

Version No. 010
Private Security Act 2004
No. 33 of 2004

Version incorporating amendments as at 26 September 2007

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Private Security Act 2004
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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The purposes of this Act are—

- (a) to provide for the licensing and registration of certain participants in the private security industry; and
- (b) to otherwise regulate the private security industry for the purposes of ensuring public safety and peace; and
- (c) to amend the **Private Agents Act 1966**; and
- (d) to make consequential amendments to the **Major Events (Crowd Management) Act 2003**, the **Melbourne and Olympic Parks Act 1985**, the **Firearms Act 1996**, the **Casino Control Act 1991**, the **Gaming Machine Control Act 1991**, the **Gaming No. 2 Act 1997** and the **Gambling Regulation Act 2003**.

2 Commencement

- (1) Section 1, this section and Division 2 of Part 12 come into operation on the day after the day on which this Act receives the Royal Assent.

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- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 1 July 2005, it comes into operation on that day.

3 Definitions

In this Act—

approved security industry organisation means an organisation approved by the Chief Commissioner under section 172;

authorised person means a person appointed by the Chief Commissioner under section 152;

bodyguard means a person who is employed or retained to provide a close personal protection service;

Chief Commissioner means the Chief Commissioner of Police appointed under the **Police Regulation Act 1958**;

class A security activity means any one of the following activities—

- (a) acting as an investigator; or
- (b) acting as a bodyguard; or
- (c) acting as a crowd controller; or
- (d) acting as a security guard;

class B security activity means any one of the following activities—

- (a) acting as a security equipment installer;
or
- (b) acting as a security adviser;

close associate means, in relation to the holder of a private security business licence or a private security business registration, a person (other than, in the case of a licence or registration holder that is a body corporate, a person who is an officer of the body corporate)—

- (a) who is able to exercise a significant influence over or with respect to the conduct of the business conducted under the licence or registration because that person—
 - (i) holds an interest in the capital or assets of that business or is entitled to receive any income derived from that business (whether the entitlement arises at law or in equity or otherwise); or
 - (ii) holds any power (whether exercisable by voting or otherwise and whether exercisable alone or in association with others) to participate in any managerial or executive decision in that business or to appoint any person to a position of management in that business (whether in the capacity of director, manager or secretary or in any other capacity)—

other than, in the case of a business that is a public company, a person who is able to exercise a significant influence over or with respect to the business, merely because that person is a shareholder of the company; or

- (b) who participates in the management of the business conducted under the licence or registration—

and, in relation to an applicant for a private security business licence or a private security business registration, means any person who would, if a licence were issued to the applicant or the applicant obtained registration (as the case may be), be a person to whom paragraph (a) or (b) would apply;

crowd controller means a person who is employed or retained principally to maintain order at any public place by doing all or any of the following—

- (a) screening entry into; or
- (b) monitoring or controlling behaviour in; or
- (c) removing any person from; or
- (d) otherwise maintaining order in—

any such place, unless that person is doing nothing more than securing or checking that persons allowed admission—

- (e) have paid for admission; or
- (f) have invitations or passes allowing for admission;

insolvent under administration has the same meaning as in the **Prostitution Control Act 1994**;

investigator means any person who on behalf of any other person, is employed or retained—

- (a) to obtain and furnish information as to the personal character or actions of any person or as to the character or nature of the business or occupation of any person; or
- (b) to search for missing persons;

known information means any records concerning a person kept by or on behalf of—

- (a) the Chief Commissioner; or
- (b) any person holding a position equivalent to that of the Chief Commissioner in the Commonwealth or in a State or Territory of the Commonwealth or any other country;

member of the police force has the same meaning as *member of the force* has in the **Police Regulation Act 1958**;

nominated person, in relation to a licence or registration holder, means the person nominated under section 124 by that licence or registration holder (as the case may be);

officer—

- (a) in relation to a body corporate which is a corporation within the meaning of the Corporations Act, means a person (not being an employee of the body corporate) to whom the definition of *officer* in section 82A of that Act applies; and

- (b) in relation to a body corporate that is not a corporation within the meaning of that Act, means any person (by whatever name called) who is concerned in or takes part in the management of the body corporate, if that person is not an employee of the body corporate;

partnership has the same meaning as in section 5 of the **Partnership Act 1958**;

private security business licence means a licence granted by the Chief Commissioner under section 14;

private security business registration means the registration of a person by the Chief Commissioner under section 71;

private security individual operator licence means a licence granted by the Chief Commissioner under section 15;

private security individual operator registration means the registration of a person by the Chief Commissioner under section 72;

private security licence means a private security business licence or a private security individual operator licence;

private security registration means a private security business registration or a private security individual operator registration;

public place means—

- (a) any premises in respect of which a licence or permit has been granted under the **Liquor Control Reform Act 1998**; or

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- (b) any place to which the public have, or are permitted to have, access, regardless of whether or not they have to pay to enter;

register of licence and registration holders means the register kept by the Chief Commissioner under section 173;

registered address means the address of the holder of a private security licence or of a private security registration specified under section 129;

security activity means a class A security activity or a class B security activity;

security adviser means a person who is employed or retained to provide advice in relation to security equipment or security methods or principles;

security equipment means any mechanical, electronic, acoustic or other equipment—

- (a) designed, adapted or purporting to provide or to enhance security; or
- (b) for the protection or watching of property—

that is prescribed by the regulations;

security equipment installer means a person who is employed or retained to install, repair, service or maintain security equipment;

security guard means a person who is employed or retained to protect, watch or guard any property by any means including—

- (a) by patrolling the property in person; or

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- (b) by monitoring the property by operating a security system that utilises closed circuit television, a closed monitoring system, radio or other similar alarm device;

specified identification method in relation to a person, means proof of the identity of the person in the same manner and to the same extent as is required for an identification reference under the Financial Transactions Reports Act 1988 of the Commonwealth;

trustee company has the same meaning as in the **Trustee Companies Act 1984**.

4 Act not applicable to certain persons

A person is not required to hold a private security licence, a private security registration or a temporary permit issued under Division 6 of Part 3 or Division 5 of Part 4, if that person is—

- (a) a member of the police force of Victoria or of the Commonwealth or of any other State or Territory of the Commonwealth who is carrying on his or her functions as such a member;
- (b) a member of the defence force of the Commonwealth who is carrying on his or her functions as such a member;
- (c) an employee of—
- (i) the Crown in right of the Commonwealth or the State of Victoria; or
 - (ii) any Government department of the Commonwealth or of the State of Victoria—

who is carrying on his or her functions as such an employee;

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- (d) a person authorised under section 221AB of the **Transport Act 1983** to act as an authorised officer for the purposes of Part VII of that Act, who is carrying on his or her functions as such an authorised officer;
 - (e) an Australian lawyer (within the meaning of the **Legal Profession Act 2004**) acting in the course of his or her legal practice or a clerk of an Australian lawyer acting in the course of his or her duties in the ordinary course of that practice;
 - (f) a qualified public accountant who is acting in the ordinary course of his or her accounting practice;
 - (g) a person—
 - (i) who is acting in the ordinary course of carrying on the business of—
 - (A) insurance; or
 - (B) an insurance adjustment agency; or
 - (C) a trustee company; or
 - (ii) who is an employee or agent of a person referred to in subparagraph (i) who is carrying on his or her duties as such an employee or an agent (as the case may be)—

S. 4(e)
substituted by
No. 18/2005
s. 18(Sch. 1
item 85).

where the business or duties that the person is carrying on is not covert enquiries or surveillance;

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- (h) a person (employee) who, in the course of his or her employment with an employer (who is not carrying on a business for which a private security business licence is required, or a business for which a private security business registration is required) is required—
- (i) to watch, guard or protect any property or do any inquiry work; or
 - (ii) only in connection with the employer's business to—
 - (A) install, maintain, repair or service internal security equipment; or
 - (B) provide advice to the employer in relation to security and related services matters—
- if the employee—
- (iii) is not the holder of a private security individual operator licence that is suspended under this Act; or
 - (iv) is not the holder of a private security individual operator registration that is suspended under this Act; or
 - (v) is not a person who was the holder of a private security individual operator licence that has been cancelled under this Act and who is not entitled to apply for a new licence under this Act; or
 - (vi) is not a person who was the holder of a private security individual operator registration that has been cancelled under this Act and who is not entitled to apply for a new registration under this Act;
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- (i) a protective services officer appointed under Part VIA of the **Police Regulation Act 1958** who is carrying on his or her functions under that Act;
 - (j) a contractor or a sub-contractor within the meaning of the **Corrections Act 1986** who is carrying on his or her functions or powers under that Act;
 - (k) an employee of a contractor or sub-contractor referred to in paragraph (j) who is carrying on his or her duties as such an employee;
 - (l) a person who is a member of any prescribed class of person to the extent prescribed.
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PART 2—OFFENCES

5 Offence to carry on the business of providing certain private security services without a private security business licence

A person must not carry on the business of providing the services of other persons to carry on an activity specified in any of the following paragraphs—

- (a) acting as an investigator; or
- (b) acting as a bodyguard; or
- (c) acting as a crowd controller; or
- (d) acting as a security guard—

unless that person is the holder of a private security business licence that authorises that person to carry on the business of providing services of persons to carry on that activity.

Penalty: 120 penalty units in the case of a natural person;

240 penalty units in the case of a body corporate.

6 Holding out offence—private security business licence

A person must not in any way indicate that the person carries on or is willing to carry on the business of providing the services of other persons to carry on an activity specified in any of the following paragraphs—

- (a) acting as an investigator; or
- (b) acting as a bodyguard; or
- (c) acting as a crowd controller; or

(d) acting as a security guard—

unless that person is the holder of a private security business licence that authorises that person to carry on the business of providing services of persons to carry on that activity.

Penalty: 20 penalty units in the case of a natural person;
40 penalty units in the case of a body corporate.

7 Offence to carry on certain activities without a private security individual operator licence

A person must not carry on an activity specified in any of the following paragraphs—

- (a) acting as an investigator; or
- (b) acting as a bodyguard; or
- (c) acting as a crowd controller; or
- (d) acting as a security guard—

unless that person is the holder of a private security individual operator licence that authorises that person to carry on that activity.

Penalty: 120 penalty units.

8 Holding out offence—private security individual operator licence

A person must not in any way indicate that the person carries on or is willing to carry on an activity specified in any of the following paragraphs—

- (a) acting as an investigator; or
- (b) acting as a bodyguard; or
- (c) acting as a crowd controller; or

(d) acting as a security guard—

unless that person is the holder of a private security individual operator licence that authorises that person to carry on that activity.

Penalty: 20 penalty units.

9 Offence to carry on the business of providing certain private security services without private security business registration

A person must not carry on the business of providing the services of other persons to carry on an activity specified in any of the following paragraphs—

(a) acting as a security equipment installer; or

(b) acting as a security adviser—

unless that person has a private security business registration that authorises that person to carry on the business of providing services of persons to carry on that activity.

Penalty: 120 penalty units in the case of a natural person;

240 penalty units in the case of a body corporate.

10 Holding out offence—private security business registration

A person must not in any way indicate that the person carries on or is willing to carry on the business of providing the services of persons to carry on an activity specified in any of the following paragraphs—

(a) acting as a security equipment installer; or

(b) acting as a security adviser—

unless that person has a private security business registration that authorises that person to carry on the business of providing services of persons to carry on that activity.

Penalty: 20 penalty units in the case of a natural person;

40 penalty units in the case of a body corporate.

11 Offence to carry on certain activities without private security individual operator registration

(1) A person must not carry on an activity specified in any of the following paragraphs—

(a) acting as a security equipment installer; or

(b) acting as a security adviser—

unless that person has a private security individual operator registration that authorises that person to carry on that activity.

Penalty: 120 penalty units.

(2) Subsection (1) does not apply to a natural person who is the holder of a private security business registration that authorises that person to carry on the business of providing services of persons to carry on that activity.

