

Queensland



# **SECURITY PROVIDERS ACT 1993**

**Reprinted as in force on 3 December 2003  
(includes commenced amendments up to 2003 Act No. 94)**

**Reprint No. 2G**

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- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

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# Queensland



## SECURITY PROVIDERS ACT 1993

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# SECURITY PROVIDERS ACT 1993

[as amended by all amendments that commenced on or before 3 December 2003]

## **An Act to licence security providers, and for related purposes**

### **PART 1—PRELIMINARY**

#### **1 Short title**

This Act may be cited as the *Security Providers Act 1993*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

#### **3 Definitions**

In this Act—

**“accountant”** means—

- (a) a person registered as an auditor under the Corporations Act; or
- (b) a member of CPA Australia or the Institute of Chartered Accountants in Australia; or
- (c) a member of the National Institute of Accountants, other than an associate, who has satisfactorily completed an auditing component of a course of study in accountancy of at least 3 years duration at a tertiary level conducted by a prescribed university or other prescribed institution under section 1280(2)(a)(ii) of the Corporations Act.

**“appropriate licence”** for carrying out the functions of a security provider is—

- (a) if carrying out the functions of a crowd controller—a crowd controller’s licence; or

*Security Providers Act 1993*

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- (b) if carrying out the functions of a private investigator—a private investigator’s licence; or
- (c) if carrying out the functions of a security officer—a security officer’s licence; or
- (d) if carrying out the functions of a security firm—a security firm’s licence.

**“arrangement”** includes scheme, agreement, understanding, promise or undertaking (express or implied).

**“chief executive”** means the chief executive of the department.<sup>1</sup>

**“Commissioner”** means the Commissioner of the Police Service.

**“Court”** means a Magistrates Court.

**“criminal history”** of a person—

- (a) means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*; and
- (b) despite section 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, includes a conviction to which the section applies.

**“crowd controller”** has the meaning given by section 5.

**“disqualifying offence”** means an offence—

- (a) under the *Weapons Act 1990* that is punishable by imprisonment for 1 year or more, even if a fine may be imposed in addition or as an alternative; or
- (b) under the *Drugs Misuse Act 1986* that is punishable by imprisonment for 1 year or more, even if a fine may be imposed in addition or as an alternative; or
- (c) against a provision of the Criminal Code mentioned in the schedule; or
- (d) against the *Police Service Administration Act 1990*, section 10.19(b), (c), (d), (e) or (f).

**“inspector”** means a person who is appointed under section 32 as an inspector.

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<sup>1</sup> Section 50 allows the chief executive to delegate the chief executive’s powers.



**“legal practitioner”** means a barrister or solicitor in the performance of the practice of a barrister or solicitor.

**“licensed premises”** means licensed premises within the meaning of the *Liquor Act 1992*.

**“obstruct”** includes hinder, resist and attempt to obstruct.

**“private investigator”** has the meaning given by section 6.

**“public place”** means—

- (a) licensed premises; or
- (b) an entertainment venue to which the public are admitted, whether or not for consideration.

**“reward”** means reward under an arrangement.

**“security firm”** has the meaning given by section 8.

**“security officer”** has the meaning given by section 7.

**“security provider”** has the meaning given by section 4.

#### **4 Who is a security provider**

(1) A **“security provider”** is—

- (a) a crowd controller; or
- (b) a private investigator; or
- (c) a security officer; or
- (d) a security firm.

(2) A person employed by a security provider is not a security provider if the person’s duties are only secretarial or clerical.

(3) Each of the following persons is not a security provider in carrying out the functions of the person’s employment—

- (a) a police officer or a member of the police service of the Commonwealth, another State or a Territory;
- (b) a member of the Defence Force;
- (c) an officer or employee of the Commonwealth or a State or Territory;
- (d) a Minister of the Commonwealth or a State or Territory;

- (e) a department of the Commonwealth or a State or Territory;
- (f) a casino employee or casino key employee within the meaning of the *Casino Control Act 1982*.

## **5 Who is a crowd controller**

A crowd controller is a person who, for reward—

- (a) acts as a bodyguard; or
- (b) is at a public place principally for the purpose of maintaining order in or about the public place.

*Example of paragraph (b)—*

A bouncer at a hotel, night club or rock concert.

## **6 Who is a private investigator**

(1) A private investigator is a person who, for reward, obtains and gives information about another person.

(2) Despite subsection (1), a person is not a private investigator merely because—

- (a) the person—
  - (i) is the employee of a person who does not, for reward, obtain and give information; and
  - (ii) as an employee, obtains and gives information about another person; or
- (b) the person, for reward, gives information about another person from existing records in the person's possession or in the possession of the person's employer.

*Example of paragraph (a)—*

A retail department store's employee who obtains information about the credit standing of a person who has applied for the store's credit card.

