

Legislative Council—No 132

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South Australia

**Security and Investigation Agents (Miscellaneous)
Amendment Bill 2013**

A BILL FOR

An Act to amend the *Security and Investigation Agents Act 1995*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Security and Investigation Agents (Miscellaneous) Amendment Act 2013*.

5 2—Commencement

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act or a provision of this Act.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Security and Investigation Agents Act 1995*

4—Amendment of long title

Long title—delete "; to repeal the *Commercial and Private Agents Act 1986*;" and substitute:

, process servers, security industry trainers and security industry training providers;

5—Amendment of section 1—Short title

Section 1—delete "Agents" and substitute:

Industry

6—Amendment of section 3—Interpretation

(1) Section 3—after the definition of *Commissioner* insert:

controlling crowds—the function of controlling crowds includes screening persons seeking to enter a place and managing persons who behave in a disorderly manner or create a nuisance;

(2) Section 3—after the definition of *director* insert:

employee condition—see section 7A(1)(b);

employee (supervision) condition—see section 7A(1)(c);

firearm has the same meaning as in the *Firearms Act 1977*;

firearms licence has the same meaning as in the *Firearms Act 1977*;

fit and proper person—see subsection (2);

(3) Section 3—after the definition of *investigation agent* insert:

investigation agents licence means a licence under this Act authorising a person to act as an investigation agent;

(4) Section 3—after the definition of *loss adjustor* insert:

partnership (business only) condition—see section 7A(1)(e);

partnership condition—see section 7A(1)(d);

(5) Section 3—after the definition of *process server* insert:

restricted functions condition—see section 7A(1)(a) and (2);

(6) Section 3, definition of *security agent*, (b)—delete "a person or"

(7) Section 3, definition of *security agents licence*—delete the definition and substitute:

security agents licence means a licence under this Act authorising a person to act as a security agent;

(8) Section 3—after the definition of *security alarm or surveillance system* insert:

security industry trainer means a person who personally provides security industry training;

security industry trainers licence means a licence under this Act authorising a person to act as a security industry trainer;

security industry training means—

- (a) training designed to provide a person with a qualification determined by the Commissioner to be required for a person to be eligible to hold a security agents licence (other than a licence authorising only the performance of functions relating to security alarm or surveillance systems); or
- (b) training designed to meet the requirements of a training condition to which a security agents licence (other than a licence authorising only the performance of functions relating to security alarm or surveillance systems) may be made subject; or
- (c) training required by the Commissioner to be completed by the holder of a security agents licence that authorises the licensee to perform the function of controlling crowds; or
- (d) training of a kind prescribed by the regulations;

security industry training provider means a person who carries on a business of providing security industry training;

(9) Section 3—after the definition of *security interest* insert:

temporary licence—see section 7(2);

training condition—see section 7A(1)(f).

(10) Section 3—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) For the purposes of this Act, the following provisions govern whether a person is a *fit and proper person* to hold a licence or to be the director of a body corporate that holds a licence:

- (a) a person is not a fit and proper person to hold a licence or to be the director of a body corporate that holds a licence if—
 - (i) the person has been found guilty or convicted of an offence as prescribed by the regulations; or
 - (ii) the person is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth;
- (b) in deciding whether a person is a fit and proper person to hold an investigation agents licence, or to be the director of a body corporate that is the holder of an investigation agents licence, regard may be had to—

- (i) the reputation, honesty and integrity of the person;
and
- (ii) any other factor relevant to the performance of the functions authorised or to be authorised by the licence, including any relevant offence (not prescribed by the regulations) of which the person has been convicted or found guilty;
- (c) in deciding whether a person is a fit and proper person to hold a security agents licence, or to be the director of a body corporate that is the holder of a security agents licence, regard must be had to—
- (i) the reputation, honesty and integrity of the person;
and
- (ii) the reputation, honesty and integrity of people with whom the person associates; and
- (iii) if the licence authorises or is to authorise the licensee to personally perform the function of controlling crowds—
- (A) the results of any psychological assessment of the person under this Act; and
- (B) any evidence that the person has contravened a provision of the *Gaming Machines Act 1992* or the *Liquor Licensing Act 1997* relating to the prevention of a person from entering, or the removal of a person from, licensed premises (within the meaning of the *Liquor Licensing Act 1997*); and
- (iv) any other factor relevant to the performance of the functions authorised or to be authorised by the licence, including any relevant offence (not prescribed by the regulations) of which the person has been convicted or found guilty;
- (d) in deciding whether a person is a fit and proper person to hold a security industry trainers licence, regard must be had to—
- (i) the reputation, honesty and integrity of the person;
and
- (ii) the reputation, honesty and integrity of people with whom the person associates; and
- (iii) any other factor relevant to the performance of the functions authorised or to be authorised by the licence, including any relevant offence (not prescribed by the regulations) of which the person has been convicted or found guilty.