12 Holding out offence—private security individual operator registration

(1) A person must not in any way indicate that the person carries on or is willing to carry on an activity specified in any of the following paragraphs—

(a) acting as a security equipment installer; or

(b) acting as a security adviser—

unless that person has a private security individual operator registration that authorises that person to carry on that activity.

Penalty: 20 penalty units.

- (2) Subsection (1) does not apply to a natural person who is the holder of a private security business registration that authorises that person to carry on the business of providing services of persons to carry on that activity.
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PART 3—LICENSING PRIVATE SECURITY OPERATORS

Division 1—General

13 Definitions

In this Part—

disqualifying offence means—

- (a) any offence under Part 5 of the **Drugs, Poisons and Controlled Substances Act 1981** involving—
 - (i) trafficking in a drug of dependence; or
 - (ii) cultivation of narcotic plants in any commercial quantity—
within the meaning of that Act; or
- (b) any assault punishable by a term of imprisonment of 6 months or more;

particular indictable offence means an indictable offence that does not include a disqualifying offence;

prohibited person means—

- (a) a person in relation to whom not more than 10 years have expired since that person was convicted of a disqualifying offence; or
- (b) a person in relation to whom not more than 5 years have expired since that person has been found guilty of a disqualifying offence without a conviction being recorded.

Division 2—Application for private security licence

14 Grant of private security business licence

- (1) The Chief Commissioner may license a person to carry on the business of providing the services of other persons to carry on any one or more activities specified in the following paragraphs—
 - (a) acting as an investigator; or
 - (b) acting as a bodyguard; or
 - (c) acting as a crowd controller; or
 - (d) acting as a security guard.
- (2) In granting a licence under subsection (1), the Chief Commissioner must specify the activities that are authorised under the licence.

15 Grant of private security individual operator licence

- (1) The Chief Commissioner may license a natural person to carry on any one or more activities specified in the following paragraphs—
 - (a) acting as an investigator; or
 - (b) acting as a bodyguard; or
 - (c) acting as a crowd controller; or
 - (d) acting as a security guard.
- (2) In granting a licence under subsection (1), the Chief Commissioner must specify the activities that are authorised under the licence.

16 Application for licence

An application for a private security licence must—

- (a) be made in a form approved by the Chief Commissioner; and
- (b) contain the prescribed particulars; and
- (c) be accompanied by any other prescribed documents or prescribed information.

17 Additional particular requirements for licence applications

- (1) An application for a private security individual operator licence must be accompanied by—
 - (a) proof of identity of the applicant, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
 - (b) two written references from a prescribed class of person attesting to the applicant's suitability to hold a private security individual operator licence.
- (2) An application for a private security business licence must—
 - (a) in the case of an application by a natural person, be accompanied by—
 - (i) proof of identity of the applicant, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
 - (ii) two written references from a prescribed class of person attesting to the applicant's suitability to hold a private security business licence; and

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- (iii) a statement setting out the name and the business, residential and postal address of any person who is a close associate of the applicant, that is signed by each close associate specified in the statement; and
 - (iv) proof of identity of each person named in the statement, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
 - (v) two written references from a prescribed class of person for each person named in the statement; and
- (b) in the case of an application by a body corporate be accompanied by—
- (i) a statement setting out the name and the business, residential and postal address of—
 - (A) the nominated person of the body corporate; and
 - (B) any other officers of the body corporate; and
 - (C) any person who is a close associate of the applicant—
that is, in the case of a statement relating to a close associate, signed by the close associate; and
 - (ii) proof of identity of each person named in the statement, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
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- (iii) two written references from a prescribed class of person for each person named in the statement.

18 Applicant to advertise application

- (1) An applicant for a private security business licence must—
 - (a) within 7 days after the day on which an application is lodged with the Chief Commissioner, cause to be advertised in a daily newspaper circulating generally in Victoria, a notice setting out—
 - (i) the fact that the applicant has made the application; and
 - (ii) the business name and business address of the applicant; and
 - (iii) the class of licence being applied for; and
 - (iv) the fact that a person may object (under subsection (2)) to the granting of a licence; and
 - (v) the period within which an objection to the granting of a licence must be lodged with the Chief Commissioner; and
 - (b) within 14 days after the day on which an application is lodged with the Chief Commissioner, provide the Chief Commissioner with a copy of the advertisement including the date the advertisement was published.
- (2) A person may object to the granting of a private security business licence by setting out the grounds of the objection in a written submission forwarded to the Chief Commissioner.

- (3) In determining the application, the Chief Commissioner must consider any submission received by him or her within 14 days after the day of the publication of the advertisement, unless he or she is satisfied that the submission is frivolous, vexatious or irrelevant to the grant of a licence to the applicant.

19 Consideration of application by Chief Commissioner

The Chief Commissioner must consider every application for a private security licence.

20 Power of Chief Commissioner to investigate application

In considering an application for a private security licence the Chief Commissioner may, in order to ascertain whether the criteria set out in section 25 or 26 (as the case requires) are satisfied, conduct any investigation or make any inquiry that he or she thinks fit.

21 Particular powers of Chief Commissioner relating to known information

In conducting an investigation or making an inquiry under section 20, the Chief Commissioner may—

- (a) in the case of an application for a private security individual operator licence, have regard to any known information about the applicant that is relevant to the application; or
- (b) in the case of an application for a private security business licence by a natural person, have regard to any known information about the person or a close associate of the person that is relevant to the application; or

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- (c) in the case of an application for a private security business licence by a body corporate, have regard to any known information (that is relevant to the application) about—
- (i) the body corporate; and
 - (ii) the nominated person; and
 - (iii) any officer of the body corporate; and
 - (iv) any close associate of the body corporate.

22 Particular powers of Chief Commissioner relating to fingerprinting

- (1) In conducting an investigation or making an inquiry under section 20, the Chief Commissioner may require a full set of fingerprints to be provided to him or her of any of the following persons to provide proof of their identity—
- (a) in the case of an application for a private security individual operator licence, the applicant;
 - (b) in the case of an application for a private security business licence by a natural person, the person or a close associate of the person;
 - (c) in the case of an application for a private security business licence by a body corporate—
 - (i) the nominated person;
 - (ii) any officer of the body corporate;
 - (iii) any close associate of the body corporate.

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- (2) The Chief Commissioner may not request a full set of fingerprints under subsection (1) unless—
- (a) there is reasonable doubt as to the identity of the applicant, a close associate of the applicant, the nominated person or an officer of the body corporate (as the case may be); and
 - (b) proof of the identity cannot be ascertained by other reasonably available means.
- (3) If any fingerprints are provided to the Chief Commissioner under this section, the Chief Commissioner must ensure that—
- (a) the fingerprints are destroyed—
 - (i) within 28 days after they are no longer required in connection with the application to which they relate; or
 - (ii) no later than 6 months from the date they were provided—whichever is the earlier; and
 - (b) the applicant, the close associate of the applicant, the nominated person or the officer of the body corporate (as the case may be), is notified of the destruction as soon as practicable.
- (4) Fingerprints that are provided to the Chief Commissioner under this section are not admissible as evidence in any proceedings.

23 Information and documents to be provided

For the purposes of an inquiry or investigation under section 20, the Chief Commissioner may require by a notice in writing to an applicant—

- (a) that the Chief Commissioner be provided with any information, relevant to the application and specified in the notice, in the manner required by the Chief Commissioner (and verified by a statutory declaration if necessary) if the Chief Commissioner is of the opinion that the information relates to the applicant, a close associate of the applicant, the nominated person or an officer of the body corporate (as the case requires); or
- (b) that any record, relevant to the application and specified in the notice, be produced to the Chief Commissioner if the Chief Commissioner is of the opinion that the record relates to the applicant, a close associate of the applicant, the nominated person or an officer of the body corporate (as the case requires); or
- (c) that any record produced to the Chief Commissioner under paragraph (b) be made available for inspection and for the taking of copies.

24 Chief Commissioner may refuse to make a decision on an application for a licence

The Chief Commissioner may refuse to make a decision on an application for a private security licence if the applicant does not comply with any requirement of the Chief Commissioner under this Division in relation to the application within a reasonable time of the requirement being made.

Division 3—Granting and renewal of private security licences

25 Circumstances in which the Chief Commissioner must refuse to grant a private security individual operator licence

- (1) The Chief Commissioner must not grant a private security individual operator licence if—
 - (a) he or she is satisfied that the granting of the licence is not in the public interest; or
 - (b) he or she is not satisfied that the applicant meets the probity requirements set out in subsection (2); or
 - (c) he or she is not satisfied that the applicant meets the competency requirement set out in subsection (3).
- (2) For the purposes of subsection (1)(b) the probity requirements are that the person—
 - (a) is fit and proper; and
 - (b) is aged 18 years or more; and
 - (c) has not contravened or failed to comply with any provision of this Act, the regulations or any corresponding previous enactment, to the extent that warrants the refusal of the licence; and
 - (d) is not a prohibited person; and
 - (e) is not a person in relation to whom—
 - (i) not more than 10 years have expired since that person was convicted of a particular indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security licence; or

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- (ii) not more than 5 years have expired since that person has been found guilty (without a conviction being recorded) of a particular indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security licence; and
 - (f) is not a person who is charged with—
 - (i) a particular indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security licence; or
 - (ii) a disqualifying offence.
 - (3) For the purposes of subsection (1)(c), the competency requirement is that the person has successfully completed any approved training requirements or has the experience or training approved by the Chief Commissioner as relevant to each activity or any aspect of each such activity that the person is authorised to carry on under the licence.

26 Circumstances in which the Chief Commissioner must refuse to grant a private security business licence

- (1) The Chief Commissioner must not grant a private security business licence if—
 - (a) he or she is satisfied that the granting of the licence is not in the public interest; or
 - (b) he or she is not satisfied that each relevant person in relation to the application meets the probity requirements set out in subsection (2); or

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- (c) he or she is satisfied that the applicant (if the applicant is a body corporate) has been convicted or found guilty of an offence, which in the opinion of the Chief Commissioner, warrants the refusal of the licence; or
- (d) he or she is not satisfied that the applicant or (if the applicant is a body corporate) the nominated person meets the competency requirements set out in subsection (3); or
- (e) the applicant, or nominated person (in the case of a body corporate) has not produced, in relation to the business—
- (i) a certificate of currency for public liability insurance; and
 - (ii) evidence, to the satisfaction of the Chief Commissioner, of compliance with existing statutory workplace obligations; or
- (f) he or she is not satisfied that the applicant has or will be able to obtain financial resources that are adequate to ensure the financial viability of the business.
- (2) For the purposes of subsection (1)(b) the probity requirements are that the person—
- (a) is fit and proper; and
 - (b) is aged 18 years or more; and
 - (c) has not contravened or failed to comply with any provision of this Act, the regulations or any corresponding previous enactment, to the extent that warrants the refusal of the licence; and
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- (d) is not a prohibited person; and
 - (e) is not a person in relation to whom—
 - (i) not more than 10 years have expired since that person was convicted of a particular indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security licence or to be involved or connected with a business carried on under a private security licence; or
 - (ii) not more than 5 years have expired since that person has been found guilty (without a conviction being recorded) of a particular indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security licence or to be involved or connected with a business carried on under a private security licence; and
 - (f) is not a person who is charged with—
 - (i) a particular indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security licence or to be involved or connected with a business carried on under a private security licence; or
 - (ii) a disqualifying offence; and
 - (g) has not, within the preceding 5 years, been declared bankrupt; and
 - (h) is not insolvent under administration.
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- (3) For the purposes of subsection (1)(d), the competency requirements are that the person—
- (a) is a member of one or more approved security industry organisations, membership of which the Chief Commissioner considers is relevant to each activity or any aspect of each activity authorised under the licence; or
 - (b) possesses the qualifications, knowledge, training or experience approved by the Chief Commissioner in relation to each activity or any aspect of each activity authorised under the licence.
- (4) In this section *relevant person in relation to an application* means—
- (a) in the case of an application by a natural person for a private security business licence, the applicant for the licence and any close associate of the applicant;
 - (b) in the case of an application by a body corporate for a private security business licence, each of the following—
 - (i) the nominated person for the body corporate;
 - (ii) any officer of the body corporate;
 - (iii) any close associate of the body corporate.