(3) Each of the following persons is not a private investigator in carrying out the functions of the person's occupation or employment—

- (a) a legal practitioner or a legal practitioner's employee;
- (b) an accountant or an accountant's employee;

- (c) a person carrying on the business of insurance or an employee of the person;
- (d) a person carrying on the business of an insurance adjustment agency or an employee of the person.

## **7 Who is a security officer**

(1) A security officer is a person who, for reward, patrols or guards another person's property.

(2) Despite subsection (1), a person is not a security officer merely because the person—

- (a) is an employee of a person who does not, for reward, patrol or guard another person's property; and
- (b) as an employee, patrols or guards the employer's property.

## **8 What is a security firm**

A “**security firm**” is a person<sup>2</sup> who, or partnership that, engages in the business of supplying, for reward, the services of crowd controllers, security officers or private investigators to other persons.

# **PART 2—LICENCES**

## **9 Requirement to be licensed**

(1) Unless a person holds the appropriate licence, the person must not—

- (a) carry out the functions of a security provider; or
- (b) advertise, or in any way hold out, that the person carries out or is willing to carry out, the functions of a security provider.

Maximum penalty—100 penalty units.

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2 Under the *Acts Interpretation Act 1954* “person” includes a corporation.

(2) A person must not, directly or indirectly, engage another person to carry out for reward the functions of a security provider unless the other person holds the appropriate licence.

Maximum penalty—100 penalty units.

(3) Unless a person holds the appropriate licence, the person is not entitled to any reward for carrying out the functions of a security provider.

(4) Subsection (3) has effect despite any arrangement to the contrary.

## **10 Application for licence**

(1) An application for a licence may be made to the chief executive by—

- (a) for any licence—an individual; or
- (b) for a security firm licence—a person or a partnership.

(2) The application must be accompanied by the fee prescribed under a regulation.

(3) The applicant must state in the application the term of the licence being applied for.

(4) Only an individual may apply for, or be granted, a crowd controller's licence, a private investigator's licence or a security officer's licence.

(5) The chief executive, by written notice, may request the applicant to give further information or documents relevant to the application.

(6) The chief executive may reject the application if the applicant fails to comply with the request without reasonable excuse.

## **11 Entitlement to licences—individuals**

(1) This section applies if an individual applies for a licence.

(2) A person is entitled to a licence if the chief executive is satisfied that the person—

- (a) is 18 or more; and
- (b) for a licence other than a security firm's licence—has successfully completed a training course approved by the chief executive; and
- (c) is an appropriate person to hold the licence.

(3) In deciding whether a person is an appropriate person to hold a licence, the chief executive is limited to considering the matters mentioned in subsections (4) and (5).

(4) In deciding whether a person is an appropriate person to hold a licence, the chief executive may consider the following matters as indicating that the person may not be an appropriate person—

- (a) that in dealings in which the person has been involved, the person has—
  - (i) shown dishonesty or lack of integrity; or
  - (ii) used harassing tactics;
- (b) that the person associates with a criminal in a way that indicates involvement in unlawful activity;
- (c) that the person has taken advantage, as a debtor, of the laws of bankruptcy;
- (e) that the person has been convicted of an offence.

(5) A person is not an appropriate person to hold a licence if the person, within 10 years of applying for a licence, has been convicted of—

- (a) a disqualifying offence; or
- (b) an offence that would be a disqualifying offence if committed in Queensland.

## **12 Inquiries about person's appropriateness to hold licence**

(1) The chief executive may make inquiries about a person to assist in deciding whether the person—

- (a) is an appropriate person for the grant of the licence; or
- (b) continues to be an appropriate person.

(2) If requested by the chief executive, the Commissioner must give the chief executive a written report about the person's criminal history.

(3) Subsection (2) applies to the criminal history—

- (a) that is in the Commissioner's possession; or
- (b) to which the Commissioner ordinarily has access through arrangements with the police service of the Commonwealth, another State or a Territory.

### **13 Entitlement to licences—corporations or firms**

(1) In this section—

“**officer**” of a corporation means—

- (a) a director, secretary or executive officer of the corporation; or
- (b) a person who can control or substantially influence the conduct of the corporation’s affairs including, for example, a person on whose directions or instructions the corporation’s directors usually act.

(2) This section applies if a corporation or partnership applies for a security firm licence.

(3) The applicant is entitled to the licence if the chief executive is satisfied that—

- (a) each person who is an officer of the corporation, or partner in the partnership, is an appropriate person to be an officer or partner if the corporation or partnership were granted the licence; and
- (b) if the applicant is a corporation—the corporation has not been convicted of a disqualifying offence.

(4) The conditions of the licence must specify which of the functions of a crowd controller, private investigator or security officer may be supplied under the licence.

(5) Sections 11(3) to (5) and 12 apply to a decision about whether a person mentioned in subsection (3)(a) is an appropriate person as if the person were the applicant for the licence.