7—Insertion of section 4A

After section 4 insert:

4A—Application of National Vocational Education and Training Regulator Act 2011 of the Commonwealth

- (1) The State security industry regulation provisions are declared to be an excluded matter for the purposes of section 10 of the Commonwealth Act in relation to section 9 of the Commonwealth Act to the extent only that section 9 prevents the application of the State security industry regulation provisions to a NVR registered training organisation (within the meaning of the Commonwealth Act) providing training, assessment or instruction in relation to the performance of the functions of a security agent.

- (2) In this section—

Commonwealth Act means the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth;

State security industry regulation provisions means—

- (a) the provisions under this Act—

- (i) regulating security industry training providers; and
- (ii) providing for the approval of security industry training providers; and
- (iii) relating to the approval of training, assessment or instruction provided by security industry training providers; and

- (b) the provisions under this Act and any other Act, providing for the exercise of investigative powers, sanctions and enforcement for the purposes of this Act in relation to such matters.

8—Amendment of section 5A—Enforcement

- (1) Section 5A(1)—delete "and 78" and substitute:

to 78C (inclusive)

- (2) Section 5A(2)—delete subsection (2)

9—Amendment of section 5B—Criminal intelligence

Section 5B(2)(a)—delete paragraph (a) and substitute:

- (a) refuses an application for a security agents licence or security industry trainers licence or an approval as a security industry training provider, or imposes a condition on or suspends a security agents licence or security industry trainers licence; and

10—Amendment of section 6—Obligation to be licensed

(1) Section 6(1)—after paragraph (a) insert:

(ab) personally provide security industry training except as authorised by a licence under this Part; or

(2) Section 6(1)(b)—after "investigation agent" insert:

or to personally provide security industry training

11—Substitution of section 7

Section 7—delete the section and substitute:

7—Grant of licence

- (1) Subject to this Act, the Commissioner may, on application by a person, grant a security agents licence, an investigation agents licence or a security industry trainers licence to the person.
- (2) The Commissioner may, at the applicant's request, grant the licence (a *temporary licence*) for a limited term (not exceeding 12 months).

7A—Licence conditions

- (1) A security agents licence or an investigation agents licence may be subject to a condition or conditions of the following kinds:
- (a) *restricted functions condition*: a condition limiting the functions that may be performed under the authority of the licence;
- (b) *employee condition*: a condition preventing the holder of the licence from carrying on business as an agent;
- (c) *employee (supervision) condition*: if the licence is subject to an employee condition, a condition requiring the holder of the licence to perform functions as an agent only under the supervision of a natural person who holds and has held, for a minimum period specified by the Commissioner in writing, a licence authorising the person to perform those functions personally without supervision;
- (d) *partnership condition*: a condition preventing the holder of the licence from carrying on business as an agent except in partnership with a person specified in the licence or some other person approved by the Commissioner;
- (e) *partnership (business only) condition*: if the licence is subject to a partnership condition, a condition preventing the holder of the licence from personally performing functions as an agent;
- (f) *training condition*: a condition requiring the holder of the licence to satisfactorily complete a course of training, or gain experience, within a period, as specified by the Commissioner in writing.