27 Notice that private security licence may be refused

- (1) If the Chief Commissioner is proposing not to grant a private security licence for any reason other than that set out in subsection (2), the Chief Commissioner must, before deciding not to grant the licence, serve on the applicant a notice—
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- (a) specifying the reason why the Chief Commissioner is proposing not to grant the licence; and
 - (b) inviting the applicant to make a written submission in accordance with subsection (3).
- (2) If the Chief Commissioner is proposing not to grant a private security licence because he or she is satisfied that the applicant, a close associate of the applicant or, if the applicant is a body corporate, the nominated person or an officer of the body corporate, is a prohibited person, the Chief Commissioner must serve on—
- (a) the applicant; and
 - (b) any person who the Chief Commissioner is satisfied is a prohibited person—
- a notice specifying the reason why the licence is not to be granted.
- (3) An applicant who has been served with a notice under subsection (1) may, within 28 days after the day on which the applicant is served with the notice, make a submission to the Chief Commissioner concerning any reason that is specified in the notice.

28 Further consideration of application and convening of hearing

- (1) After receiving a submission within the time specified under section 27(3), the Chief Commissioner may—
 - (a) further consider the application; or
 - (b) after giving notice to the applicant, convene a hearing to further consider the application.

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- (2) An applicant may be represented at a hearing by any person the applicant chooses, but is not entitled to receive any costs in respect of a hearing.
 - (3) The Chief Commissioner may arrange for an electronic recording of a hearing to be made.
 - (4) The Chief Commissioner—
 - (a) must retain any electronic recording of a hearing for a period of no less than 3 months from the date of the hearing; and
 - (b) may destroy the recording at the end of the period under paragraph (a).

29 Refusal of private security licence

The Chief Commissioner must not make a decision not to grant a private security licence unless the Chief Commissioner has—

- (a) considered any written submission made by the applicant within the time specified in the notice under section 27(1) for making such a submission; and
- (b) if a hearing is convened under section 28, considered any oral submission made by the applicant at the hearing, if the applicant has indicated to the Chief Commissioner within any time specified in the notice under section 28(1)(b) that he or she wishes to be heard at such a hearing.

30 Application and licence fees

- (1) The prescribed application fee for an application for a licence under this Part must be paid by the person applying for the licence.
- (2) The prescribed licence fee for a licence under this Part must be paid by the holder of the licence.

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- (3) Subsections (1) and (2) do not apply to a person who applies for a private security business licence and who is in partnership with another person who has paid an application fee and licence fee prescribed for the licence to carry on the business that is carried on by the partnership.

31 Chief Commissioner may impose conditions on licence

- (1) The Chief Commissioner may impose a condition on a private security licence—
- (a) relating to any of the following—
 - (i) the completion of any approved training requirements or other training determined by the Chief Commissioner as appropriate in respect of the licence;
 - (ii) the carriage and use of equipment to be used in carrying on the activities authorised by the licence;
 - (iii) the notification of any serious medical or psychiatric condition or impairment that directly impacts on the licence holder's ability to carry on the activities authorised under the licence;
 - (iv) the supervision of the licence holder in carrying on activities authorised by the licence; or
 - (b) that is prescribed; or
 - (c) that the Chief Commissioner thinks fit to impose.
- (2) The Chief Commissioner may impose on a private security individual operator licence that authorises a person to carry on an activity, a condition that the person is only authorised by the licence to carry on the aspect of the activity that is specified in the licence.
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32 Failure to comply with licence condition

The holder of a private security licence must comply with any conditions imposed on the licence.

Penalty: 10 penalty units.

33 Licence granted on condition that training be completed

The Chief Commissioner may grant a private security individual operator licence that authorises the carrying on of one or more class A security activities, subject to the condition that the holder of the licence—

- (a) satisfactorily complete the competency requirement under section 25(3) within a period specified by the Chief Commissioner of no more than 12 months; and
- (b) carry on one or more of those activities under the supervision of the holder of a private security individual operator licence that authorises the carrying on of the activity or activities until the approved training course or other training (as the case may be) has been completed.

34 Duration of licences

A private security licence continues in force for the period specified in the licence document, which may be up to 3 years from the grant of the licence, unless it is suspended or cancelled.

35 Power of Chief Commissioner to renew licences

On the expiration of a private security licence, the Chief Commissioner may renew the licence.

36 Application to renew a licence

- (1) Before a private security licence expires, the holder of the licence may apply to the Chief Commissioner for the renewal of the licence.
- (2) An application under subsection (1) must—
 - (a) be in a form approved by the Chief Commissioner; and
 - (b) contain any prescribed particulars; and
 - (c) be accompanied by any prescribed documents or prescribed information.
- (3) The powers of the Chief Commissioner under sections 20 to 24 apply in respect of an application for renewal of a private security licence as if it were an application for a private security licence.
- (4) A private security licence, in respect of which an application is made under this section, is deemed to continue in force, after the expiry of the licence period, until the Chief Commissioner makes a decision in relation to the application.

37 Circumstances in which the Chief Commissioner must refuse to renew a licence

The Chief Commissioner must not renew a private security licence unless he or she is satisfied that any relevant criteria set out in sections 25 and 26, with such modifications as are necessary, are satisfied by the applicant.

38 Sections 27 to 29 to apply as if application for renewal of licence is application for licence

Sections 27 to 29 apply in respect of an application for a renewal of a private security licence as if it were an application for a private security licence.

39 Application and renewal fees

- (1) A person who has applied for the renewal of a private security licence must pay—
 - (a) the prescribed application fee for consideration of the application by the Chief Commissioner; and
 - (b) the prescribed renewal fee for the renewal of the licence.
- (2) Subsection (1) does not apply to a person who applies for the renewal of a private security business licence and who is in partnership with another person who has paid an application fee and renewal fee prescribed for the renewal of the licence to carry on the business that is carried on by the partnership.

40 Chief Commissioner to issue licence documents

Upon granting or renewing a private security licence, the Chief Commissioner must issue to the applicant a private security licence document in accordance with the regulations.

Division 4—Variation and requested cancellation of private security licences

41 Power of Chief Commissioner to vary licence on own motion

- (1) The Chief Commissioner may, on the Chief Commissioner's own motion—
 - (a) vary or revoke a condition on a private security licence, other than a prescribed condition; or
 - (b) impose a condition on the licence.

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- (2) Before making a variation under this section, the Chief Commissioner must—
 - (a) notify the holder of the licence; and
 - (b) allow the holder an opportunity to make written submissions.
 - (3) Submissions under subsection (2) must be made within the period specified in the notice.
 - (4) The powers of the Chief Commissioner under sections 20 to 24 apply in respect of a variation made by the Chief Commissioner under this section as if it were an application for a private security licence.
 - (5) In deciding whether or not to make a variation under this section, the Chief Commissioner must—
 - (a) have regard to submissions made under subsection (2) within the period for making submissions; and
 - (b) notify the holder of the licence of the Chief Commissioner's decision.
 - (6) A variation under this section has effect from the later of—
 - (a) the date that the notice under subsection (5) is served; or
 - (b) the date that is specified by the Chief Commissioner in that notice.

42 Application by holder of licence to vary licence to authorise additional activity

- (1) The Chief Commissioner may, on the application of the holder of a private security business licence, vary the licence to authorise the provision of services of other persons to carry on a class A security activity not previously authorised under the licence.
- (2) The Chief Commissioner may, on the application of the holder of a private security individual operator licence vary the licence to authorise the carrying on of a class A security activity not previously authorised under the licence.
- (3) The holder of a private security licence may apply to the Chief Commissioner for a variation of the licence under subsection (1) or (2).
- (4) An application under subsection (3)—
 - (a) must be in a form approved by the Chief Commissioner; and
 - (b) contain any prescribed particulars; and
 - (c) must be accompanied by any prescribed document or prescribed information.
- (5) A person who has applied for a variation to a private security licence under this section must pay—
 - (a) the prescribed application fee for consideration of the application by the Chief Commissioner; and
 - (b) the prescribed variation fee for the variation of the licence.

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- (6) Subsection (5) does not apply to a person who applies for a variation to a private security business licence and who is in partnership with another person who has paid the prescribed fees for the variation to the licence to carry on the business that is carried on by the partnership.
 - (7) The provisions of this Part, with such modifications as are necessary, apply to an application under this section as if it were an application for a private security licence.
 - (8) The Chief Commissioner must notify the holder of the licence of his or her decision under this section.

43 Application by holder of licence to vary or revoke a licence condition

- (1) The Chief Commissioner may, on the application of the holder of a private security licence, vary or revoke a condition on the licence, other than a prescribed condition.
- (2) The holder of a private security licence may apply to the Chief Commissioner for a variation of the licence under subsection (1).
- (3) An application under subsection (2)—
 - (a) must be in a form approved by the Chief Commissioner; and
 - (b) contain any prescribed particulars; and
 - (c) must be accompanied by any prescribed document or prescribed information.

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- (4) A person who has applied for a variation to a private security licence under this section must pay the prescribed application fee for consideration of the application by the Chief Commissioner.
 - (5) Subsection (4) does not apply to a person who applies for a variation to a private security business licence and who is in partnership with another person who has paid the application fee prescribed for the variation to the licence to carry on the business that is carried on by the partnership.
 - (6) The powers of the Chief Commissioner under sections 20 to 24 apply in respect of an application under this section as if it were an application for a private security licence.
 - (7) The Chief Commissioner must notify the holder of the licence of his or her decision under this section.

44 Issue and surrender of licence document

- (1) On varying a private security licence under section 41, 42 or 43, the Chief Commissioner must issue to the holder of the licence that has been varied, a private security licence document in accordance with the regulations.
- (2) On a private security licence being varied under section 41, 42 or 43, the holder of the licence must surrender the licence document of the licence that has been varied to the Chief Commissioner within 7 days after the day on which the variation takes effect.

Penalty: 10 penalty units.

45 Cancellation of licence or authority to carry on activity on licence holder's request

- (1) The holder of a private security licence may request that the Chief Commissioner—
 - (a) cancel the licence; or
 - (b) cancel an authority under the licence—
 - (i) to provide the services of others to carry on a class A security activity; or
 - (ii) to carry on a class A security activity.
- (2) If a request is made under subsection (1)(a), the Chief Commissioner may cancel the licence.
- (3) The holder of a licence cancelled under subsection (2) must surrender the licence document to the Chief Commissioner within 7 days after the day on which the cancellation takes effect.

Penalty: 10 penalty units.
- (4) If a request is made under subsection (1)(b), the Chief Commissioner may cancel the authority.
- (5) If the Chief Commissioner cancels an authority under a licence under subsection (4), he or she must issue to the holder of the licence a private security licence document in accordance with the regulations.
- (6) The holder of a licence in respect of which an authority has been cancelled under subsection (4) must surrender the licence document to the Chief Commissioner within 7 days after the day on which the cancellation takes effect.

Penalty: 10 penalty units.

Division 5—Disciplinary proceedings

46 Definition

In this Division *disciplinary inquiry* means an inquiry under section 50.

47 Immediate cancellation of private security licence

(1) Immediately on becoming aware that—

- (a) the holder of a private security licence; or
- (b) in the case of a private security licence which is held by a body corporate, an officer of the body corporate—

is a prohibited person the Chief Commissioner must cancel the licence.

(2) The Chief Commissioner must notify the holder of the licence of the cancellation of the licence.

48 Complaints

(1) A person who is affected by the conduct of the holder of a private security licence that is carried on under the licence may make a complaint to the Chief Commissioner about that conduct.

(2) A complaint under subsection (1) must be made to the Chief Commissioner within 3 months of the taking place of the conduct that is the subject of the complaint, or, if the Chief Commissioner so agrees, at any later time.

49 Investigation of complaints

The Chief Commissioner must cause any complaint made under section 48 to be investigated to determine whether or not there are grounds under section 50 for conducting a disciplinary inquiry, if the complaint is not frivolous or vexatious.

