



ELIZABETHAE SECUNDAE REGINAE

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No. 26 of 1976

**An Act to amend the Invasion of Privacy Act 1971 in certain particulars**

[ASSENTED TO 22ND APRIL, 1976]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title and citation.** (1) This Act may be cited as the *Invasion of Privacy Act Amendment Act 1976*.

(2) The *Invasion of Privacy Act 1971* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Invasion of Privacy Act 1971-1976*.

**2. Commencement.** This Act shall commence on a day to be fixed by Proclamation.

**3. Amendment of s. 3.** Section 3 of the Principal Act is amended by inserting after the words "PART IV—LISTENING DEVICES (ss. 41-48);" the following words:—

"PART IVA—INVASION OF PRIVACY WITH RESPECT TO DWELLING-HOUSES (s. 48A);".

**4. Amendment of s. 4.** Section 4 of the Principal Act is amended by inserting at the end of the meaning of the term "registered address", after the words "may be", the words "as his registered address".

**5. Amendment of s. 9.** Section 9 of the Principal Act is amended by—

(a) inserting at the end of subsection (3), as part of that subsection, the following paragraph:—

“For the purposes of his inquiry, the Commissioner may request the Commissioner of Police to furnish him with a report on the fame and character of the applicant or, where the applicant is a corporation, on the fame and character of the directors and the secretary of the corporation, and the Commissioner of Police on receipt of such request shall cause inquiries to be made and a report to be furnished to the Commissioner in accordance with the request.”;

(b) in subsection (4), omitting all words occurring after the words “not later than” and substituting the words “one month before the date on which the licence, if not renewed, would expire.”.

**6. Amendment of s. 10.** Section 10 of the Principal Act is amended by—

(a) inserting in subsection (1), after the words “of this Act”, the words “, including a consideration of any report furnished by the Commissioner of Police,”;

(b) omitting subsections (8) and (9) and substituting the following subsections:—

“(8) Subject to this Part—

(a) a licence issued prior to the commencement of the *Invasion of Privacy Act Amendment Act 1976* shall expire on 31 December 1976 and a licence issued after such commencement shall be in force for a period of twelve months from the date of its issue;

(b) a licence renewed pursuant to this Act shall be in force for a period of twelve months from the date of its renewal.

(9) A licence shall not be granted to an applicant—

(a) in the case of an individual, unless he has attained the age of 21 years;

(b) in the case of a corporation, unless it is—

(i) registered under the provisions of the *Companies Act 1961-1975*; or

(ii) a recognised company within the meaning of the *Companies Act 1961-1975* having a place of business or carrying on business within the State.”.

**7. Amendment of s. 36.** Section 36 of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:—

“(2) (a) The registered address shall be specified by the applicant in his application for a licence and shall be the address at which he proposes to carry on business or, in the case of an applicant proposing to carry on business at more than one place in the State, the address of the principal place at which he proposes to carry on business; and the Commissioner shall, upon the grant of a licence, enter such address in the register kept by him as the registered address of the licensee.

(b) In the case of an applicant proposing to carry on business at more than one place in the State, that applicant shall specify in the application the addresses of the places at which he proposes to carry on business that are additional to the registered address; and the Commissioner shall, upon the grant of a licence, enter such addresses in the register kept by him as addresses of the licensee additional to the registered address.

(c) A licensee shall within seven days after—

- (i) a change in his registered address give written notice of the particulars thereof to the Commissioner;
- (ii) a change in an address of a place where he carries on business other than his registered address give written notice of the particulars thereof to the Commissioner;
- (iii) commencing to carry on business at an additional place give written notice of the address thereof to the Commissioner;
- (iv) ceasing to carry on business at any place give written notice of his ceasing to carry on business at the address of the place in question to the Commissioner,

and the Commissioner shall enter particulars with respect thereto in the register kept by him.

(3) Any licensed credit reporting agent or licensed private inquiry agent who carries on business or ceases to carry on business either completely or in respect of any place without complying with the provisions of this section is guilty of an offence against this Act; and any licensed subagent who acts as a subagent without complying with the provisions of this section is guilty of an offence against this Act.”.

**8. New Part IVA.** The Principal Act is amended by inserting after section 48 the following heading and section:—

“ PART IVA—INVASION OF PRIVACY WITH RESPECT TO DWELLING-HOUSES

**48A. Unlawful entry of dwelling-houses.** (1) (a) Any person who enters a dwelling-house without the consent of the person in lawful occupation or, where there is not a person in lawful occupation, without the consent of the owner is guilty of an offence and liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding twelve months.