- (2) A security industry trainers licence may be subject to a condition limiting the functions that may be performed under the authority of the licence (a *restricted functions condition*).
- (3) Conditions may be imposed by the Commissioner on the grant of the licence and may be varied or revoked by the Commissioner at any time on application by the holder of the licence.
- (4) Without limiting subsection (3), a variation or revocation of a restricted functions condition may effect the expansion or contraction of the functions that may be performed under the authority of the licence.
- (5) If the Commissioner is not satisfied that a training condition has been complied with, the Commissioner may, by notice in writing to the holder of the licence at any time after the period specified for the satisfactory completion of the course of training or gaining the experience, cancel the licence.

7B—Duration of licence

A licence remains in force (except for any period for which it is suspended) until—

- (a) the licence is surrendered or cancelled; or
- (b) the licensed agent or licensed security industry trainer dies or, in the case of a licensed body corporate, is dissolved; or
- (c) in the case of a temporary licence—the term of the licence expires.

7C—Annual fee and return

- (1) A licensed agent or licensed security industry trainer must, each year not later than the date fixed by regulation—
- (a) pay to the Commissioner the fee fixed by regulation; and
- (b) lodge with the Commissioner a return in the manner and form required by the Commissioner.
- (2) If a licensed agent or licensed security industry trainer fails to pay the annual fee or lodge the annual return in accordance with subsection (1), the Commissioner may, by notice in writing, require the agent or trainer to make good the default and, in addition, to pay to the Commissioner the amount fixed by regulation as a penalty for default.
- (3) If the agent or security industry trainer fails to comply with the notice within a time fixed by the notice (which may not be less than 28 days after service of the notice), the licence of the agent or trainer is cancelled.
- (4) The Commissioner must notify the agent or trainer in writing of the cancellation of the licence of the agent or trainer.

(5) In this section—

licensed agent includes a licensed agent whose licence has been suspended but does not include a person who holds a temporary licence;

licensed security industry trainer includes a licensed security industry trainer whose licence has been suspended but does not include a person who holds a temporary licence.

7D—Surrender of licence

A licensed agent or licensed security industry trainer may surrender the licence.

12—Amendment of section 8—Application for licence

(1) Section 8(2)—after "the applicant" insert:

, or, if the applicant is a body corporate, each director of the body corporate,

(2) Section 8(3)—delete subsection (3) and substitute:

(3) If the Commissioner is not in possession of a suitable photograph of an applicant for a licence who is a natural person, the Commissioner must require an applicant for a licence who is a natural person to attend at a specified place for the purpose of having the applicant's photograph taken or to supply the Commissioner with 1 or more photographs of the applicant as specified by the Commissioner.

(3a) Subject to subsection (3b), the Commissioner must require the following persons to make arrangements to have their fingerprints taken:

(a) an applicant for a security agents licence or security industry trainers licence who is a natural person;

(b) each director of a body corporate that is an applicant for a security agents licence.

(3b) The Commissioner need not impose a requirement in respect of fingerprints if the Commissioner is satisfied that the person's fingerprints have been taken (whether in or outside this State) and information relating to the identity, antecedents and criminal history of the person relevant to whether the application should be granted has been provided to the Commissioner.

(3c) The Commissioner may require an applicant for a security agents licence authorising the performance of the function of controlling crowds who is a natural person to take part, at the cost of the applicant, in an approved psychological assessment.

(3) Section 8(4)—after "licence" insert:

, or, if the applicant is a body corporate, a director of the body corporate,

(4) Section 8(5)—delete "an applicant for a licence" and substitute:

a person

- (5) Section 8(6)—delete "applicant" and substitute:

person

13—Amendment of section 8A—Applications for security agents licence or security industry trainers licence to be furnished to Commissioner of Police

- (1) Section 8A(1)—delete "The Commissioner" and substitute:

Subject to this section, the Commissioner

- (2) Section 8A(1)—after "security agents licence" insert:

or security industry trainers licence

- (3) Section 8A(2)—delete subsection (2) and substitute:

- (1a) The Commissioner need not comply with subsection (1) in respect of a person if—

- (a) the person is the holder of a security agents licence or security industry trainers licence; or
- (b) the Commissioner is satisfied that the person has been the subject of a process that substantially corresponds to that required by subsection (1) by reason of being the holder, or the director of a body corporate that is the holder, of an authorisation under the law of another State or a Territory of the Commonwealth that substantially corresponds to a security agents licence or security industry trainers licence.