### **14 Decision on application**

(1) The chief executive must consider an application for a licence and either—

- (a) grant the licence; or
- (b) refuse to grant the licence.

(2) Despite subsection (1), if the applicant or another person required to be an appropriate person for the grant of the licence has been charged with a disqualifying offence, the chief executive may defer making a decision to grant or to refuse to grant the licence until the end of the proceeding for the charge.

(3) If the chief executive decides to grant the licence, the chief executive must promptly give the applicant—

- (a) the licence; and
- (b) if a condition is stated on the licence—a written notice stating that the applicant may appeal against the imposition of the condition within 28 days to a Magistrates Court.

(4) If the chief executive decides to refuse to grant the licence, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the applicant may appeal against the decision within 28 days to a Magistrates Court.

(5) If the chief executive decides to defer making a decision to grant or to refuse to grant the licence, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the applicant may appeal against the decision within 28 days to a Magistrates Court.

## **15 Conditions of licence**

(1) The chief executive may grant a licence on conditions stated on the licence.

(2) The licensee must comply with the conditions of the licence.

(3) The contravention of a condition that is prescribed by regulation for the purposes of this section is an offence.

Maximum penalty—40 penalty units.

## **16 Amendment of conditions**

(1) If the chief executive considers that the conditions on a licence should be amended, the chief executive must give the licensee a written notice (the “**show cause notice**”) that—

- (a) states the reasons for the amendment; and

- (b) outlines the facts and circumstances that form the basis of the reasons; and
- (c) invites the licensee to show cause within a specified time, of not less than 28 days, why the conditions should not be amended.

(2) The chief executive may amend the conditions if, after considering all representations made within the specified time, the chief executive still believes that the conditions should be amended—

- (a) in the way mentioned in the show cause notice; or
- (b) in another way, having regard to the representations.

(3) If the chief executive decides to amend the conditions, the chief executive must give the licensee a written notice stating—

- (a) the way in which the conditions have been amended; and
- (b) that the licensee may appeal against the amendment of the conditions within 28 days to a Magistrates Court.

(4) Subsections (1) to (3) do not apply if the conditions of a licence are to be amended only—

- (a) by omitting a condition; or
- (b) for a formal or clerical reason; or
- (c) in another way that does not adversely affect the licensee's interests.

(5) The chief executive may make an amendment of a type mentioned in subsection (4) by written notice given to the licensee.

## **17 Notice to return licence for alteration**

(1) The chief executive may, by written notice, require the licensee to return the licence to the chief executive within a specified time, of not less than 14 days, to enable the chief executive to amend the statement of conditions on the licence.

(2) After amending the statement of conditions, the chief executive must return the licence to the licensee.

(3) A licensee must comply with a notice under subsection (1), unless the person has a reasonable excuse not to comply with it.

Maximum penalty—20 penalty units.



(4) The amendment of the conditions of a licence under section 16 does not depend on the statement of conditions being altered under this section.

## **18 Production of licence**

A licensee must produce the licensee's licence for inspection on the request of—

- (a) an inspector; or
- (b) a police officer; or
- (c) if the licensee is not wearing the prescribed identification—the person with whom the licensee is dealing in carrying out the licensee's functions.

Maximum penalty—20 penalty units.

## **19 Period of validity of licence**

A licence is for the term, of not longer than 1 year, specified in the licence.

## **20 Renewal of licence**

(1) A licensee may apply to the chief executive for the renewal of a licence within the period starting 1 month before the licence ends and ending 6 months after the licence ends.

(2) If an application for renewal of a licence is made, the chief executive must renew the licence unless the chief executive refuses to renew it under section 22.

(3) A renewal begins at the end of the day on which, apart from its renewal, the licence would have ended.

(4) A renewal is for the term, of 1 year or 3 years, specified in the renewed licence.

(5) If an application is made under subsection (1) for the renewal of a licence and the chief executive has not, before the licence ends, decided whether to renew the licence, the licence is taken to continue in force until the day the chief executive renews, or refuses to renew, the licence.

## 21 Grounds for suspension, cancellation or refusal to renew

(1) Each of the following is a ground for the suspension or cancellation of a licence or the refusal to renew a licence—

- (a) the licence was obtained on the basis of incorrect or misleading information;
- (b) the licensee has contravened a condition of the licence;
- (c) the licensee has committed an offence against this Act;
- (d) the licensee has been convicted of an offence against the *Industrial Relations Act 1999*, section 666(1)<sup>3</sup> relating to the under payment of award wages;
- (e) the licensee has contravened an order of the industrial commission or of the Industrial Magistrates Court to pay wages;
- (f) the licensee, or another person required to be an appropriate person for the grant of the licence, is not, or is no longer, an appropriate person.

(2) The question whether a person is, or continues to be, an appropriate person is decided in the same way as the question whether the person would be an appropriate person for the grant of the licence.