50 Power of Chief Commissioner to hold disciplinary inquiry

If the Chief Commissioner is satisfied that there are grounds for believing that—

- (a) the holder of a private security licence, if that holder applied for a new licence, would be refused such a licence, (other than in circumstances in which section 47 applies); or
- (b) the holder of a private security licence has contravened any condition to which the licence is subject; or
- (c) the holder of a private security licence has engaged in conduct in carrying on any activity authorised by the licence that is unfair, dishonest or discreditable—

the Chief Commissioner may hold an inquiry into the matter.

51 Interim suspension of licence or authority

- (1) On making a decision to conduct a disciplinary inquiry the Chief Commissioner may—
 - (a) suspend the licence; or
 - (b) suspend an authority under the licence—
 - (i) to provide the services of others to carry on a class A security activity; or
 - (ii) to carry on a class A security activity.
- (2) The Chief Commissioner must serve notice of a suspension under subsection (1) on the holder of the licence.
- (3) A notice under subsection (2) must state the nature of the suspension and contain all the things specified in section 52(1).

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- (4) A suspension under this section remains in force until—
- (a) the Chief Commissioner decides to take an action under section 56; or
 - (b) if the Chief Commissioner decides to take no action under section 56, the making of that decision.

52 Notice to licence holder who is the subject of a disciplinary inquiry

- (1) The Chief Commissioner must serve on a holder of a licence, in respect of whom the Chief Commissioner has decided to hold a disciplinary inquiry, a notice—
- (a) stating that the Chief Commissioner is satisfied that there are grounds for holding a disciplinary inquiry; and
 - (b) setting out those grounds; and
 - (c) specifying whether, during the inquiry, submissions may be made by the licence holder orally or in writing; and
 - (d) setting out the time within which written submissions may be made to the Chief Commissioner regarding an action that he or she may take under section 56.
- (2) This section does not apply if the Chief Commissioner has served a notice on the holder under section 51(2).

53 Further notice as to oral submissions

If the Chief Commissioner has specified in a notice under section 52(1) that oral submissions may be made during the disciplinary inquiry, he or she must serve on the holder of the licence a notice—

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- (a) advising the holder of the day on which the submissions may be made; and
 - (b) advising the holder of their entitlements under section 54(1).

54 Procedures at oral hearing

- (1) The holder of a licence served with a notice under section 53 may make oral submissions personally or by way of a representative at the hearing.
 - (2) The Chief Commissioner may adjourn the hearing at any time before or during the hearing.
 - (3) At the hearing, the Chief Commissioner is not bound by rules or practice as to evidence and may inform himself or herself in relation to any matter in any manner he or she thinks appropriate.
 - (4) At the hearing, the Chief Commissioner may proceed in the absence of a party or interested person who has had reasonable notice of the hearing.
 - (5) The Chief Commissioner may arrange for an electronic recording of the hearing to be made.
 - (6) The Chief Commissioner—
 - (a) must retain any electronic recording made of a hearing for a period of no less than 3 months from the date of the hearing; and
 - (b) may destroy the recording at the end of the period under paragraph (a).
 - (7) A—
 - (a) holder of a licence appearing before a hearing; or
 - (b) person appearing before such a hearing—
is not entitled to receive any costs in respect of the hearing.
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55 Powers of Chief Commissioner at disciplinary inquiry

For the purposes of a disciplinary inquiry, the Chief Commissioner has the same powers as are set out in sections 20 to 24 subject to any necessary modifications.

56 Actions Chief Commissioner may take at inquiry

If, after considering all the material available to the Chief Commissioner during a disciplinary inquiry, the Chief Commissioner is of the opinion that a ground set out under section 52(1)(b) has been established in relation to a private security licence, the Chief Commissioner may decide to do any one or more of the following—

- (a) take no further action;
- (b) reprimand the holder of the licence;
- (c) impose or vary a condition on the licence;
- (d) suspend the licence for a specified period of no more than one year;
- (e) suspend an authority under the licence—
 - (i) to provide the services of others to carry on a class A security activity; or
 - (ii) to carry on a class A security activity—
for a specified period of no more than one year;
- (f) cancel the licence;
- (g) cancel an authority under the licence—
 - (i) to provide the services of others to carry on a class A security activity; or
 - (ii) to carry on a class A security activity;

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- (h) order that the holder of a licence cancelled under this section not be entitled to apply for a private security licence for a specified period of no more than 5 years from the date that cancellation takes effect;
 - (i) order that the holder of a licence in respect of which an authority has been cancelled under this section, not be entitled to apply for a variation of the licence to include the authority that has been cancelled for a specified period of no more than 5 years from the date that cancellation takes effect.

57 Notice of Chief Commissioner's decision

The Chief Commissioner must notify the holder of a licence as to his or her decision under section 56 and must set out the reasons for that decision.

58 When decision under section 56 takes effect

If the Chief Commissioner decides to take an action under section 56, the decision takes effect on and from the later of—

- (a) the date that the notice under section 57 is served; or
- (b) the date that is specified by the Chief Commissioner in that notice.

59 Surrender and issue of licence document upon cancellation or suspension

- (1) The holder of a private security licence—
 - (a) cancelled or suspended under this Division by the Chief Commissioner; or
 - (b) in respect of which an authority—
 - (i) to provide the services of others to carry on a class A security activity; or

(ii) to carry on a class A security activity—
has been cancelled or suspended under this
Division by the Chief Commissioner—

must surrender the licence document in respect of
that licence to the Chief Commissioner within
7 days after the day on which the cancellation or
suspension takes effect.

Penalty: 10 penalty units.

(2) On suspending or cancelling an authority under a
private security licence under this Division—

(a) to provide the services of others to carry on a
class A security activity; or

(b) to carry on a class A security activity—

the Chief Commissioner must issue to the holder
of the licence, a private security licence document
in accordance with the regulations.

60 Inquiry not prevented by other proceedings

The Chief Commissioner may hold a disciplinary
inquiry, even though the grounds for the inquiry
concern a person who is—

(a) the holder of a private security licence; or

(b) a close associate of the holder of a private
security licence; or

(c) if the holder of the private security licence is
a body corporate, the nominated person or an
officer of the body corporate—

and that person is the subject of proposed or
current criminal proceedings that relate to those
grounds.

61 Court may cancel or suspend licence

If, in any proceedings before a court—

- (a) the holder of a private security licence is convicted or found guilty of—
 - (i) a particular indictable offence; or
 - (ii) an offence against this Act or the regulations; and
- (b) the court is of the opinion that the licence should be suspended or cancelled, the court may—
 - (i) order that the licence be suspended for a period of not more than one year and that the licence document be surrendered to the court; or
 - (ii) order that the licence be cancelled and that the licence document be surrendered to the court and that the holder of the licence not be entitled to apply for such a licence within a specified period of no more than 5 years from the date on which the cancellation takes effect; or
 - (iii) refer the matter to the Chief Commissioner.

62 Surrender of licence document

- (1) The holder of a licence suspended or cancelled under section 61 must surrender the licence document to the court within 7 days after the day notified to the holder as the day on which the suspension or cancellation (as the case may be) takes effect.

Penalty: 10 penalty units.

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- (2) The Registrar or other relevant officer of the court must immediately forward any licence document surrendered under subsection (1) and a copy of the order under section 61(b) to the Chief Commissioner.

63 Return of licence document

If a private security licence is suspended under section 61, the Chief Commissioner, on receiving the licence document under section 62, must cause the licence document to be returned to the holder at the end of the suspension period.

Division 6—Temporary permits

64 Temporary interstate visitor permit to carry out activity

- (1) A person who ordinarily resides in another State or Territory, may apply to the Chief Commissioner for a permit to carry on one or more class A security activities in Victoria that may be authorised to be carried on by a private security individual operator licence if—
- (a) the person produces evidence to the satisfaction of the Chief Commissioner that the person is licensed or registered or otherwise authorised in his or her State or Territory of residence to carry on the activity or activities; or
 - (b) if the law of the State or Territory in which the person is resident does not require a person to be licensed or registered or otherwise authorised to carry on the activity or activities, the Chief Commissioner is satisfied as to the suitability of the person to carry out the activity or activities.
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- (2) The holder of a permit under this section does not commit an offence against section 7 or 8 while acting under and in accordance with the permit.

65 Temporary interstate visitor permit to carry on business of providing services

- (1) A person who ordinarily resides in another State or Territory, may apply to the Chief Commissioner for a permit to carry on the business of providing the services of other persons to carry on one or more class A security activities in Victoria that may be authorised by a private security business licence if—
- (a) the person produces evidence to the satisfaction of the Chief Commissioner that the person is licensed or registered or otherwise authorised in his or her State or Territory of residence to carry on such a business; or
 - (b) if the law of the State or Territory in which the person is resident does not require a person to be licensed or registered or otherwise authorised to carry on such a business, the Chief Commissioner is satisfied as to the suitability of the person to carry on the business.
- (2) The holder of a permit under this section does not commit an offence against section 5 or 6 while acting under and in accordance with the permit.

66 Temporary overseas bodyguard visitor permit

- (1) A person who ordinarily resides outside Australia may apply to the Chief Commissioner for a permit to act as a bodyguard in Victoria if—
- (a) the person produces evidence to the satisfaction of the Chief Commissioner that the person is licensed or registered or

otherwise authorised in his or her country of residence to act as a bodyguard; or

- (b) if the law of the country in which the person is resident does not require a person to be licensed or registered or otherwise authorised to act as a bodyguard, the Chief Commissioner is satisfied as to the suitability of the person to act as a bodyguard.

- (2) The holder of a permit under this section does not commit an offence against section 7(b) or 8(b) while acting under and in accordance with the permit.

67 Overseas bodyguard with temporary interstate or Territory permit

A person who—

- (a) ordinarily resides outside Australia; and
- (b) holds a permit that authorises that person to act as a bodyguard issued under the law of another State or a Territory of a kind specified in the regulations—

does not commit an offence against section 7(b) or 8(b) while acting under and in accordance with the permit.

68 Procedure for applications for permits

- (1) A person may apply for a permit under this Division in the form and manner approved by the Chief Commissioner.
- (2) An application for a permit must be accompanied by proof of identity of the applicant, being, if the Chief Commissioner so requires proof by way of the specified identification method.

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- (3) In considering an application for a permit the Chief Commissioner may do any one or more of the following—
- (a) take into account any known information about the applicant, that is relevant to the application;
 - (b) conduct any investigation or make any inquiry that he or she thinks fit;
 - (c) require an applicant to—
 - (i) provide any information, relevant to the application and verified by a statutory declaration; or
 - (ii) produce any document relevant to the application—
that in the opinion of the Chief Commissioner relates to the applicant;
 - (d) require a full set of the applicant's fingerprints to be provided to the Chief Commissioner if—
 - (i) there is reasonable doubt as to the identity of the applicant for the permit; and
 - (ii) proof of the identity of the applicant cannot be obtained by any other reasonable means.
- (4) The Chief Commissioner may refuse to issue a permit if a requirement under subsection (3)(c) or (3)(d) is not complied with.
- (5) Section 22(3) and (4) applies to the provision of any set of fingerprints under subsection (3)(d).
- (6) The Chief Commissioner may issue a permit to a person who has applied for a permit under subsection (1).
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69 Fees for permits

- (1) The prescribed application fee for an application for a permit under this Division must be paid by the person applying for the permit.
- (2) The prescribed permit fee for a permit under this Division must be paid by the holder of the permit.

70 Limitations and conditions on permits

- (1) A permit under this Division must not be issued for any purpose other than for the duration of a special event or events that are specified in the permit and must not continue in force for a period that is greater than the duration of the event or events for which it is issued.
- (2) The Chief Commissioner may impose any conditions on a permit under this Division that the Chief Commissioner thinks fit.
- (3) The holder of a permit under this Division must comply with any condition imposed on the permit under subsection (2).

Penalty: 60 penalty units.