- (2) As soon as reasonably practicable following receipt of an application, or information in respect of an application, and the taking of fingerprints if required, the Commissioner of Police—

- (a) must make available to the Commissioner such information about criminal convictions, and, if fingerprints are taken, about identity, antecedents and criminal history, as the Commissioner of Police considers relevant to whether the application should be granted; and
- (b) may make available to the Commissioner such other information to which the Commissioner of Police has access and considers relevant to whether the application should be granted.

14—Repeal of sections 8B and 8C

Sections 8B and 8C—delete the sections

15—Amendment of section 9—Determination of application for licence

- (1) Section 9(1)—delete "Subject to section 9A, a natural person is entitled to be granted a licence if" and substitute:

Subject to this Act, a natural person is eligible to be granted a licence if the person, on application to the Commissioner, satisfies the Commissioner that he or she

(2) Section 9(1)(a), (b) and (c)—delete paragraphs (a), (b) and (c) and substitute:

(a) has the qualifications and experience determined by the Commissioner to be necessary for the purposes of the licence having regard to—

(i) the functions proposed to be authorised by the licence; and

(ii) whether the applicant has made, or proposes to make, a related application for a firearms licence; and

(iii) whether the licence is to be subject to an employee (supervision) condition; and

(iv) any other factor considered relevant by the Commissioner; and

(3) Section 9(1)(d)—delete "the person"

(4) Section 9(1)(e)—delete ", the person"

(5) Section 9(2)—delete "Subject to section 9A, a body corporate is entitled to be granted a licence if" and substitute:

Subject to this Act, a body corporate is eligible to be granted a licence if the body corporate, on application to the Commissioner, satisfies the Commissioner that

(6) Section 9(2)(b)—delete paragraph (b) and substitute:

(b) no director of the body corporate has, during the period of 5 years preceding the application for the licence, been a director of a body corporate that has been wound up for the benefit of creditors—

(i) when the body was being so wound up; or

(ii) within the period of 6 months preceding the commencement of the winding up; and

(7) Section 9—after subsection (2) insert:

(2a) If, on an application by a natural person for a security agents licence or an investigation agents licence, the Commissioner is not satisfied that the applicant has the qualifications and experience required under subsection (1)(a), the Commissioner may, subject to the other provisions of this section, grant the licence to the applicant subject to an employee condition, an employee (supervision) condition and a training condition, to enable the person to gain the necessary qualifications and experience.

(8) Section 9—after subsection (4) insert:

(5) If the Commissioner of Police has objected under section 8A(3) to an application for a security agents licence or security industry trainers licence, the Commissioner must take into consideration the grounds for the objection when assessing the application.

- (6) An application for a security agents licence or security industry trainers licence can only be granted if the Commissioner is satisfied that to grant the application would not be contrary to the public interest.

- 5 (7) An application for a licence need not be determined if the applicant for the licence or a director of a body corporate that is the applicant for the licence is subject to a charge of a prescribed offence.

16—Repeal of sections 9A and 10

Sections 9A and 10—delete the sections

10 17—Amendment of section 11—Appeals

- (1) Section 11—after subsection (1) insert:

(1aa) The holder of a licence may appeal to the Court against a decision of the Commissioner refusing to vary or revoke a condition of the licence.

- 15 (2) Section 11(1a)—after "security agents licence" insert:
or security industry trainers licence

18—Amendment of section 11A—Power of Commissioner to require photograph and information

- (1) Section 11A—delete "licensed agent" and substitute:

20 natural person who is a licensed agent or licensed security industry trainer

- (2) Section 11A(a)(i)—after "the agent's" insert:
or trainer's

- (3) Section 11A(a) and (b)—after "the agent" wherever occurring insert:
or trainer

- 25 (4) Section 11A—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

30 (2) The Commissioner may, by notice in writing, require a body corporate that is a licensed agent, within a time fixed by the notice (which may not be less than 28 days after service of the notice) but not more than once in each year, to provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of each director of the body corporate, and information about any other specified matters.