(3) The charging of a licensee, or another person required to be an appropriate person for the grant of the licence, with a disqualifying offence is a ground for suspending, or refusing to renew, the licence concerned until the end of the proceeding for the charge.

(4) The power of the court to impose conditions of bail under the *Bail Act 1980* includes the power to impose a condition that the licensee not act as a security provider as stated in the condition.

## 22 Procedure for suspension, cancellation or refusal to renew

(1) If the chief executive considers that reasonable grounds exist to suspend, cancel or refuse to renew a licence (the “**action**”), the chief executive must give the licensee a written notice (the “**show cause notice**”) that—

- (a) states the action proposed; and
- (b) states the grounds for proposing to take the action; and

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3 *Industrial Relations Act 1999*, section 666 (Non-payment of wages)

*Security Providers Act 1993*

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- (c) outlines the facts and circumstances that form the basis for the chief executive's belief; and
- (d) if the chief executive proposes to suspend the licence—states the proposed suspension period; and
- (e) invites the licensee to show cause within a specified time, of not less than 28 days, why the action proposed should not be taken.

(2) If, after considering all representations made within the specified time, the chief executive still believes that grounds to take the action exist, the chief executive may—

- (a) if the show cause notice was a notice of intention to suspend the licence for a specified period—suspend the licence for a period not longer than the specified period; or
- (b) if the show cause notice was a notice of intention to cancel the licence—
  - (i) cancel the licence; or
  - (ii) suspend the licence for a period; or
- (c) if the show cause notice was a notice of intention not to renew the licence—
  - (i) refuse to renew the licence; or
  - (ii) refuse to renew the license for a period.

(3) The chief executive must inform the licensee of the decision by written notice.

(4) If the chief executive decides to cancel, suspend or refuse to renew the licence, the notice must state—

- (a) the reasons for the decision; and
- (b) that the licensee may appeal against the decision within 28 days to a Magistrates Court.

(5) The decision takes effect on the later of the following—

- (a) the day on which the notice is given to the licensee;
- (b) the day specified in the notice.

### **23 Return of suspended or cancelled licence**

(1) If the chief executive cancels or suspends a person's licence, the chief executive may give the person a written notice requiring the person to return the licence as specified within a specified period, of not less than 14 days.

(2) The person must comply with the notice, unless the person has a reasonable excuse not to comply with it.

Maximum penalty—20 penalty units.

(3) If a licence returned to the chief executive is still current at the end of the suspension period, the chief executive must return the licence to the licensee.

### **24 Automatic cancellation on conviction**

(1) A licensee's licence is cancelled if the licensee, or another person who would have been required to be an appropriate person for the grant of the licence, is convicted of a disqualifying offence.

(2) The licensee must return the licence to the chief executive within 14 days after the conviction.

Maximum penalty for subsection (2)—20 penalty units.

### **25 Replacement licences**

(1) A licensee may apply to the chief executive for the replacement of a lost, stolen or destroyed licence.

(2) The chief executive must consider each application and either—

- (a) replace the licence; or
- (b) refuse to replace the licence.

(3) If the chief executive is satisfied that the licence has been lost, stolen or destroyed, the chief executive must replace the licence.

(4) If the chief executive decides to refuse to replace the licence, the chief executive must give the applicant a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and

- (c) that the applicant may appeal against the decision within 28 days to a Magistrates Court.

## **26 Right to appeal to the Court**

(1) An applicant for a licence may appeal against a decision of the chief executive—

- (a) to refuse to grant the licence; or
- (b) to defer making a decision to grant or to refuse to grant the licence.

(2) A licensee may appeal against a decision of the chief executive—

- (a) to impose a condition on a licence; or
- (b) to amend a condition on a licence; or
- (c) to suspend or cancel a licence; or
- (d) to refuse to renew a licence; or
- (e) to refuse to replace a licence.

(3) The appeal may be made to the Magistrates Court nearest the place where the applicant or licensee resides or carries on, or proposes to carry on, business or employment under the licence.

## **27 How to start appeal**

(1) An appeal is started by—

- (a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and
- (b) serving a copy of the notice on the chief executive.

(2) The notice of appeal must be filed within 28 days after the appellant receives notice of the decision appealed against.

(3) The Court may at any time extend the period for filing the notice of appeal.

(4) The notice of appeal must state the grounds of the appeal.

**28 Stay of operation of decisions**

(1) The Court has power to grant a stay of a decision appealed against for the purpose of securing the effectiveness of the appeal.

(2) A stay—

- (a) may be granted on conditions that the Court considers appropriate; and
- (b) has effect for the period specified by the Court; and
- (c) may be revoked or amended by the Court.

(3) The period of a stay specified by the Court must not extend past the time when the Court decides the appeal.

(4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

**29 Hearing procedures**

(1) The power under the *Magistrates Courts Act 1921* to make rules for Magistrates Courts includes power to make rules for appeals to Magistrates Courts under this Act.