(b) If the offender gains entry to the dwelling-house—

- (i) by force;
- (ii) by threats or intimidation of any kind;
- (iii) by deceit;
- (iv) by any fraudulent trick or device;
- (v) by false and fraudulent representations as to the reason for entry,

he is guilty of an offence whether or not he has the consent of the person in lawful occupation or the owner as aforesaid and is liable to a penalty not exceeding \$1,500 or to imprisonment for a term not exceeding eighteen months.

(2) A person is not guilty of an offence under subsection (1)—

- (i) where he shows that his entry of the dwelling-house in question (not being an entry by any means referred to in subparagraph (ii), (iii), (iv) or (v) of subsection (1) (b)) was authorized, justified or excused by law;

(ii) where he shows that he entered the dwelling-house in question bona fide for the protection or succour of any person therein or the preservation or protection of the dwelling-house.

(3) (a) Any person who without lawful excuse, the proof of which lawful excuse shall be upon him, is found in a dwelling-house or the yard of a dwelling-house is guilty of an offence and liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding twelve months.

(b) The term "yard" includes any path, garden, curtilage, courtyard, enclosure, lawn or other ground or area within the precincts of or appurtenant to or under the dwelling-house in question.

(4) It is lawful for any person who finds another committing an offence against this section to arrest him without warrant.

(5) In any case where there is power pursuant to subsection (4) to arrest an offender, the power and authority to proceed against such an offender by way of complaint and summons under the *Justices Act 1886-1975* in accordance with this Act also lies.

(6) (a) In a case where a person is found committing an offence against this section and is arrested pursuant to subsection (4), proceedings may be taken against him for the offence—

(i) by a person who finds him committing the offence and who arrests him pursuant to subsection (4);

(ii) by any member of the police force, whether he is the person making the arrest or not.

(b) The provisions of this subsection are in addition to the provisions of section 50 (1).

(7) The provisions of section 43 of the *Vagrants, Gaming, and Other Offences Act 1931-1971* shall apply with necessary adaptations with respect to any person arrested for an offence against this section.

(8) (a) In any prosecution under subsection (1), the court, in addition to any penalty or imprisonment that it may impose, may order the offender to pay to the clerk of the court for payment to the person nominated for the purpose in the order any sum of money assessed by it for any damage to the dwelling-house in question or for any destruction or loss of or damage to any other property in the course of or in connexion with the entry, and it may order the offender to pay the sum assessed in respect of any such destruction, loss or damage either in one sum or by such instalments and at such times as it thinks fit; and such sum shall be recoverable in like manner as a penalty under subsection (1) is recoverable.

(b) The clerk of the court shall pay any sum of money received by him pursuant to paragraph (a) to the person nominated in the order.

(9) Proceedings for an offence under this section shall be before a stipendiary magistrate sitting alone.

(10) (a) Where the holder of a private inquiry agent's licence or a subagent's licence is convicted of an offence under this section, the court may order that, from the date of the order, the licence of the offender be cancelled or be suspended for a period stipulated in the order, and the licence shall be cancelled or, as the case may be, suspended for the stipulated period accordingly.

(b) Cancellation or suspension under this subsection is in addition to punishment to which the offender may be liable upon his conviction.

(c) Suspension of a licence has, for the period for which it is suspended, the same effect as cancellation of the licence.

(d) A copy of an order made under this subsection shall be transmitted to the Commissioner by the clerk of the court.

(11) The provisions of this section are in addition to, are not in substitution for, and do not derogate from any of the provisions of *The Criminal Code* or any other Act.

(12) In this section the term "dwelling-house" has the meaning it has from time to time in *The Criminal Code*.

(13) For the purposes of this section, a person is said to enter a dwelling-house as soon as any part of his body or any part of any instrument used by him is within the dwelling-house."

9. **New s. 51A.** The Principal Act is amended by inserting after section 51 the following section:—

**"51A. Indemnity to Minister and other persons.** The Minister, the Commissioner, the Commissioner of Police, inspectors and other officers appointed under this Act, members of the police force, and persons acting with the authority of the Minister, the Commissioner or the Commissioner of Police do not incur liability for anything done for the purposes of this Act or done in good faith and purporting to be for the purposes of this Act."