35 (3) If a licensed agent or licensed security industry trainer fails to comply with a notice under subsection (1) or (2), the Commissioner may, by notice in writing, require the agent or trainer to make good the default and, in addition, to pay to the Commissioner the amount fixed by regulation as a penalty for default.

- (4) If the agent or trainer fails to comply with the notice under subsection (3) within a time fixed by the notice (which may not be less than 28 days after service of the notice), the licence of the agent or trainer is cancelled.

- (5) The Commissioner must notify the agent or trainer in writing of the cancellation of the licence of the agent or trainer.

- (6) In this section—

licensed agent includes a licensed agent whose licence has been suspended;

licensed security industry trainer includes a licensed security industry trainer whose licence has been suspended.

19—Substitution of sections 11AB to 12

Sections 11AB to 12 (inclusive)—delete the sections and substitute:

11B—Licence endorsements

- (1) The regulations may—

- (a) prescribe what an endorsement on a licence under this Act indicates; and
- (b) include provisions of a transitional nature on the making, variation or revocation of a regulation prescribing what an endorsement on a licence under this Act indicates, including provisions that require a licence of a specified class to be taken to be endorsed with a particular endorsement or for a particular form of endorsement to be taken to be substituted with another form of endorsement.

- (2) In legal proceedings, an endorsement on a licence under this Act (whether granted before or after the commencement of a regulation prescribing what the endorsement indicates) will be taken, in the absence of proof to the contrary, to indicate the matter prescribed by the regulations.

- (3) The Commissioner may, by notice in writing to the holder of a licence under the Act, require the holder to produce the licence for the purposes of including, varying or removing an endorsement.

- (4) A person who, without reasonable excuse, fails to produce his or her licence in accordance with subsection (3) is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (5) In this section—

endorsement means any description, code or image displayed on a licence.

20—Amendment of section 23—Entitlement to be process server

Section 23(1)(d)—delete paragraph (d) and substitute:

- (d) has not been found guilty or convicted of an offence as prescribed by the regulations.

21—Insertion of sections 23AAA and 23AA

After section 23 insert:

23AAA—Entitlement to provide security industry training

- (1) A person must not carry on a business of providing security industry training unless the person has been approved by the Commissioner as a security industry training provider.

Maximum penalty: \$20 000.

- (2) The Commissioner must not approve a person as a security industry training provider unless the Commissioner is satisfied that the person, or, if the person is a body corporate, each director of the body corporate, would be a fit and proper person to hold a security industry trainers licence if the person were to apply for such a licence.

- (3) The Commissioner may withdraw the approval of a person as a security industry training provider by notice in writing to the person if the Commissioner is satisfied that the person or, if the person is a body corporate, a director of the body corporate, would not be a fit and proper person to hold a security industry trainers licence if the person were to apply for such a licence or that the approval was obtained improperly.

- (4) An application for an approval must—

- (a) be made to the Commissioner in the manner and form approved by the Commissioner; and
- (b) be accompanied by the fee fixed by regulation.

- (5) An applicant for an approval must provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant or, if the applicant is a body corporate, each director of the body corporate, and any other information required by the Commissioner for the purposes of determining the application.

- (6) The Commissioner may require an applicant for an approval, or, if the applicant is a body corporate, a director of the body corporate, to make arrangements to have his or her fingerprints taken.

- (7) If an applicant for an approval, or, if the applicant is a body corporate, a director of the body corporate, has previously failed to pay a fee or penalty that became payable under this Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