PART 4—REGISTRATION OF PRIVATE SECURITY OPERATORS

Division 1—Application for private security registration

71 Grant of private security business registration

- (1) The Chief Commissioner may register a person to carry on the business of providing the services of other persons to carry on any one or more activities specified in the following paragraphs—
 - (a) acting as a security equipment installer; or
 - (b) acting as a security adviser.
- (2) In registering a person under subsection (1), the Chief Commissioner must specify the classes of activities that are authorised by the registration.

72 Grant of private security individual operator registration

- (1) The Chief Commissioner may register a natural person to carry on any one or more activities specified in the following paragraphs—
 - (a) acting as a security equipment installer; or
 - (b) acting as a security adviser.
- (2) In registering a person under subsection (1), the Chief Commissioner must specify the classes of activities that are authorised by the registration.

73 Application for registration

An application for a private security registration must—

- (a) be made in a form approved by the Chief Commissioner; and
- (b) contain the prescribed particulars; and

- (c) be accompanied by any other prescribed documents or prescribed information.

74 Additional particular requirements for registration applications

- (1) An application for a private security individual operator registration must be accompanied by—
 - (a) proof of identity of the applicant, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
 - (b) two written references from a prescribed class of person attesting to the applicant's suitability to hold a private security individual operator registration.
- (2) An application for a private security business registration must—
 - (a) in the case of an application by a natural person, be accompanied by—
 - (i) proof of identity of the applicant, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
 - (ii) two written references from a prescribed class of person attesting to the applicant's suitability to hold a private security business registration; and
 - (iii) a statement setting out the name and the business, residential and postal address of any person who is a close associate of the applicant, that is signed by each close associate specified in the statement; and

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- (iv) proof of identity of each person named in the statement, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
 - (v) two written references from a prescribed class of person for each person named in the statement; and
- (b) in the case of an application by a body corporate be accompanied by—
- (i) a statement setting out the name and the business, residential and postal address of—
 - (A) the nominated person of the body corporate; and
 - (B) any other officers of the body corporate; and
 - (C) any person who is a close associate of the applicant—that is, in the case of a statement relating to a close associate, signed by the close associate; and
 - (ii) proof of identity of each person named in the statement, being, if the Chief Commissioner so requires, proof by way of the specified identification method; and
 - (iii) two written references from a prescribed class of person for each person named in the statement.
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75 Applicant to advertise application

- (1) An applicant for private security business registration must—
 - (a) within 7 days after the day on which an application is lodged with the Chief Commissioner, cause to be advertised in a daily newspaper circulating generally in Victoria, a notice setting out—
 - (i) the fact that the applicant has made the application; and
 - (ii) the business name and business address of the applicant; and
 - (iii) the class of registration being applied for; and
 - (iv) the fact that a person may object (under subsection (2)) to the granting of a registration; and
 - (v) the period within which an objection to the granting of a registration must be lodged with the Chief Commissioner; and
 - (b) within 14 days after the day on which an application is lodged with the Chief Commissioner, provide the Chief Commissioner with a copy of the advertisement including the date the advertisement was published.
 - (2) A person may object to the granting of a private security business registration by setting out the grounds of the objection in a written submission forwarded to the Chief Commissioner.
 - (3) In determining the application the Chief Commissioner must consider any submission received by him or her within 14 days after the day of the publication of the advertisement, unless
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he or she is satisfied that the submission is frivolous, vexatious or irrelevant to the grant of the registration to the applicant.

76 Consideration of application by Chief Commissioner

The Chief Commissioner must consider every application for a private security registration.

77 Power of Chief Commissioner to investigate application

In considering an application for a private security registration the Chief Commissioner may, in order to ascertain whether the criteria set out in section 82 or 83 (as the case requires) are satisfied, conduct any investigation or make any inquiry that he or she thinks fit.

78 Particular powers of Chief Commissioner relating to known information

In conducting an investigation or making an inquiry under section 77, the Chief Commissioner may—

- (a) in the case of an application for a private security individual operator registration, have regard to any known information about the applicant that is relevant to the application; or
- (b) in the case of an application for a private security business registration by a natural person, have regard to any known information about the person or a close associate of the person that is relevant to the application; or
- (c) in the case of an application for a private security business registration by a body corporate, have regard to any known

information (that is relevant to the application) about—

- (i) the body corporate; and
- (ii) the nominated person; and
- (iii) any officer of the body corporate; and
- (iv) any close associate of the body corporate.

79 Particular powers of Chief Commissioner relating to fingerprinting

- (1) In conducting an investigation or making an inquiry under section 77, the Chief Commissioner may require a full set of fingerprints to be provided to him or her of any of the following persons to provide proof of their identity—
 - (a) in the case of an application for a private security individual operator registration, the applicant;
 - (b) in the case of an application for a private security business registration by a natural person, the person or a close associate of the person;
 - (c) in the case of an application for a private security business registration by a body corporate—
 - (i) the nominated person;
 - (ii) any officer of the body corporate;
 - (iii) any close associate of the body corporate.
- (2) The Chief Commissioner may not request a full set of fingerprints under subsection (1) unless—
 - (a) there is reasonable doubt as to the identity of the applicant, a close associate of the applicant, the nominated person or an officer

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- of the body corporate (as the case may be);
and
- (b) proof of the identity cannot be ascertained by other reasonably available means.
- (3) If any fingerprints are provided to the Chief Commissioner under this section, the Chief Commissioner must ensure that—
- (a) the fingerprints are destroyed—
- (i) within 28 days after they are no longer required in connection with the application to which they relate; or
- (ii) no later than 6 months from the date they were provided—
- whichever is the earlier; and
- (b) the applicant, the close associate of the applicant, the nominated person or the officer of the body corporate (as the case may be), is notified of the destruction as soon as practicable.
- (4) Fingerprints that are provided to the Chief Commissioner under this section are not admissible as evidence in any proceedings.

80 Information and documents to be provided

For the purposes of an inquiry or investigation under section 77 the Chief Commissioner may require by a notice in writing to an applicant—

- (a) that the Chief Commissioner be provided with any information, relevant to the application and specified in the notice, in the manner required by the Chief Commissioner (and verified by a statutory declaration if necessary) if the Chief Commissioner is of the opinion that the information relates to the applicant, a close associate of the applicant,

- the nominated person or an officer of the body corporate (as the case requires); or
- (b) that any record, relevant to the application and specified in the notice, be produced to the Chief Commissioner if the Chief Commissioner is of the opinion that the record relates to the applicant, a close associate of the applicant, the nominated person or an officer of the body corporate (as the case requires); or
 - (c) that any record produced to the Chief Commissioner under paragraph (b) be made available for inspection and for the taking of copies.

81 Chief Commissioner may refuse to make a decision on an application for a registration

The Chief Commissioner may refuse to make a decision on an application for a private security registration if the applicant does not comply with any requirement of the Chief Commissioner under this Division in relation to the application within a reasonable time of the requirement being made.

Division 2—Granting and renewal of private security registrations

82 Circumstances in which the Chief Commissioner must refuse to grant a private security individual operator registration

- (1) The Chief Commissioner must not grant a private security individual operator registration if—
 - (a) he or she is satisfied that the granting of the registration is not in the public interest; or
 - (b) he or she is not satisfied that the applicant meets the probity requirements set out in subsection (2).

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- (2) For the purposes of subsection (1)(b) the probity requirements are that the person—
- (a) is fit and proper; and
 - (b) is aged 18 years or more; and
 - (c) has not contravened or failed to comply with any provision of this Act, the regulations or any corresponding previous enactment, to the extent that warrants the refusal of the registration; and
 - (d) is not a person in relation to whom—
 - (i) not more than 10 years have expired since that person was convicted of an indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security registration; or
 - (ii) not more than 5 years have expired since that person has been found guilty (without a conviction being recorded) of an indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security registration; and
 - (e) is not a person who is charged with an indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security registration.

83 Circumstances in which the Chief Commissioner must refuse to grant a private security business registration

- (1) The Chief Commissioner must not grant a private security business registration if—
- (a) he or she is satisfied that the granting of the registration is not in the public interest; or
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- (b) he or she is not satisfied that each relevant person in relation to the application meets the probity requirements set out in subsection (2); or
- (c) he or she is satisfied that the applicant (if the applicant is a body corporate) has been convicted or found guilty of an offence, which in the opinion of the Chief Commissioner, warrants the refusal of registration; or
- (d) the applicant, or nominated person (in the case of a body corporate) has not produced, in relation to the business—
- (i) a certificate of currency for public liability insurance; and
 - (ii) evidence, to the satisfaction of the Chief Commissioner, of compliance with existing statutory workplace obligations; or
- (e) he or she is not satisfied that the applicant has or will be able to obtain financial resources that are adequate to ensure the financial viability of the business.
- (2) For the purposes of subsection (1)(b) the probity requirements are that the person—
- (a) is fit and proper; and
 - (b) is aged 18 years or more; and
 - (c) has not contravened or failed to comply with any provision of this Act, the regulations or any corresponding previous enactment, to the extent that warrants the refusal of the registration; and
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- (d) is not a person in relation to whom—
- (i) not more than 10 years have expired since that person was convicted of an indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security registration or to be involved or connected with a business carried on under a private security registration; or
 - (ii) not more than 5 years have expired since that person has been found guilty (without a conviction being recorded) of an indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security registration or to be involved or connected with a business carried on under a private security registration; and
- (e) is not a person who is charged with an indictable offence that in the opinion of the Chief Commissioner would render the person unsuitable to hold a private security registration or to be involved or connected with a business carried on under a private security registration; and
- (f) has not, within the preceding 5 years, been declared bankrupt; and
- (g) is not insolvent under administration.
- (3) In this section *relevant person in relation to an application* means—
- (a) in the case of an application by a natural person for a private security business registration, the applicant for the registration and any close associate of the applicant; or
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(b) in the case of an application by a body corporate for a private security business registration, each of the following—

- (i) the nominated person for the body corporate;
- (ii) any officer of the body corporate;
- (iii) any close associate of the body corporate.

84 Notice that private security registration may be refused

(1) If the Chief Commissioner is proposing not to grant a private security registration, the Chief Commissioner must, before deciding not to grant the registration, serve on the applicant a notice—

- (a) specifying the reason why the Chief Commissioner is proposing not to grant the registration; and
- (b) inviting the applicant to make a written submission in accordance with subsection (2).

(2) An applicant who has been served with a notice under subsection (1) may, within 28 days after the day on which the applicant is served with the notice, make a submission to the Chief Commissioner concerning any reason that is specified in the notice.

85 Further consideration of application and convening of hearing

(1) After receiving a submission within the time specified under section 84(2), the Chief Commissioner may—

- (a) further consider the application; or
- (b) after giving notice to the applicant, convene a hearing to further consider the application.

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- (2) An applicant may be represented at a hearing by any person the applicant chooses, but is not entitled to receive any costs in respect of a hearing.
 - (3) The Chief Commissioner may arrange for an electronic recording of a hearing to be made.
 - (4) The Chief Commissioner—
 - (a) must retain any electronic recording of a hearing for a period of no less than 3 months from the date of the hearing; and
 - (b) may destroy the recording at the end of the period under paragraph (a).

86 Refusal of private security registration

The Chief Commissioner must not make a decision not to grant a registration unless the Chief Commissioner has—

- (a) considered any written submission made by the applicant within the time specified in the notice under section 84(1) for making such a submission; and
- (b) if a hearing is convened under section 85, considered any oral submission made by the applicant at the hearing, if the applicant has indicated to the Chief Commissioner within any time specified in the notice under section 85(1)(b) that he or she wishes to be heard at such a hearing.

87 Application and registration fees

- (1) The prescribed application fee for an application for registration under this Part must be paid by the person applying for the registration.
 - (2) The prescribed registration fee for registration under this Part must be paid by the holder of the registration.
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- (3) Subsections (1) and (2) do not apply to a person who applies for a private security business registration and who is in partnership with another person who has paid an application fee and registration fee prescribed for the registration to carry on the business which is carried on by the partnership.

