines.

32. Records

- (1) Other than a person referred to in subsection (3), the holder of an agent licence in respect of the operation of a commercial agency must keep records in a secure place at his or her place of business for a period of 6 years of –
- (a) any transaction entered into in the course of undertaking activities under that licence; and
 - (b) any person employed by the holder for the purpose of the operation of the commercial agency.

Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 100 penalty units.
- (2) A person must not falsify or mutilate any records referred to in subsection (1).

Penalty: In the case of –

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

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(b) a natural person, 200 penalty units.

(3) The holder of an agent licence in respect of the operation of a commercial agency who holds that licence by virtue of holding deemed registration, and who does not have a place of business in this State, must keep the following records in an approved manner for an approved period:

(a) a record of any transaction entered into in the course of undertaking activities under that licence;

(b) a record in relation to any person employed by the holder for the purpose of the operation of the commercial agency.

Penalty: In the case of –

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

(b) a natural person, 100 penalty units.

(4) A person must not falsify or mutilate any records referred to in subsection (3).

Penalty: In the case of –

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

(b) a natural person, 200 penalty units.

33. Possession of motor vehicles

A commercial agent, or a commercial sub-agent, undertaking any activity of a commercial agent or any person referred to in section 41(1)(k) who takes possession of a motor vehicle within the meaning of the *Vehicle and Traffic Act 1999* that is subject to a security interest must –

- (a) inform a police officer; and
- (b) deliver or send by post, within 24 hours, to the nearest police station written particulars in duplicate of the motor vehicle.

Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
- (b) a natural person, 200 penalty units.

34. Place of business

The holder of an agent licence issued by the Director in accordance with section 10 who 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, at a place other than the place of business specified in the licence.

Penalty: In the case of –

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- (a) a body corporate, 500 penalty units; and
- (b) a natural person, 200 penalty units.

35. Recovery of money

The holder of an agent licence or employee licence who undertakes any commercial sub-agent activities must not demand directly or indirectly from a debtor any payment other than the debt owed.

Penalty: In the case of –

- (a) a body corporate, 500 penalty units; and
- (b) a natural person, 200 penalty units.

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.

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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

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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 Director 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 –

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- (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;

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- (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

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person while undertaking the crowd control activities;

- (d) any other information that the Director 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. Infringement notices

- (1) The Director, an authorised person or a police officer may serve an infringement notice on a person if the Director, 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.
- (3) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.

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35L. Penalties to be paid into Public Account

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

PART 4 – MISCELLANEOUS

36. Disputes

- (1) In any proceedings for the recovery of money under an agreement between the holder of a licence and his or her client where there is a dispute relating to money charged for services by the holder, the court may –
 - (a) order that the client’s liability to the holder is limited to a sum specified in the order; and
 - (b) set aside, wholly or in part, or alter the agreement as the court considers appropriate; and
 - (c) give judgment for any party to the agreement the court considers appropriate.
- (2) A client of a holder of a licence may institute proceedings for an order under this section.

37. Appeals

- (1) A person may apply for a review of the decision of the Director to –
 - (a) refuse to grant an application for a licence; or
 - (b) impose any condition of a licence; or
 - (c) vary a condition of a licence; or

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- (d) cancel a licence; or
 - (e) suspend a licence.
- (2) An application is to be made in accordance with the *Magistrates Court (Administrative Appeals Division) Act 2001*.
- (3) A review is to be heard and determined under the *Magistrates Court (Administrative Appeals Division) Act 2001*.
- (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.

38. Investigations

- (1) The Director or an authorised person may carry out any investigation necessary to –
- (a) consider an application for a licence; or

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- (b) ascertain whether or not an offence under this Act has been, or is being, committed.
- (2) In carrying out an investigation, the Director 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.
- (3) A requirement made of a company is to be made to –
- (a) any officer of that company; or

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- (b) a person apparently having the management of the business carried on by that company.
- (4) A person must comply with a requirement.
Penalty: In the case of –
 - (a) a body corporate, 500 penalty units; and
 - (b) a natural person, 100 penalty units.
- (5) If a document is seized –
 - (a) the Director has possession of it; and
 - (b) the Director 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 Director, the Director must provide that person with access to peruse the document or with a copy of the document certified by the Director as a true copy.
- (6) A copy of a document seized under this section that is certified by the Director as a true copy of the document is to be received in all courts and elsewhere as if it were the original document.

38A. Codes of conduct

- (1) The Director may issue, in a manner determined by the Director, codes of conduct in respect of the undertaking of operations and activities under a licence.
- (2) On issuing a code of conduct, the Director 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 Director, 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 Director 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*.