(2) The procedure for an appeal to a Magistrates Court under this Act is to be in accordance with—

- (a) the rules made under the *Magistrates Courts Act 1921*; or
- (b) in the absence of relevant rules—directions of the Court.

(3) An appeal is to be by way of rehearing, unaffected by the chief executive's decision.

(4) In deciding an appeal, the Court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.

**30 Powers of Court on appeal**

(1) In deciding an appeal, the Court may—

- (a) confirm the decision appealed against; or
- (b) set aside the decision and substitute another decision; or

- (c) set aside the decision and return the matter to the chief executive with directions that the Court considers appropriate.

(2) In substituting another decision, the Court has the same powers as the chief executive.

*Example—*

The Court may decide that an unsuccessful applicant for a licence be granted the licence either unconditionally or on particular conditions.

(3) If the Court substitutes another decision, the substituted decision is taken, for the purposes of this Act, to be the chief executive's decision.

### **31 Appeal to District Court on questions of law only**

A party aggrieved by the decision of the Court may appeal to a District Court, but only on a question of law.

## **PART 3—INSPECTORS**

### **32 Appointment of inspectors**

(1) The chief executive may appoint an officer of the public service to be an inspector.

(2) The chief executive may appoint a person to be an inspector only if—

- (a) the chief executive believes that the person has the necessary expertise or experience to be an inspector; or
- (b) the person has satisfactorily completed a course of training approved by the chief executive.

(3) The chief executive may limit the powers of an inspector by stating conditions in the instrument of appointment.

### **33 Inspector's identity card**

(1) The chief executive must issue an identity card to each inspector.

(2) The identity card must—

- (a) contain a recent photograph of the inspector; and
- (b) be signed by the inspector.

(3) A person who stops being an inspector must return the identity card to the chief executive as soon as practicable after stopping to be an inspector, unless the person has a reasonable excuse for not returning it.

Maximum penalty for subsection (3)—20 penalty units.

### **34 Production of inspector's identity card**

(1) An inspector may exercise a power under this Act in relation to a person only if the inspector first produces or displays the inspector's identity card for inspection by the person.

(2) If, for any reason, it is not practicable to comply with subsection (1), the inspector must produce the identity card for inspection by the person at the first reasonable opportunity.

### **35 Entry of place by inspector**

An inspector may enter a place if—

- (a) the occupier of the place consents to the entry; or
- (b) it is a public place and the entry is made when the place is open to the public; or
- (c) the entry is authorised by a warrant.

### **36 Warrants**

(1) An inspector may apply to a Magistrate for a warrant for a place.

(2) The application must—

- (a) be sworn; and
- (b) set out the grounds on which the warrant is sought.

(3) The Magistrate may refuse to consider the application until the inspector gives the Magistrate all the information that the Magistrate requires about the application in the way that the Magistrate requires.

*Example—*

The Magistrate may require that additional information supporting the application be given by a statutory declaration.



(4) The Magistrate may issue a warrant only if the Magistrate is satisfied that there are reasonable grounds for suspecting that—

- (a) there is a particular thing (the “**evidence**”) that may provide evidence of the commission of an offence against this Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

- (a) that the inspector is authorised, with assistance and force that may be necessary and reasonable—
  - (i) to enter the place; and
  - (ii) to exercise the inspector’s powers under this Act; and
- (b) the evidence for which the warrant is issued; and
- (c) the hours of the day when entry may be made; and
- (d) the day (within 14 days after the warrant’s issue) on which the warrant stops having effect.

### **37 Warrants—applications made otherwise than in person**

(1) An inspector may apply for a warrant by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the officer’s remote location.

(2) Before applying for the warrant, the inspector must prepare an application that sets out the grounds on which the warrant is sought.

(3) The inspector may apply for the warrant before the application is sworn.

(4) If the Magistrate issues the warrant and it is reasonably practicable to fax a copy of it to the inspector, the Magistrate must immediately fax the copy to the inspector.

(5) If the Magistrate issues the warrant but it is not reasonably practicable to fax a copy of it to the inspector—

- (a) the Magistrate must—
  - (i) tell the inspector what the terms of the warrant are; and

- (ii) tell the inspector the date and time the warrant was signed; and
- (iii) record the reasons for issuing the warrant on the warrant; and
- (b) the inspector must—
  - (i) complete a form of warrant in the same terms as the warrant issued by the Magistrate; and
  - (ii) write on the warrant form the name of the Magistrate and the date and time the Magistrate signed the warrant.

(6) The facsimile warrant, or the warrant form properly completed by the inspector, is authority for the entry and the exercise of the other powers authorised by the warrant issued by the Magistrate.

(7) The inspector must send to the Magistrate—

- (a) the sworn application; and
- (b) if a warrant form was completed by the inspector—the completed warrant form.

(8) The sworn application and any completed warrant form must be sent to the Magistrate at the earliest practicable opportunity.