88 Chief Commissioner may impose conditions on registration

The Chief Commissioner may impose a condition on a private security registration—

- (a) relating to any of the following—
- (i) the carriage and use of equipment to be used in carrying on the activities authorised by the registration;
 - (ii) the notification of any serious medical or psychiatric condition or impairment that directly impacts on the registration holder's ability to carry on the activities authorised under the registration;
 - (iii) supervision of the holder of the registration in carrying on the activities authorised by the registration; or
- (b) that is prescribed; or
- (c) that the Chief Commissioner thinks fit to impose.

89 Failure to comply with registration condition

The holder of a private security registration must comply with any conditions imposed on the registration.

Penalty: 10 penalty units.

90 Duration of registration

A private security registration continues in force for the period specified in the registration document, which may be up to 3 years from the grant of registration unless it is suspended or cancelled.

91 Power of Chief Commissioner to renew registration

On the expiration of a private security registration, the Chief Commissioner may renew the registration.

92 Application to renew registration

- (1) Before a private security registration expires, the holder of the registration may apply to the Chief Commissioner for the renewal of the registration.
- (2) An application under subsection (1) must—
 - (a) be in a form approved by the Chief Commissioner; and
 - (b) contain any prescribed particulars; and
 - (c) be accompanied by any prescribed documents or information.
- (3) The powers of the Chief Commissioner under sections 77 to 81 apply in respect of an application for renewal of a private security registration as if it were an application for a private security registration.
- (4) A private security registration, in respect of which an application is made under this section, is deemed to continue in force, after the expiry of the registration period, until the Chief Commissioner makes a decision in relation to the application.

93 Circumstances in which the Chief Commissioner must refuse to renew registration

The Chief Commissioner must not renew a private security registration unless the Chief Commissioner is satisfied that all of the criteria set out in sections 82 and 83, with such modifications as are necessary, are satisfied by the applicant.

94 Sections 84 to 86 to apply as if application for renewal of registration is application for registration

Sections 84 to 86 apply in respect of an application for a renewal of a private security registration as if it were an application for a private security registration.

95 Application and renewal fees

- (1) A person who has applied for the renewal of a private security registration must pay—
 - (a) the prescribed application fee for consideration of the application by the Chief Commissioner; and
 - (b) the prescribed renewal fee for the renewal of the registration.
- (2) Subsection (1) does not apply to a person who applies for the renewal of a private security business registration and who is in partnership with another person who has paid an application fee and renewal fee prescribed for the renewal of the registration to carry on the business that is carried on by the partnership.

96 Chief Commissioner to issue registration documents

On granting or renewing a private security registration, the Chief Commissioner must issue to the applicant a private security registration document in accordance with the regulations.

Division 3—Variation and requested cancellation of private security registrations

97 Power of the Chief Commissioner to vary registration

- (1) The Chief Commissioner may, on the Chief Commissioner's own motion—
 - (a) vary or revoke a condition on a private security registration, other than a prescribed condition; or
 - (b) impose a condition on the registration.
- (2) Before making a variation under this section, the Chief Commissioner must—
 - (a) notify the holder of the registration; and
 - (b) allow the holder an opportunity to make written submissions.
- (3) Submissions under subsection (2) must be made within the period specified in the notice.
- (4) The powers of the Chief Commissioner under sections 77 to 81 apply in respect of a variation made by the Chief Commissioner under this section as if it were an application for a private security registration.
- (5) In deciding whether or not to make a variation under this section, the Chief Commissioner must—
 - (a) have regard to submissions made under subsection (2) within the period for making submissions; and
 - (b) notify the holder of the registration of his or her decision.

(6) A variation under this section has effect from the later of—

- (a) the date that the notice under subsection (5)(b) is served; or
- (b) the date that is specified by the Chief Commissioner in that notice.

98 Application by holder of registration to vary registration to authorise additional activity

- (1) The Chief Commissioner may, on the application of the holder of a private security business registration, vary the registration to authorise the provision of services of other persons to carry on a class B security activity not previously authorised under the registration.
- (2) The Chief Commissioner may, on the application of the holder of a private security individual operator registration vary the registration to authorise the carrying on of a class B security activity not previously authorised under the registration.
- (3) The holder of a private security registration may apply to the Chief Commissioner for a variation of the registration under subsection (1) or (2).
- (4) An application under subsection (3)—
 - (a) must be in a form approved by the Chief Commissioner; and
 - (b) contain any prescribed particulars; and
 - (c) must be accompanied by any prescribed document or prescribed information.
- (5) A person who has applied for a variation to a private security registration under this section must pay—

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- (a) the prescribed application fee for consideration of the application by the Chief Commissioner; and
 - (b) the prescribed variation fee for the variation of the registration.
- (6) Subsection (5) does not apply to a person who applies for a variation to a private security business registration and who is in partnership with another person who has paid the prescribed fees for the variation to the registration to carry on the business that is carried on by the partnership.
 - (7) The provisions of this Part, with such modifications as are necessary, apply to an application under this section as if it were an application for a private security registration.
 - (8) The Chief Commissioner must notify the holder of the registration of his or her decision under this section.

99 Application by holder of registration to vary a registration

- (1) The Chief Commissioner may, on the application of the holder of a private security registration, vary or revoke a condition on the registration, other than a prescribed condition.
 - (2) The holder of a private security registration may apply to the Chief Commissioner for a variation of the registration under subsection (1).
 - (3) An application under subsection (2)—
 - (a) must be in a form approved by the Chief Commissioner; and
 - (b) contain any prescribed particulars; and
 - (c) must be accompanied by any prescribed document or prescribed information.
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- (4) A person who has applied for a variation to a private security registration under this section must pay the prescribed application fee for consideration of the application by the Chief Commissioner.
 - (5) Subsection (4) does not apply to a person who applies for a variation to a private security business registration and who is in partnership with another person who has paid the application fee prescribed for the variation to the registration to carry on the business that is carried on by the partnership.
 - (6) The powers of the Chief Commissioner under sections 77 to 81 apply in respect of an application under this section as if it were an application for a private security registration.
 - (7) The Chief Commissioner must notify the holder of the registration of his or her decision under this section.

100 Issue and surrender of registration document

- (1) On varying a private security registration under section 97, 98 or 99, the Chief Commissioner must issue to the holder of the registration that has been varied, a private security registration document in accordance with the regulations.
- (2) On a private security registration being varied under section 97, 98 or 99, the holder of the registration must surrender the registration document of the registration that has been varied to the Chief Commissioner within 7 days after the day on which the variation takes effect.

Penalty: 10 penalty units.

101 Cancellation of registration or authority to carry on activity on registration holder's request

- (1) The holder of a private security registration may request that the Chief Commissioner—
 - (a) cancel the registration; or
 - (b) cancel an authority under the registration—
 - (i) to provide the services of others to carry on a class B security activity; or
 - (ii) to carry on a class B security activity.

(2) If a request is made under subsection (1)(a), the Chief Commissioner may cancel the registration.

(3) The holder of a registration cancelled under subsection (2) must surrender the registration document to the Chief Commissioner within 7 days after the day on which the cancellation takes effect.

Penalty: 10 penalty units.

(4) If a request is made under subsection (1)(b), the Chief Commissioner may cancel the authority.

(5) If the Chief Commissioner cancels an authority under a registration under subsection (4), he or she must issue to the holder of the registration a private security registration document in accordance with the regulations.

(6) The holder of a registration in respect of which an authority has been cancelled under subsection (4) must surrender the registration document to the Chief Commissioner within 7 days after the day on which the cancellation takes effect.

Penalty: 10 penalty units.

Division 4—Disciplinary proceedings

102 Definition

In this Division *disciplinary inquiry* means an inquiry under section 105.

103 Complaints

- (1) A person who is affected by the conduct of the holder of a private security registration that is carried on under the registration may make a complaint to the Chief Commissioner about that conduct.
- (2) A complaint under subsection (1) must be made to the Chief Commissioner within 3 months of the taking place of the conduct that is the subject of the complaint, or, if the Chief Commissioner so agrees, at any later time.

104 Investigation of complaints

The Chief Commissioner must cause any complaint made under section 103 to be investigated to determine whether or not there are grounds under section 105 for conducting a disciplinary inquiry, if the complaint is not frivolous or vexatious.

105 Power of Chief Commissioner to hold disciplinary inquiry

If the Chief Commissioner is satisfied that there are grounds for believing that—

- (a) the holder of a private security registration, if that holder applied for a new registration, would be refused such a registration; or
- (b) the holder of a private security registration has contravened any condition to which the registration is subject; or

- (c) the holder of a private security registration has engaged in conduct in carrying on any activity authorised by the registration that is unfair, dishonest or discreditable—

the Chief Commissioner may hold an inquiry into the matter.

106 Interim suspension of registration or authority

- (1) On making a decision to conduct a disciplinary inquiry the Chief Commissioner may—
- (a) suspend the registration; or
 - (b) suspend an authority under the registration—
 - (i) to provide the services of others to carry on a class B security activity; or
 - (ii) to carry on a class B security activity.
- (2) The Chief Commissioner must serve notice of a suspension under subsection (1) on the holder of the registration.
- (3) A notice under subsection (2) must state the nature of the suspension and contain all the things specified in section 107(1).
- (4) A suspension under this section remains in force until—
- (a) the Chief Commissioner decides to take an action under section 111; or
 - (b) if the Chief Commissioner decides to take no action under section 111, the making of that decision.

107 Notice to registration holder who is the subject of a disciplinary inquiry

- (1) The Chief Commissioner must serve on a holder of a registration in respect of whom the Chief Commissioner has decided to hold a disciplinary inquiry a notice—
 - (a) stating that the Chief Commissioner is satisfied that there are grounds for holding a disciplinary inquiry; and
 - (b) setting out those grounds; and
 - (c) specifying whether, in the inquiry, submissions may be made orally or in writing; or
 - (d) setting out the time within which written submissions may be made to the Chief Commissioner regarding an action that he or she may take under section 111.
- (2) This section does not apply if the Chief Commissioner has served a notice on the holder under section 106(2).

108 Further notice as to oral submissions

If the Chief Commissioner has specified in a notice under section 107(1) that oral submissions may be made during the disciplinary inquiry, the Chief Commissioner must serve on the holder of the registration a notice—

- (a) advising the holder of the day on which the submissions may be made; and
- (b) advising the holder of their entitlements under section 109(1).

109 Procedures at oral hearing

- (1) The holder of a registration served with a notice under section 108 may make oral submissions personally or by way of a representative at the hearing.
- (2) The Chief Commissioner may adjourn the hearing at any time before or during the hearing.
- (3) At the hearing, the Chief Commissioner is not bound by rules or practice as to evidence and may inform himself or herself in relation to any matter in any manner he or she thinks appropriate.
- (4) At the hearing, the Chief Commissioner may proceed in the absence of a party or interested person who has had reasonable notice of the hearing.
- (5) The Chief Commissioner may arrange for an electronic recording of the hearing to be made.
- (6) The Chief Commissioner—
 - (a) must retain any electronic recording made of a hearing for a period of no less than 3 months from the date of the hearing; and
 - (b) may destroy the recording at the end of the period under paragraph (a).
- (7) A—
 - (a) holder of a registration appearing before a hearing; or
 - (b) person appearing before such a hearing—
is not entitled to receive any costs in respect of the hearing.

110 Powers of Chief Commissioner at disciplinary inquiry

For the purposes of a disciplinary inquiry, the Chief Commissioner has the same powers as are set out in sections 77 to 81 subject to any necessary modifications.