39. Delegation

The Director may delegate any of the Director's powers or functions, other than this power of delegation, to any authorised person.

40. Evidentiary provisions

- (1) In any proceedings, a document purporting to be a licence is evidence of that fact.
- (2) An allegation in a complaint that a person was, or was not, at any date specified in the complaint the holder of a licence is evidence of that fact.
- (3) A document purporting to be signed by the Director stating that a person named in the document is or is not, or was or was not, at any date specified in the document the holder of a licence is evidence of that fact.
- (4) A certified copy of any entry in the register of licences signed by the Director is evidence of the facts contained in that copy.

41. Exemptions

- (1) The following persons are exempted from the requirement to hold an agent licence:
 - (a) a person acting in good faith in an office created by an Act of the Commonwealth or of this State or any other State or a Territory while carrying out any activity of a commercial agent or an inquiry agent;

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- (b) a person acting in good faith in an office under the Crown in the right of the Commonwealth or of this State or any other State or a Territory while carrying out any activity of a commercial agent or an inquiry agent;
- (c) an Australian legal practitioner acting in the ordinary course of his or her profession, or a clerk employed by an Australian legal practitioner acting in the ordinary course of that employment, while carrying out any activity of a commercial agent or an inquiry agent;
- (d) a member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the Institute of Public Accountants acting in the ordinary course of his or her profession while carrying out any activity of a commercial agent or an inquiry agent;
- (e) a trustee company, a building society, a friendly society, or a person carrying on the business of insurance, insurance broking or banking, acting in the ordinary course of that business, or an employee of such a company, society or person acting in the ordinary course of that employment, while carrying out any activity of a commercial agent or an inquiry agent;

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- (f) a person employed by the holder of a licence to perform clerical or secretarial functions acting in the ordinary course of that employment while carrying out any activity of a commercial agent or an inquiry agent;
- (g) a person employed by a commercial agent for the purpose of debt collection by telephone acting in the ordinary course of that employment;
- (h) a person employed by a person who is not a commercial agent acting in the ordinary course of that employment;
- (i) a real estate agent, within the meaning of the *Property Agents and Land Transactions Act 2016*, acting in the ordinary course of that employment while carrying out any activity of a commercial agent or an inquiry agent;
- (j) a member of the Australasian Institute of Chartered Loss Adjusters acting in the ordinary course of his or her profession while carrying out any activity of a commercial agent or an inquiry agent;
- (k) an employee of a holding company or the subsidiary of a holding company acting as a commercial agent for another company that is related to the first-mentioned company in the course of that employment while carrying out any

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activity of a commercial agent or an inquiry agent;

- (1) any other prescribed person.
- (2) A member of the Defence Force of the Commonwealth performing the functions of such a member is not required to hold a licence while carrying out any activity of a commercial agent, a security agent, an inquiry agent, a commercial sub-agent or a security guard.
- (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

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respect of, the licensed premises is taken to be employed by a crowd control agent while undertaking those activities.

- (6) A person is not required to hold a licence authorising the undertaking of security activities under this Act if –
- (a) the person is employed by a business at which goods are sold or offered for sale from a property that is open to the public while the business is operating; and
 - (b) the person so employed is undertaking a security activity within the meaning of section 3B(d) at the property while the business is so operating; and
 - (c) the person so employed is undertaking that security activity –
 - (i) in the course of that employment; and
 - (ii) in relation to the property at which he or she is employed; and
 - (d) the security activity that is undertaken is limited to checking a bag in the possession of a person leaving the property; and
 - (e) the property where the business is operating and at which the security activity is undertaken has, at each entrance to the property, a clearly visible sign stating that allowing a bag to be

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checked is a condition of entry to the property; and

(f) the security activity is carried out in accordance with a code of conduct issued by the Director under subsection (8).

(7) For the purposes of subsection (6) –

bag includes the following items:

(a) a bag;

(b) a parcel;

(c) a carton;

(d) a container;

(e) another item that could reasonably be expected to conceal goods.

(8) The Director may issue codes of conduct under section 38A in respect of a person, or class of persons, who is exempt under this section from the requirement to hold a licence, as if that person, or class of persons, while so exempt were undertaking operations or activities under a licence.

42. Regulations

(1) The Governor may make regulations for the purposes of this Act.

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- (2) Regulations may be made so as to apply differently according to any matter, condition, limitation, restriction, exception or circumstance specified in the regulations.
- (3) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Director.
- (4) The regulations may be of a savings or transitional nature consequent on the enactment of this Act.
- (5) Regulations under subsection (4) may take effect from the commencement of this Act or on a later day.

43. Savings and transitional provisions

The savings and transitional provisions set out in Schedule 1 have effect.