(9) On receipt of the application and any warrant form, the Magistrate must attach them to the warrant issued by the Magistrate.

(10) If—

- (a) it is material for a court to be satisfied that the exercise of a power was authorised by a warrant issued under this section; and
- (b) the warrant is not produced in evidence;

the court must assume the exercise of power was not authorised by a warrant, unless the contrary is proved.

### **38 Inspector's general powers in a place**

(1) After entering a place under section 35 (Entry of place by inspector), an inspector may exercise a power mentioned in subsection (2) only if—

- (a) the occupier of the place consents to the exercise of the power; or
- (b) the entry was authorised by a warrant.

(2) The inspector may—

- (a) search any part of the place; or
- (b) if entry was authorised by a warrant—seize the evidence for which the warrant was issued; or
- (c) in any case—seize a thing if the inspector believes on reasonable grounds that—
  - (i) the thing is evidence of the commission of an offence against this Act; and
  - (ii) the seizure is necessary to prevent—
    - (A) the concealment, loss or destruction of the thing; or
    - (B) the use of the thing in committing, continuing or repeating an offence against this Act; or
- (d) inspect, examine, photograph or film anything in or on the place; or
- (e) take extracts from, or make copies of, any documents in or on the place; or
- (f) take into or onto the place any person, equipment and materials that the inspector reasonably requires for the purpose of exercising any powers in relation to the place.

### **39 Procedure after thing seized**

(1) As soon as practicable after a thing is seized by an inspector under section 38 (Inspector's general powers in a place), the inspector must give a receipt for it to the person from whom it was seized.

(2) The inspector must allow a person who would be entitled to the seized thing if it were not in the inspector's possession—

- (a) to inspect it; or
- (b) if it is a document—to take extracts from it or make copies of it.

(3) The inspector must return the seized thing to the person at the end of—

- (a) 6 months; or
- (b) if a prosecution for an offence involving it is started within 6 months—the proceeding for the offence and any appeal from the proceeding.

(4) Despite subsection (3), the inspector must return the seized thing to the person if the inspector is satisfied that—

- (a) its retention as evidence is no longer necessary; and
- (b) its return is not likely to result in its use in repeating the offence.

#### **40 Power to require name and address**

(1) An inspector may require a person to state the person's name and address if the inspector—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information that leads, the inspector to suspect on reasonable grounds that the person has recently committed an offence against this Act in the vicinity.

(2) When making the requirement, the inspector must warn the person that it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(3) The inspector may require the person to give evidence of the correctness of the person's name or address if the inspector suspects, on reasonable grounds, that the name or address given is false.

(4) A person must comply with an inspector's requirement under subsection (1) or (2), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

(5) The person does not commit an offence against this section if—

- (a) the inspector required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

#### **41 Power to require information from certain persons**

(1) If an inspector suspects, on reasonable grounds, that a contravention of this Act has happened, the inspector may require any of the following persons to give information about the contravention—

*Security Providers Act 1993*

- (a) a person who was a security provider at a time relevant to the contravention (a “**relevant time**”);
- (b) a person who had directly or indirectly engaged a security provider at a relevant time;
- (c) a person who was an employee of a person mentioned in paragraph (a) or (b) at a relevant time.

**(1A)** The inspector may require the information to be given—

- (a) to the inspector or another specified inspector; or
- (b) at the place the requirement is made or at another stated place; or
- (c) immediately or at, by or within a stated time; or
- (d) in person or in another specified way.

**(2)** When making the requirement, the inspector must warn the person that it is an offence to fail to give the information, unless the person has a reasonable excuse.

**(3)** The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

**(4)** It is a reasonable excuse for the person to fail to give information if giving the information might tend to incriminate the person.

**(5)** The person does not commit an offence against this section if the information sought by the inspector is not in fact relevant to the contravention.

## **42 False or misleading information**

**(1)** A person must not—

- (a) state anything to an inspector that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an inspector anything without which the statement is, to the person’s knowledge, misleading in a material particular.

Maximum penalty—60 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states the statement made was false or misleading to the person's knowledge.

#### **43 Power to require production of documents**

(1) An inspector may require a person to produce a document required to be held or kept by the person under this Act to the inspector for inspection.

(2) The person must produce the document, unless the person has a reasonable excuse for not producing it.

Maximum penalty—60 penalty units.

(3) The inspector may keep a document that is produced—

- (a) to take an extract from the document; or
- (b) to make a copy of the document.

(4) The inspector must return the document to the person as soon as practicable after taking the extract or making the copy.

#### **44 False or misleading documents**

(1) A person must not give to the chief executive or an inspector a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document—

- (a) informs the chief executive or inspector of the extent to which the document is false, misleading or incomplete; and
- (b) gives the correct information to the chief executive or inspector if the person has, or can reasonably obtain, the correct information.

#### **45 Obstruction of inspectors**

A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

**46 Compensation**

(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part.