111 Actions Chief Commissioner may take at inquiry

If, after considering all the material available to the Chief Commissioner during a disciplinary inquiry, the Chief Commissioner is of the opinion that a ground set out under section 107(1)(b) has been established in relation to a private security registration, the Chief Commissioner may decide to do one or more of the following—

- (a) take no further action;
- (b) reprimand the holder of the registration;
- (c) impose or vary a condition on the registration;
- (d) suspend the registration for a specified period of no more than one year;
- (e) suspend an authority under the registration—
 - (i) to provide the services of others to carry on a class B security activity; or
 - (ii) to carry on a class B security activity—
for a specified period of no more than one year;
- (f) cancel the registration;
- (g) cancel an authority under the registration—
 - (i) to provide the services of others to carry on a class B security activity; or
 - (ii) to carry on a class B security activity;

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- (h) order that the holder of a registration cancelled under this section not be entitled to apply for a private security registration for a specified period of no more than 5 years from the date that cancellation takes effect;
 - (i) order that the holder of a registration in respect of which an authority has been cancelled under this section, not be entitled to apply for a variation of the registration to include the authority that has been cancelled for a specified period of no more than 5 years from the date that cancellation takes effect.

112 Notice of Chief Commissioner's decision

The Chief Commissioner must notify the holder of a registration as to his or her decision under section 111 and must set out the reasons for that decision.

113 When decision under section 111 takes effect

If the Chief Commissioner decides to take an action under section 111, the decision takes effect on and from the later of—

- (a) the date that the notice under section 112 is served; or
- (b) the date that is specified by the Chief Commissioner in that notice.

114 Surrender and issue of registration document upon cancellation or suspension

- (1) The holder of a private security registration—
 - (a) cancelled or suspended under this Division by the Chief Commissioner; or
 - (b) in respect of which an authority—
 - (i) to provide the services of others to carry on a class B security activity; or

(ii) to carry on a class B security activity—
has been cancelled or suspended under this
Division by the Chief Commissioner—

must surrender the registration document in
respect of that registration to the Chief
Commissioner within 7 days after the day on
which the cancellation or suspension takes effect.

Penalty: 10 penalty units.

(2) On suspending or cancelling an authority under a
private security registration under this Division—

(a) to provide the services of others to carry on a
class B security activity; or

(b) to carry on a class B security activity—

the Chief Commissioner must issue to the holder
of the registration a private security registration
document in accordance with the regulations.

115 Inquiry not prevented by other proceedings

The Chief Commissioner may hold a disciplinary
inquiry even though the grounds for the inquiry
concern a person who is—

(a) the holder of a private security registration;
or

(b) a close associate of the holder of a private
security registration; or

(c) if the holder of the private security
registration is a body corporate, the
nominated person or an officer of the body
corporate—

and that person is the subject of proposed or
current criminal proceedings that relate to those
grounds.

116 Court may cancel or suspend registration

If, in any proceedings before a court—

- (a) the holder of a private security registration is convicted or found guilty of an indictable offence or an offence against this Act or the regulations; and
- (b) the court is of the opinion that the registration should be suspended or cancelled, the court may—
 - (i) order that the registration is suspended for a period not exceeding one year and that the registration document be surrendered to the court; or
 - (ii) order that the registration is cancelled and that the registration document be surrendered to the court and that the holder of the registration not be entitled to apply for such a registration within a specified period of no more than 5 years from the date on which the cancellation takes effect; or
 - (iii) refer the matter to the Chief Commissioner.

117 Surrender of registration document

- (1) The holder of a registration suspended or cancelled under section 116 must surrender the registration document to the court within 7 days after the day notified to the holder as the day on which the suspension or cancellation (as the case may be) takes effect.

Penalty: 10 penalty units.

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- (2) The Registrar or other relevant officer of the court must immediately forward any registration document surrendered under subsection (1) and a copy of the order under section 116(b) to the Chief Commissioner.

118 Return of registration document

If a private security registration is suspended under section 116, the Chief Commissioner on receiving the registration document under section 117 must cause the registration document to be returned to the holder at the end of the suspension period.

Division 5—Temporary permits

119 Temporary interstate visitor permit to carry on activity

- (1) A person who ordinarily resides in another State or Territory, may apply to the Chief Commissioner for a permit to carry on one or more class B security activities in Victoria that may be authorised to be carried on by a private security individual operator registration if—
- (a) the person produces evidence to the satisfaction of the Chief Commissioner that the person is licensed or registered or otherwise authorised in his or her State or Territory of residence to carry on the activity or activities; or
 - (b) if the law of the State or Territory in which the person is resident does not require a person to be licensed or registered or otherwise authorised to carry on the activity or activities, the Chief Commissioner is satisfied as to the suitability of the person to carry on the activity or activities.
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- (2) The holder of a permit under this section does not commit an offence against section 11 or 12 while acting under and in accordance with the permit.

120 Temporary interstate visitor permit to carry on the business of providing services

- (1) A person who ordinarily resides in another State or Territory, may apply to the Chief Commissioner for a permit to carry on the business of providing services of other persons to carry on one or more class B security activities in Victoria that may be authorised by a private security business registration if—
- (a) the person produces evidence to the satisfaction of the Chief Commissioner that the person is licensed or registered or otherwise authorised in his or her State or Territory of residence to carry on such a business; or
 - (b) if the law of the State or Territory in which the person is resident does not require a person to be licensed or registered or otherwise authorised to carry on such a business, the Chief Commissioner is satisfied as to the suitability of the person to carry on the business.
- (2) The holder of a permit under this section does not commit an offence against section 9 or 10 while acting under and in accordance with the permit.

121 Procedure for applications for permits

- (1) A person may apply for a permit under this Division in the form and manner approved by the Chief Commissioner.
- (2) An application for a permit must be accompanied by proof of identity of the applicant, being, if the Chief Commissioner so requires, proof by way of the specified identification method.
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- (3) In considering an application for a permit the Chief Commissioner may do any one or more of the following—
- (a) take into account any known information about the applicant that is relevant to the application;
 - (b) conduct any investigation or make any inquiry that he or she thinks fit;
 - (c) require an applicant to—
 - (i) provide any information, relevant to the application and verified by a statutory declaration; or
 - (ii) produce any document relevant to the application—
that in the opinion of the Chief Commissioner relates to the applicant;
 - (d) require a full set of the applicant's fingerprints to be provided to the Chief Commissioner if—
 - (i) there is reasonable doubt as to the identity of the applicant for the permit; and
 - (ii) proof of the identity of the applicant cannot be obtained by any other reasonable means.
- (4) The Chief Commissioner may refuse to issue a permit if a requirement under subsection (3)(c) or (3)(d) is not complied with.
- (5) Section 79(3) and (4) applies to the provision of any set of fingerprints under subsection (3)(d).
- (6) The Chief Commissioner may issue a permit to a person who has applied for a permit under subsection (1).
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122 Fees for permits

- (1) The prescribed application fee for an application for a permit under this Division must be paid by the person applying for the permit.
- (2) The prescribed permit fee for a permit under this Division must be paid by the holder of the permit.

123 Limitations and conditions on permits

- (1) A permit under this Division must not be issued for any purpose other than for the duration of a special event or events that are specified in the permit and must not continue in force for a period that is greater than the duration of the event or events for which it is issued.
- (2) The Chief Commissioner may impose any conditions on a permit under this Division that the Chief Commissioner thinks fit.
- (3) The holder of a permit under this Division must comply with any condition imposed on the permit under subsection (2).

Penalty: 60 penalty units.

**PART 5—GENERAL PROVISIONS APPLYING TO
LICENCES AND REGISTRATIONS**

124 Nominated person of body corporate

- (1) A body corporate that is an applicant for a private security business licence must nominate, in the application for the licence, a qualified person, to be the person responsible for ensuring that the body corporate complies with its duties under this Act.
- (2) If at any time during the course of a private security business licence a person nominated under subsection (1)—
 - (a) ceases to be so nominated by the licence holder; or
 - (b) ceases to be a qualified person—the holder of the licence must immediately so notify the Chief Commissioner.
Penalty: 20 penalty units.
- (3) The holder of a private security business licence, who has given the Chief Commissioner a notice under subsection (2), must nominate a qualified person, to take the place of the person in respect of whom notice has been given under subsection (2), to be the person responsible for ensuring that the body corporate complies with its duties under this Act.
Penalty: 20 penalty units.
- (4) A nomination under subsection (3) must be made in a notice given to the Chief Commissioner within 2 months of the giving of the notice under subsection (2), or within any later time agreed to by the Chief Commissioner.

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- (5) A body corporate that is an applicant for a private security business registration must nominate, in the application for the registration, a qualified person as the person who is to be responsible for ensuring that the body corporate complies with its duties under this Act.
- (6) If at any time during the course of a private security business registration a person nominated under subsection (5)—
- (a) ceases to be so nominated by the body corporate; or
 - (b) ceases to be a qualified person—
- the holder of the registration must immediately so notify the Chief Commissioner.
- Penalty: 20 penalty units.
- (7) The holder of a private security business registration, who has given the Chief Commissioner a notice under subsection (6), must nominate a qualified person, to take the place of the person in respect of whom notice has been given under subsection (6), to be the person responsible for ensuring that the body corporate complies with its duties under this Act.
- Penalty: 20 penalty units.
- (8) A nomination under subsection (7) must be made in a notice given to the Chief Commissioner within 2 months of the giving of the notice under subsection (6), or within any later time agreed to by the Chief Commissioner.
- (9) A notice under this section must—
- (a) be in writing; and
 - (b) if a person is nominated in the notice, set out the name and address of the person so nominated; and
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(c) be accompanied by any prescribed documents or information.

(10) In this section, *qualified person*, in relation to—

- (a) a body corporate that is an applicant for or the holder of a private security business licence, means a person who—
 - (i) is an officer or employee of the body corporate primarily responsible for managing the operation of the business of the body corporate; and
 - (ii) meets the probity and competency requirements set out in section 26(2) and (3); and
- (b) a body corporate that is an applicant for or the holder of a private security business registration, means a person who—
 - (i) is an officer or employee of the body corporate primarily responsible for managing the operation of the business of the body corporate; and
 - (ii) meets the probity requirements set out in section 83(2).

125 Duplicate licence or registration document

(1) If—

- (a) a private security licence or a private security registration document is lost or is not in a fit state to be used as such; or
- (b) the Chief Commissioner instructs the holder of the licence or registration (as the case may be) to obtain another document—

the holder may apply to the Chief Commissioner for a duplicate document.

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- (2) An application under subsection (1) must be accompanied by—
- (a) the prescribed fee; and
 - (b) any prescribed documents.

126 Business name

- (1) Subject to the **Business Names Act 1962**, a private security licence or a private security registration may authorise the holder of the licence or the registration (as the case may be) to carry on business under a name or names in addition to, or in substitution for, the name of the holder.
- (2) A person holding a private security licence or a private security registration must not carry on business under a name other than—
- (a) the person's name; or
 - (b) a name authorised by the licence or registration (as the case may be).

Penalty: 20 penalty units in the case of a natural person;
40 penalty units in the case of a body corporate.

- (3) The Chief Commissioner may amend, vary or revoke an authorisation made under this section on a private security licence or on a private security registration on the application of the holder of the licence or registration (as the case may be).

127 No entitlement to fees etc. unless licensed or registered

- (1) A person is not entitled to sue for, recover or retain any commission, fee, gain or reward for providing the services of persons to carry on any activity—

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- (a) if the services must not be provided without a licence under this Act, unless at the time of providing the services, the person was the holder of a licence that authorised the provision of the services; or
 - (b) if the services must not be provided without a registration under this Act, unless at the time of providing the services, the person was the holder of a registration that authorised the provision of the services.
- (2) A person is not entitled to sue for or recover or retain any commission fee, gain or reward for carrying on any activity—
- (a) for which a licence is required under this Act, unless at the time of carrying on the activity, the person was the holder of a licence that authorised the carrying on of the activity; or
 - (b) for which registration is required under this Act, unless at the time of carrying on the activity, the person was the holder of a registration that authorised the carrying on of the activity.