- (8) The Commissioner may require the holder of an approval as a security industry training provider, or, if the holder is a body corporate, a director of the body corporate—
- (a) to provide the Commissioner with such evidence as the Commissioner thinks appropriate as to identity, age and address; and
- (b) to make arrangements to have his or her fingerprints taken.
- (9) The Commissioner may, by notice in writing, require a person, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under this section to the Commissioner's satisfaction.
- (10) As soon as reasonably practicable after fingerprints have been taken from a person pursuant to a requirement under this section, the Commissioner of Police must make available to the Commissioner such information to which the Commissioner of Police has access about the identity, antecedents and criminal history of the person as the Commissioner of Police considers relevant.
- (11) If a person fails to comply with a notice under subsection (9)—
- (a) in the case of a requirement made in connection with an application for an approval—the Commissioner may without further notice, refuse the application but keep any fee that accompanied the application; and
- (b) in the case of a requirement made in connection with an existing approval—the Commissioner may, by notice in writing, require the person to make good the default and, in addition, to pay to the Commissioner the amount fixed by regulation as a penalty for default.
- (12) If the holder of an approval is a body corporate and a notice is given under subsection (11)(b) to a director of the body corporate, a copy of the notice must be given by the Commissioner to the body corporate.
- (13) If a person fails to comply with a notice under subsection (11)(b) within a time fixed by the notice (which may not be less than 28 days after service of the notice), the approval in respect of which the requirement is made is taken to be withdrawn.
- (14) The Commissioner must notify the holder of the approval in writing of the withdrawal of the approval.

23AA—Requirement to engage licensed security industry trainer

A person must not employ or engage another to personally provide security industry training unless that other person holds a security industry trainers licence authorising him or her to personally provide training of the kind to be provided.

Maximum penalty: \$20 000.

22—Substitution of heading to Part 3A

Heading to Part 3A—delete the heading and substitute:

Part 3A—Regulation of security agents and security industry trainers

23—Substitution of heading to Part 3A Division 1

Heading to Part 3A Division 1—delete the heading and substitute:

Division 1—Suspension or cancellation of licence

24—Amendment of section 23A—Circumstances in which Commissioner may suspend security agents licence or security industry trainers licence

(1) Section 23A(1)—after "security agents licence" first and third occurring insert:
or security industry trainers licence

(2) Section 23A(1)(a)—delete "an offence of a class specified by regulation in relation to the functions authorised by the licence" and substitute:
a prescribed offence

(3) Section 23A(3), (5) and (6)—after "security agents licence" wherever occurring insert:
or security industry trainers licence

25—Amendment of section 23B—Circumstances in which Commissioner must suspend security agents licence

Section 23B(1)—delete "an offence of a class specified by regulation in relation to the functions authorised by the licence" and substitute:
a prescribed offence

26—Amendment of section 23C—Content of suspension notice

Section 23C(2), penalty provision—delete "\$1 250" and substitute:
\$2 500

27—Amendment of section 23E—Appeal

Section 23E(1)—after "security agents licence" insert:
or security industry trainers licence

28—Amendment of section 23G—Cancellation of licence

(1) Section 23G(1)—delete "is found guilty of an offence of a class specified by regulation in relation to the functions authorised by the licence" and substitute:
or security industry trainers licence, or a director of a body corporate that is the holder of a security agents licence, is found guilty or convicted of an offence as prescribed by the regulations

(2) Section 23G(2), penalty provision—delete "\$1 250" and substitute:
\$2 500

29—Substitution of heading to Part 3A Division 2

Heading to Part 3A Division 2—delete the heading and substitute:

Division 2—Alcohol and drug testing of agents authorised to control crowds

30—Amendment of section 23J—Security agent authorised to control crowds may be required to undertake drug testing

Section 23J—after subsection (2) insert:

- (2a) In the case of a drug testing procedure that involves the collection of a sample of urine, a police officer or an authorised officer may agree with the licensee on a different time or place to that specified in the notice under subsection (1).

31—Insertion of Part 3A Divisions 3 and 4

Part 3A—after Division 2 insert:

Division 3—Firearms

23R—Effect of suspension, cancellation or variation of firearms licence

(1) If—

- (a) a security agents licence authorises the performance of the function of protecting or guarding property, or keeping property under surveillance; and
- (b) a related firearms licence held by the holder of the security agents licence is suspended,

then the security agents licence is, insofar as it authorises the performance of that function while possessing or using a firearm, suspended for the period of suspension of the firearms licence.

(2) If—

- (a) the holder of a security agents licence that authorises the performance of the function of protecting or guarding property, or keeping property under surveillance; and
- (b) a related firearms licence is cancelled or varied by removing the purpose relating to that function,

then the security agents licence is, insofar as it authorises the performance of that function while possessing or using a firearm, cancelled.