(2) Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or
- (b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to make the order in the circumstances of the particular case.

**PART 4—GENERAL****47 Identification to be worn by crowd controller**

(1) When acting as a crowd controller, a licensed crowd controller must wear the identification prescribed by regulation so that it is clearly visible.

Maximum penalty—20 penalty units.

(2) This section does not apply to a person who is only acting as a bodyguard.

**48 Confidentiality of information**

(1) A person must not disclose, use or record information gained by the person through involvement in the administration of this Act.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to—

- (a) an act done for the purposes of this Act; or
- (b) disclosure of information to the Commissioner; or
- (c) disclosure of information ordered by a court or tribunal for a proceeding before it; or

(d) disclosure of information under a regulation or another Act.

(3) A person gains information through involvement in the administration of this Act if the person gains the information in the course of, or because of an opportunity provided by, the involvement.

(4) The following persons are taken to be involved in the administration of this Act—

- (a) the chief executive;
- (b) officers and employees of the department;
- (c) inspectors.

#### **49 Protection from liability**

(1) In this section—

“official” means—

- (a) the chief executive; or
- (b) an inspector; or
- (c) a person acting under the direction of an inspector.

(2) An official does not incur civil liability for an act or omission done honestly and without negligence under this Act.<sup>4</sup>

(3) A liability that would, apart from this section, attach to an official attaches instead to the State.

#### **50 Offences are summary offences**

An offence against this Act is a summary offence.

#### **51 Evidentiary provisions**

(1) This section applies to any proceeding under this Act.

(2) Unless a party, by reasonable notice, requires proof of—

- (a) the appointment of an inspector; or

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<sup>4</sup> “Under” includes ‘for the purposes of’. See the *Acts Interpretation Act 1954*, section 36.



(b) the authority of an inspector to do anything under this Act; the appointment or authority must be presumed.

(3) A signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—

- (a) that a specified document is a licence or copy of a licence issued under this Act;
- (b) that on a specified day, or during a specified period, a person was or was not a licensee or a specified type of licensee;
- (c) that a licence—
  - (i) was or was not issued for a specified term; or
  - (ii) was or was not in force on a specified day or during a specified period; or
  - (iii) was or was not subject to conditions or a specified condition;
- (d) that a document is a copy of a record kept under this Act.

## **52 Delegation by chief executive**

The chief executive may delegate the chief executive's powers under this Act to an officer of the department.

## **53 Approved forms**

(1) The chief executive may approve a form for the purposes of this Act.

(2) If the chief executive approves a form for a purpose, the form must be used for the purpose.

(3) A person may request the chief executive to give the person an approved form.

(4) The chief executive must promptly comply with the request.

**54 Regulations**

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

(2) A regulation may be made—

- (a) providing that a security provider need not hold the appropriate licence for a specified type of activity, event or place, despite section 9; or
- (b) authorising the chief executive to approve that a crowd controller or security officer need not hold the appropriate licence for a specified activity, event or place, despite section 9; or
- (c) setting the fees payable under this Act; or
- (d) prescribing offences for contraventions of a regulation and fixing a maximum penalty of not more than 20 penalty units for a contravention; or
- (e) regulating the conduct of security providers; or
- (f) providing for licensed corporations and partnerships, including, for example—
  - (i) dealing with changes to the composition or control of corporations and partnerships; and
  - (ii) imposing duties on particular persons to ensure the corporation or partnership complies with this Act and requiring proof of compliance.

**SCHEDULE****DISQUALIFYING OFFENCE PROVISIONS UNDER THE  
CRIMINAL CODE**

section 3

**PART 1—EXISTING PROVISIONS**

1. Chapter 9 (Unlawful assemblies—breaches of the peace)
2. Chapter 16 (Offences relating to the administration of justice)
3. Chapter 20 (Miscellaneous offences against public authority)
- 3A. Chapter 22 (Offences against morality)
4. Chapter 28 (Homicide-Suicide-Concealment of birth)
5. Chapter 29 (Offences endangering life or health)
6. Chapter 30 (Assaults)
7. Chapter 32 (Assaults on females—Abduction)
8. Chapter 33 (Offences against liberty)
9. Chapter 36 (Stealing)
10. Chapter 37 (Offences analogous to stealing)
11. Chapter 38 (Stealing with violence—Extortion by threats)
12. Chapter 39 (Burglary—Housebreaking and like offences)
13. Chapter 40 (Other fraudulent practices)
14. Chapter 41 (Receiving stolen or fraudulently obtained and like offences)
15. Chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)
16. Chapter 42A (Secret commissions)
17. Chapter 46 (Offences)
18. Chapter 49 (Punishment of forgery and like offences)

## SCHEDULE (continued)

19. Chapter 52 (Personation)
20. Chapter 56 (Conspiracy)

**PART 2—PROVISIONS REPEALED BY CRIMINAL  
LAW AMENDMENT ACT 1997**

1. Section 343A (Assaults occasioning bodily harm)
2. Section 344 (Aggravated assaults)

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 3 December 2003. Future amendments of the Security Providers Act 1993 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

### TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	17 February 1995	24 March 1995
1A	to 1995 Act No. 37	17 February 1995	20 February 1997
1B	to 1997 Act No. 9	20 June 1997	11 July 1997
1C	to 1997 Act No. 82	5 December 1997	12 December 1997
2	to 1997 Act No. 82	5 December 1997	14 January 1998
2A	to 1999 Act No. 63	5 December 1997	7 January 2000
2B	to 1999 Act No. 63	10 March 2000	10 March 2000
2C	to 2000 Act No. 24	27 June 2000	7 July 2000
2D	to 2001 Act No. 45	15 July 2001	25 January 2002
2E	to 2001 Act No. 45	28 February 2002	1 March 2002
2F	to 2002 Act No. 13	7 June 2002	21 June 2002 (Column discontinued) Notes
2G	to 2003 Act No. 94	3 December 2003	

## 5 List of legislation

### **Security Providers Act 1993 No. 83**

date of assent 17 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 17 February 1995 (1995 SL No. 24)

amending legislation—

### **Criminal Code (1995) No. 37 ss 1–2, 458, sch 2 pt 2**

date of assent 16 June 1995

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and rep 1997 No. 3 s 121

### **Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1, 2(5) pt 19**

date of assent 15 May 1997

ss 1, 2(5) commenced on date of assent

remaining provisions commenced 20 June 1997 (1997 SL No. 155)

### **Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–2(1), 3 pt 23**

date of assent 5 December 1997

commenced on date of assent

**Equity and Fair Trading (Miscellaneous Provisions) Act 1999 No. 63 pts 1, 12**

date of assent 6 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 10 March 2000 (2000 SL No. 36)

**Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2**

date of assent 8 June 2000

ss 1–2, 590 commenced on date of assent (see s 2(1))

remaining provisions commenced 28 February 2002 (2002 SL No. 27) (provisions were to commence 8 June 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 46 s 2)))

**Equity and Fair Trading (Miscellaneous Provisions) Act 2000 No. 24 pts 1, 15**

date of assent 27 June 2000

commenced on date of assent

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002 No. 13 ss 1, 2(3), 124 sch**

date of assent 24 April 2002

ss 1–2, 124 commenced on date of assent

remaining provisions commenced 7 June 2002 (2002 SL No. 133)

**Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2003 No. 94 s 1, 2(3), pt 15**

date of assent 3 December 2003

ss 1–2 commenced on date of assent

s 85 not yet proclaimed into force (see s 2(3))

remaining provisions commenced on date of assent

## **6 List of annotations**

**Definitions**

- s 3** def “**accountant**” sub 2000 No. 24 s 52  
amd 2001 No. 45 s 29 sch 3  
def “**disqualifying offence**” amd 2003 No. 94 s 82

**Who is a private investigator**

- s 6** amd 2002 No. 13 s 124 sch

**Application for licence**

- s 10** amd 2003 No. 94 s 83

**Entitlement to licences—individuals**

s 11            amd 2000 No. 16 s 590 sch 1 pt 2

**Decision on application**

s 14            amd 2003 No. 94 s 84

**Renewal of licence**

s 20            amd 1999 No. 63 s 87; 2003 No. 94 s 86

**Grounds for suspension, cancellation or refusal to renew**

s 21            amd 2003 No. 94 s 87

**Right to appeal to the Court**

s 26            amd 2003 No. 94 s 88

**Power to require information from certain persons**

s 41            amd 1997 No. 82 s 90

**PART 5—TRANSITIONAL PROVISIONS**

pt hdg        exp 17 February 1996 (see s 58)

**Definitions**

s 55            exp 17 February 1996 (see s 58)

**Pending applications may proceed under this Act**

s 56            exp 17 February 1996 (see s 58)

**Transition to licensing under this Act**

s 57            exp 17 February 1996 (see s 58)

**Expiry of Part**

s 58            exp 17 February 1996 (see s 58)

**PART 6—AMENDMENT OF INVASION OF PRIVACY ACT 1971**

pt 6 (ss 59–97) om R1 (see RA s 40)

**PART 7—AMENDMENT OF CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986**

pt 7 (ss 98–103) om R1 (see RA s 40)

**SCHEDULE—DISQUALIFYING OFFENCE PROVISIONS UNDER THE CRIMINAL CODE**

amd 1997 No. 9 s 72; 1999 No. 63 s 88

**7            List of forms notified or published in the gazette****Form 1—Version 5 2003—Application for a Private Investigator’s/Security Officer’s Crowd Controller’s Licence**

pubd gaz 7 February 2003 p 382

**Form 2 Version 5 2003—Application for a Security Firm’s Licence**

pubd gaz 7 February 2003 p 382