43A. Savings and transitional provisions relating to crowd control

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

43B. Savings and transitional provisions relating to security activities

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

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44. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice and Industrial Relations; and
- (b) the department responsible to the Minister for Justice and Industrial Relations in relation to the administration of this Act is the Department of Justice and Industrial Relations.

45. *Commercial and Inquiry Agents Act 1974* repealed

The *Commercial and Inquiry Agents Act 1974* is repealed and any Statutory Rules made under that Act are rescinded or revoked.

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 43

1. Interpretation

In this Schedule –

commencement day means the day on which
this Act commences;

repealed Act means the *Commercial and
Inquiry Agents Act 1974*.

2. Licences

- (1) A licence to act as a commercial agent, an inquiry agent or a security agent in force under the repealed Act immediately before the commencement day is, on that day, an agent licence until it ceases to have effect as specified in the licence.
- (2) A licence to act as a commercial sub-agent or a security guard in force under the repealed Act immediately before the commencement day is, on that day, an employee licence until it ceases to have effect as specified in the licence.
- (3) An application for a licence made under the repealed Act and not determined before the commencement day is, on that day, to be treated as an application for the appropriate licence under this Act.

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3. Proceedings

Any proceedings instituted but not heard or determined under the repealed Act before the commencement day may, on and after that day, be heard and determined under that Act.

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**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

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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 –

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- (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

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licence held by that person under section 16(2)
of this Act.

**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

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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 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.

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NOTES

The foregoing text of the *Security and Investigations Agents Act 2002* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 14 December 2022 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Security and Investigations Agents Act 2002</i>	No. 19 of 2002	1.1.2003
<i>Security and Investigations Agents Amendment (Crowd Controllers) Act 2005</i>	No. 58 of 2005	1.1.2006
<i>Property Agents and Land Transactions Act 2005</i>	No. 75 of 2005	1.12.2006
<i>Monetary Penalties Enforcement (Transitional Arrangements and Consequential Amendments) Act 2007</i>	No. 72 of 2007	28.4.2008
<i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>	No. 66 of 2007	31.12.2008
<i>Security and Investigations Agents Amendment Act 2010</i>	No. 39 of 2010	1.7.2011
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2013</i>	No. 20 of 2013	20.6.2013
<i>Property Agents and Land Transactions Act 2016</i>	No. 58 of 2016	1.4.2017
<i>Security and Investigations Agents Amendment Act 2019</i>	No. 9 of 2019	4.6.2019
<i>Financial Management (Consequential and Transitional Provisions) Act 2017</i>	No. 4 of 2017	1.7.2019
<i>Occupational Licensing (Automatic Mutual Recognition Consequential Amendments) Act 2022</i>	No. 29 of 2022	14.12.2022

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TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 58 of 2005, s. 5, No. 39 of 2010, s. 4 and No. 29 of 2022, s. 86
Section 3A	Inserted by No. 58 of 2005, s. 6
Section 3B	Amended by No. 39 of 2010, s. 5 Inserted by No. 58 of 2005, s. 6 Substituted by No. 39 of 2010, s. 6
Section 3C	Inserted by No. 58 of 2005, s. 6 Substituted by No. 39 of 2010, s. 6
Section 3D	Inserted by No. 39 of 2010, s. 6
Section 3E	Inserted by No. 39 of 2010, s. 6
Section 4	Substituted by No. 58 of 2005, s. 7, No. 39 of 2010, s. 7 and No. 29 of 2022, s. 87
Section 4A	Inserted by No. 58 of 2005, s. 7 Repealed by No. 39 of 2010, s. 7
Section 5	Subsection (1A) inserted by No. 58 of 2005, s. 8 Amended by No. 58 of 2005, s. 8 Substituted by No. 39 of 2010, s. 7 Amended by No. 29 of 2022, s. 88
Section 5A	Inserted by No. 29 of 2022, s. 89
Section 6	Amended by No. 58 of 2005, s. 9, No. 39 of 2010, s. 8 and No. 29 of 2022, s. 90
Section 7	Substituted by No. 58 of 2005, s. 10 Amended by No. 39 of 2010, s. 9
Section 8	Amended by No. 58 of 2005, s. 11, No. 39 of 2010, s. 10 and No. 29 of 2022, s. 91
Section 9	Amended by No. 39 of 2010, s. 11
Section 10	Substituted by No. 58 of 2005, s. 12 Amended by No. 39 of 2010, s. 12 and No. 29 of 2022, s. 92
Section 11	Substituted by No. 58 of 2005, s. 12 and No. 39 of 2010, s. 13
Section 12	Substituted by No. 58 of 2005, s. 12 and No. 39 of 2010, s. 13
Section 13	Amended by No. 58 of 2005, s. 13, No. 39 of 2010, s. 14 and No. 29 of 2022, s. 93
Section 14	Substituted by No. 29 of 2022, s. 94
Section 14A	Inserted by No. 58 of 2005, s. 14 Amended by No. 39 of 2010, s. 15
Section 15	Amended by No. 58 of 2005, s. 15 and No. 39 of 2010, s. 16
Section 16	Amended by No. 58 of 2005, s. 16 and No. 39 of 2010, s. 17
Section 17	Amended by No. 58 of 2005, s. 17 and No. 39 of 2010, s. 18
Section 18	Amended by No. 39 of 2010, s. 19 and No. 29 of 2022, s.