(3) The holder of a security agents licence that is suspended or cancelled under this section must return the licence to the Commissioner.

Maximum penalty: \$2 500.

- (4) If the security agents licence remains in force in relation to other functions, the Commissioner will vary the licence as necessary and return it to the holder of the licence.

Division 4—Other requirements

23S—Security agents, security industry trainers or directors may be required to provide fingerprints

- (1) The Commissioner may, by notice in writing, require—
- (a) the holder of a security agents licence, or, if the holder of a security agents licence is a body corporate, a director of the body corporate, to make arrangements to have his or her fingerprints taken; or
 - (b) the holder of a security industry trainers licence to make arrangements to have his or her fingerprints taken.
- (2) As soon as reasonably practicable after fingerprints have been taken from a person pursuant to a requirement under subsection (1), the Commissioner of Police must make available to the Commissioner such information to which the Commissioner of Police has access about the identity, antecedents and criminal history of the person as the Commissioner of Police considers relevant.
- (3) If a person fails to comply with a notice under subsection (1), the Commissioner may, by notice in writing, require the person to make good the default and, in addition, to pay to the Commissioner the amount fixed by regulation as a penalty for default.
- (4) If the holder of the licence is a body corporate and a notice is given under subsection (3) to a director of the body corporate, a copy of the notice must be given to the body corporate.
- (5) If a person fails to comply with a notice under subsection (3) within a time fixed by the notice (which may not be less than 28 days after service of the notice), the licence is cancelled.
- (6) The Commissioner must notify the holder of the licence in writing of the cancellation of the licence.
- (7) In this section—
- holder* of a licence includes the holder of a licence that has been suspended.

23T—Security agent authorised to control crowds may be required to take part in psychological assessment or to undertake training

- (1) The Commissioner may, by notice in writing, require the holder of a security agents licence that authorises the licensee to perform the function of controlling crowds—
- (a) to take part, at the cost of the agent and within a specified period, in an approved psychological assessment; or

- (b) to complete a course of training approved by the Commissioner within a specified period and to provide the Commissioner with evidence that the course has been completed to a satisfactory standard as specified by the Commissioner.

- (2) If a person fails to comply with a notice under subsection (1), the Commissioner may, by notice in writing, require the agent to make good the default and, in addition, to pay to the Commissioner the amount fixed by regulation as a penalty for default.
- (3) If the agent fails to comply with the notice under subsection (2) within a time fixed by the notice (which may not be less than 28 days after service of the notice), the agent's licence is cancelled.
- (4) The Commissioner must notify the agent in writing of the cancellation of the agent's licence.
- (5) In this section—

holder of a licence includes the holder of a licence that has been suspended.

32—Amendment of section 24—Interpretation of Part 4

Section 24—after the definition of *director* insert:

security industry trainer includes—

- (a) a former security industry trainer; or
- (b) a person licensed as a security industry trainer, whether or not acting as a security industry trainer; or
- (c) a person formerly licensed as a security industry trainer.

33—Amendment of section 25—Cause for disciplinary action

- (1) Section 25(1)—after "against an agent" insert:

or security industry trainer

- (2) Section 25(1)(a)—delete paragraph (a) and substitute:

- (a) the agent or trainer has acted contrary to an assurance accepted under the *Fair Trading Act 1987* or an undertaking accepted under the Australian Consumer Law; or

- (3) Section 25(1)(b)—after "the agent" insert:

or trainer

- (4) Section 25(1)(b)—after "an agent" insert:

or security industry trainer

- (5) Section 25—after paragraph (b) insert:

- (ba) in the case of a licensed agent supervising another agent subject to an employee (supervision) condition, the agent failed to provide proper supervision of that other agent; or

(6) Section 25(1)(e) to (g)—delete paragraphs (e) to (g) (inclusive) and substitute:

(e) in the case of a person licensed or formerly licensed as an agent or security industry trainer—

(i) the licence of the agent or trainer was improperly obtained;
or

(ii) the person is not a fit and proper person to hold a licence or, if the agent is a body corporate, a director of the body corporate is not a fit and proper person to be a director of a body corporate that is the holder of a licence; or

(iii) events have occurred, or circumstances have come to light, such that the agent or trainer would not be eligible to be granted the licence if he or she were to apply for it; or

(f) in the case of a person licensed or formerly licensed as a security agent or security industry trainer—it would be contrary to the public interest if the person were to be or continue to be licensed.