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Section 19	Amended by No. 39 of 2010, s. 20 Substituted by No. 29 of 2022, s. 96
Section 20	Amended by No. 58 of 2005, s. 18, No. 39 of 2010, s. 21 and No. 29 of 2022, s. 97
Section 21	Amended by No. 39 of 2010, s. 22
Section 21A	Inserted by No. 58 of 2005, s. 19 Amended by No. 39 of 2010, s. 23
Section 23	Amended by No. 58 of 2005, s. 20 and No. 39 of 2010, s. 24
Section 24	Substituted by No. 58 of 2005, s. 21
Section 25	Amended by No. 58 of 2005, s. 22
Section 26	Amended by No. 58 of 2005, s. 23
Section 27	Amended by No. 58 of 2005, s. 24 and No. 39 of 2010, s. 25
Section 27A	Inserted by No. 58 of 2005, s. 25
Section 27B	Inserted by No. 58 of 2005, s. 25
Section 27C	Inserted by No. 58 of 2005, s. 25
Section 27D	Inserted by No. 58 of 2005, s. 25
Section 28	Amended by No. 58 of 2005, s. 26 and No. 39 of 2010, s. 26
Section 29	Amended by No. 39 of 2010, s. 27
Section 30	Amended by No. 39 of 2010, s. 28 and No. 20 of 2013, s. 82
Section 31	Amended by No. 39 of 2010, s. 29
Section 32	Amended by No. 58 of 2005, s. 27 and No. 29 of 2022, s. 98
Section 33	Amended by No. 58 of 2005, s. 28
Section 34	Amended by No. 58 of 2005, s. 29 and No. 29 of 2022, s. 99
Section 35	Amended by No. 58 of 2005, s. 30
Section 35A of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35B of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35B	Amended by No. 39 of 2010, s. 30
Section 35C of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35C	Amended by No. 39 of 2010, s. 31
Section 35D of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35D	Amended by No. 72 of 2007, Sched. 1 and No. 39 of 2010, s. 32
Section 35E of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35E	Repealed by No. 72 of 2007, Sched. 1
Section 35F of Part 3	Inserted by No. 58 of 2005, s. 31

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Provision affected	How affected
Section 35F	Repealed by No. 72 of 2007, Sched. 1
Section 35G of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35G	Repealed by No. 72 of 2007, Sched. 1
Section 35H of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35H	Repealed by No. 72 of 2007, Sched. 1
Section 35I of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35I	Repealed by No. 72 of 2007, Sched. 1
Section 35J of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35J	Repealed by No. 72 of 2007, Sched. 1
Section 35K of Part 3	Inserted by No. 58 of 2005, s. 31
Section 35K	Repealed by No. 72 of 2007, Sched. 1
Section 35L	Amended by No. 4 of 2017, Sched. 1
Section 35L of Part 3	Inserted by No. 58 of 2005, s. 31
Section 37	Amended by No. 39 of 2010, s. 33
Section 38	Amended by No. 58 of 2005, s. 32 and No. 39 of 2010, s. 34
Section 38A	Inserted by No. 58 of 2005, s. 33 Amended by No. 39 of 2010, s. 35
Section 39	Amended by No. 39 of 2010, s. 36
Section 40	Amended by No. 58 of 2005, s. 34 and No. 39 of 2010, s. 37
Section 41	Amended by No. 58 of 2005, s. 35, No. 75 of 2005, Sched. 1, No. 66 of 2007, Sched. 1, No. 39 of 2010, s. 38, No. 20 of 2013, s. 83, No. 58 of 2016, Sched. 4 and No. 9 of 2019, s. 4
Section 42	Amended by No. 39 of 2010, s. 39
Section 43A	Inserted by No. 58 of 2005, s. 36
Section 43B	Inserted by No. 39 of 2010, s. 40
Schedule 2	Inserted by No. 58 of 2005, s. 37
Schedule 3	Inserted by No. 39 of 2010, s. 41