34—Amendment of section 27A—Procedure in the case of complaint against security agent or security industry trainer

Section 27A—after "security agent" wherever occurring insert:

or security industry trainer

35—Amendment of section 29—Disciplinary action

(1) Section 29(1)(c)—after "agent" insert:

or security industry trainer

(2) Section 29(1)(e)—after "specified class" insert:

or as a security industry trainer

36—Amendment of section 30—Contravention of orders

Section 30(1)(a)—after "agent" insert:

or security industry trainer

37—Amendment of section 31—Delegations

Section 31(1)(c)—after "agents" wherever occurring insert:

or security industry trainers

38—Amendment of section 32—Agreement with professional organisation

Section 32(1)—after "agents" wherever occurring insert:

or security industry trainers

39—Amendment of section 34—Register of licensed agents, security industry trainers and security industry training providers

(1) Section 34(1)—delete "under this Act" and substitute:

or security industry trainers or approved as security industry training providers

(2) Section 34(2)—after "the register" insert:

in relation to each licensed person

(3) Section 34(2)(d)—delete "by the Commissioner"

(4) Section 34(2)(d)—after "*Fair Trading Act 1987*" insert:

or undertaking accepted under the *Australian Consumer Law*

(5) Section 34(2a)—after "agent" first occurring insert:

or security industry trainer

(6) Section 34(2a)(a)—delete paragraph (a) and substitute:

(a) the person is found guilty or convicted of an offence of a class as prescribed by regulation for the purposes of section 3(2);

40—Amendment of section 36AA—Taking of fingerprints

Section 36AA(2)—delete subsection (2) and substitute:

(2) Without limiting the power of the Commissioner under this Act to impose a requirement for a person to make arrangements to have his or her fingerprints taken, the Commissioner may in imposing such a requirement specify how and when the arrangements are to be made and that arrangements may be made for the taking of fingerprints at a place outside this State.

41—Amendment of section 36A—Destruction of fingerprints

Section 36A(1)—delete subsection (1) and substitute:

(1) This section applies—

- (a) to fingerprints taken under this Act in connection with an application if the application is refused; and
- (b) to fingerprints taken under this Act of a person as a director of a body corporate if the body corporate is dissolved or if the person ceases to be a director of the body corporate; and
- (c) to fingerprints taken under this Act in connection with a licence or approval or an application for a licence or approval if the licence or approval is cancelled or withdrawn or voluntarily surrendered.

42—Amendment of section 36B—Immunity

Section 36B—after "security agents licence" insert:

or security industry trainers licence

43—Amendment of section 38—Statutory declaration

Section 38—delete "Where" and substitute:

If

44—Amendment of section 42—Offences by bodies corporate

Section 42(4), definition of *prescribed offence*—delete "23(1), 23(2)" and substitute:
23, 23AAA, 23AA

45—Amendment of section 43—Continuing offence

Section 43(2)—delete "Where" and substitute:

If

46—Amendment of section 46—Service of documents

(1) Section 46(1)—delete "where" wherever occurring and substitute in each case:

if

(2) Section 46(1)—after "licensed agent" wherever occurring insert:

, licensed security industry trainer or approved as a security industry training
provider

(3) Section 46(1)(d)—delete paragraph (d) and substitute:

(d) be transmitted by fax or email to the fax number or email address
provided by the person for that purpose (in which case the notice or
document will be taken to have been given or served at the time of
transmission).

(4) Section 46(2)—delete subsection (2) and substitute:

(2) The address for service of a person who is a licensed agent, licensed
security industry trainer or approved as a security industry training
provider is the address of which the Commissioner has been last
notified in writing by the person as being the person's address for
service.

47—Amendment of section 48—Regulations

Section 48(2)(a)—after "agents" insert:

or security industry trainers

48—Repeal of Schedule 2

Schedule 2—delete the Schedule