128 Licence, registration or permit to be produced on demand

- (1) A member of the police force or an authorised person may request that—
- (a) the holder of a private security licence produce the licence document for inspection; or
 - (b) the holder of a private security registration produce the registration document for inspection; or

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- (c) the holder of a permit under Division 6 of Part 3 or Division 5 of Part 4 produce the permit document for inspection.
- (2) Before making a request under subsection (1), the member of the police force or authorised person (as the case requires)—
- (a) must identify himself or herself and the purpose for which the request is made; and
 - (b) must inform the person to whom the request is made that it is an offence to fail to comply with a request.
- (3) A person to whom a request is made in accordance with this section must comply with the request.
- Penalty: 10 penalty units.
- (4) The holder of—
- (a) a private security licence, if so requested by a person to whom the holder is providing services under the licence, must produce the licence document for inspection; or
 - (b) a private security registration, if so requested by a person to whom the holder is providing services under the registration, must produce the registration document for inspection; or
 - (c) a permit issued under Division 6 of Part 3 or Division 5 of Part 4, if so requested by a person to whom the holder is providing services under the permit, must produce the permit for inspection.
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129 Registered address

- (1) The holder of a private security business licence or a private security business registration must specify to the Chief Commissioner at the time at which the licence or registration is granted (as the case requires) an address at which the holder carries on business, to which all communications and notices may be addressed.
- (2) If the holder of a private security business licence or a private security business registration ceases to carry on business at the address specified under subsection (1), the holder must, within 7 days after the day on which the business ceases to be carried on, notify the Chief Commissioner in writing of an address at which the holder continues to carry on business under the licence or registration (as the case may be) to which all communications and notices may be addressed.
Penalty: 10 penalty units.
- (3) The holder of a private security individual operator licence or a private security individual operator registration must specify to the Chief Commissioner at the time at which the licence or registration is granted (as the case requires) an address of the individual operator to which all communications and notices may be addressed.
- (4) If the holder of a private security individual operator licence or a private security individual operator registration changes from the address specified under subsection (1), the holder must, within 7 days after the day on which the change is carried out, notify the Chief Commissioner in writing of an address of the individual operator to which all communications and notices may be addressed.
Penalty: 10 penalty units.

130 Advertisements to contain licence or registration number

The holder of a private security licence or a private security registration must take all reasonable steps to ensure that any published advertisement relating to, or in connection with, the business, includes the number of the licence or registration (as the case may be).

Penalty: 20 penalty units.

131 Offence to provide or employ unlicensed persons

- (1) The holder of a private security business licence must not provide the services of another person to carry on a class A security activity if the person does not hold a private security individual operator licence that authorises the carrying on of that activity.

Penalty: 120 penalty units in the case of a natural person;

240 penalty units in the case of a body corporate.

- (2) A person must not employ or engage another person to carry on a class A security activity unless the person reasonably believes that the other person holds a private security individual operator licence that authorises the carrying on of that activity.

Penalty: 120 penalty units in the case of a natural person;

240 penalty units in the case of a body corporate.

132 Offence to provide or employ unregistered persons

- (1) The holder of a private security business registration must not provide the services of another person to carry on a class B security activity if the person does not hold a private security individual operator registration that authorises the carrying on of that activity.

Penalty: 120 penalty units in the case of a natural person;

240 penalty units in the case of a body corporate.

- (2) A person must not employ or engage another person to carry on a class B security activity unless the person reasonably believes that the other person holds a private security individual operator registration that authorises the carrying on of that activity.

Penalty: 120 penalty units in the case of a natural person;

240 penalty units in the case of a body corporate.

133 Requirement to display licence or registration document at business premises

The holder of a private security business licence or a private security business registration must conspicuously display a copy of the licence document or registration document (as the case may be) at each premises from which the business authorised by the licence or registration (as the case may be) is carried on.

Penalty: 10 penalty units.

134 Permanent records to be kept

- (1) The holder of a private security business licence and the holder of a private security individual operator licence who carries on any class A security activity (not being employed to carry on that activity) must—
- (a) keep permanent records of the prescribed particulars relating to the carrying on of the holder's business or the carrying on of any class A security activity (as the case may be) for a period of at least 5 years; and
 - (b) ensure that the records are accurate, legible and kept in good order.

Penalty: 40 penalty units.

- (2) The holder of a private security business registration and the holder of a private security individual operator registration who carries on any class B security activity (not being employed to carry on that activity) must—
- (a) keep permanent records of the prescribed particulars relating to the carrying on of the holder's business or the carrying on of any class B security activity (as the case may be) for a period of at least 5 years; and
 - (b) ensure that the records are accurate, legible and kept in good order.

Penalty: 40 penalty units.

135 False or misleading statements and particulars

A person must not knowingly in any application, written reference or other document required for the purposes of an application under this Act—

- (a) make a statement that is false or misleading in a material particular; or
- (b) furnish any particulars that are false or misleading; or
- (c) omit to furnish any particulars required to be furnished under this Act.

Penalty: 60 penalty units.

136 Documents submitted by bodies corporate to be completed by nominated person

Every application or document required to be furnished by a body corporate under this Act or the regulations must be completed by the nominated person, who must furnish accurately all information given in respect of that body corporate.

Penalty: 40 penalty units.

**PART 6—PARTICULAR PROVISIONS FOR CROWD
CONTROLLERS**

137 Definitions

In this Part—

private security crowd controller business licence
means a private security business licence that
authorises the holder to provide the services
of crowd controllers;

completed register means a register required
under section 139(3) to be kept by the
manager of an activity.

138 Crowd controllers must wear identification

The holder of a private security individual
operator licence that authorises a person to act as a
crowd controller must wear identification in
accordance with the requirements of the
regulations at all times while acting as a crowd
controller.

Penalty: 10 penalty units.

139 Duties of activity manager as to register

- (1) If one or more crowd controllers are employed or
retained at a public place, the manager of the
activity at the public place for which the crowd
controllers are employed or retained, must, for
each day for which any such crowd controller is
so employed or retained, ensure that there is
available at that public place, a register in which
the information required to be entered under
section 142 may be so entered.

Penalty: 20 penalty units.

- (2) The manager of an activity at a public place at
which one or more crowd controllers are
employed or retained must ensure that, for each

day for which each crowd controller is so employed or retained, the crowd controller properly enters in the register the information required to be entered under section 142.

Penalty: 20 penalty units.

- (3) The manager of an activity at a public place at which one or more crowd controllers are employed or retained must ensure that the register, in which the information has been entered in accordance with section 142, is kept in his or her possession—
- (a) at that public place; or
 - (b) if the activity for which the crowd controllers have been employed or retained is of a temporary nature, at the usual place of business of the manager—

for a period of 5 years from the day on which the information is required to be entered.

Penalty: 20 penalty units.

140 Duties of business licence holder as to register

- (1) The holder of a private security crowd controller business licence who provides the services of a person to act as a crowd controller at a public place must, for each day for which the holder so provides those services, provide to the person who is managing the activity for which the services are being provided the register that is required to be made available under section 139(1).

Penalty: 20 penalty units.

- (2) The holder of a private security crowd controller business licence who provides the services of a person to act as a crowd controller at a public place must ensure that, for each day for which the crowd controller so acts, the crowd controller properly enters in the register made available at

that public place under section 139(1) the information required to be entered under section 142.

Penalty: 20 penalty units.

- (3) The holder of a private security crowd controller business licence who provides the services of a person to act as a crowd controller at a public place must ensure that a copy of the register made available at that place under section 139(1), in which the information has been entered in accordance with section 142, is obtained and kept in the licence holder's possession at the usual place of business of the licence holder for a period of 5 years from the day on which the information is required to be entered.

Penalty: 20 penalty units.

141 Duties of crowd controller and manager as to register

- (1) If a person, who is licensed to do so under this Act, is acting as a crowd controller at a public place that person must, for each day for which he or she so acts, enter in the register, made available under section 139(1), the information required to be entered under section 142(1).

Penalty: 20 penalty units.

- (2) The manager of an activity at a public place at which one or more crowd controllers are being employed or retained must, for each day for which any such crowd controller is employed or retained, enter in the register, made available under section 139(1), the information required to be entered under section 142(2).

Penalty: 20 penalty units.

142 Information required to be entered in the register

- (1) The following information is the information that is required to be entered in a register (made available under section 139(1)) by a crowd controller—
- (a) the date of the day on which the crowd controller is acting as a crowd controller; and
 - (b) the licence number and full name of the crowd controller; and
 - (c) in the case of a crowd controller whose services are being provided by the holder of a private security crowd controller business licence, the name of the licence holder and address of the usual place of business of the licence holder; and
 - (d) details of the identification worn by the crowd controller in accordance with this Part; and
 - (e) in relation to any incident involving the crowd controller, the prescribed details relating to the incident; and
 - (f) any other information required by the regulations.
- (2) The following information is the information that is required to be entered in a register (made available under section 139(1)) by the manager of an activity at a public place at which one or more crowd controllers are being employed or retained—
- the address of the public place at which any such crowd controllers are being so employed or retained.

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- (3) In this section *incident* means any action in which a crowd controller—
- (a) makes forcible physical contact with a member of the public at or in the vicinity of the place where the crowd controller is so acting; or
 - (b) restrains a member of the public at, or in the vicinity of, the place where the crowd controller is so acting; or
 - (c) ejects a member of the public from the place where the crowd controller is so acting.

143 Entry of premises to inspect completed register or copy

A member of the police force or an authorised person may enter any premises where a completed register or a copy of such a register is required to be kept under this Part, at any reasonable time, in order to inspect the completed register or copy to ascertain whether this Act and the regulations are being complied with.

144 Completed register may be copied

A member of the police force or an authorised person may make copies of, or take extracts from, a completed register or a copy of such a register during an inspection under section 143.

145 Powers of police and authorised persons to seize completed register or copy

A member of the police force or an authorised person may, during an inspection of a completed register or copy of such a register under section 143, seize the completed register or a copy if he or she believes on reasonable grounds that there has been a contravention of this Act or the regulations and the seizure is necessary—

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- (a) for the purposes of investigation into the alleged contravention; or
 - (b) to enable evidence to be obtained for the purpose of any proceedings under this Act or the regulations.

146 Completed register or copy may be retained for copying

A member of the police force or an authorised person may retain a completed register or a copy of such a register seized under section 145 in order to make copies of, or take extracts from, the completed register or copy.

147 Retention and return of seized completed register or copy

- (1) If a member of the police force or an authorised person seizes a completed register or a copy of such a register under section 145, the member or authorised person must take reasonable steps to return the completed register or copy to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the completed register or copy has not been returned within 3 months after it was seized, the member or authorised person must take reasonable steps to return it unless—
 - (a) proceedings for the purpose for which the completed register or copy was retained have commenced within that 3 month period and those proceedings (including any appeal) have not been completed; or
 - (b) the Magistrates' Court makes an order under section 148 extending the period during which the completed register or copy may be retained.

148 Magistrates' Court may extend 3 month period for retention of completed register or copy

- (1) A member of the police force or an authorised person may apply to the Magistrates' Court within 3 months after seizing a completed register or a copy of such a register under section 145 for an extension of the period for which the member or authorised person may retain the completed register or copy.
- (2) The Magistrates' Court may order such an extension if it is satisfied that retention of the completed register or copy is necessary—
 - (a) for the purposes of an investigation into whether a contravention of this Act or the regulations has occurred; or
 - (b) to enable evidence of a contravention of this Act or the regulations to be obtained for the purposes of a proceeding under this Act.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

149 Evidentiary value of documents certified by police or authorised person

A document certified by a member of the police force or an authorised person to be a true copy or extract of a completed register or a copy of such a register seized by a member of the police force or an authorised person under section 145 is admissible in any proceedings as evidence of the contents of that completed register or copy.

**PART 7—REVIEW BY VICTORIAN CIVIL AND
ADMINISTRATIVE TRIBUNAL**

150 Review by VCAT

- (1) A person, whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—
- (a) a decision of the Chief Commissioner refusing an application to grant a private security licence or a private security registration; or
 - (b) a decision of the Chief Commissioner to impose conditions on such a licence or registration (as the case may be); or
 - (c) a decision of the Chief Commissioner refusing an application to renew such a licence or registration (as the case may be); or
 - (d) a decision of the Chief Commissioner to vary such a licence or registration (as the case may be); or
 - (e) a decision of the Chief Commissioner refusing an application to vary such a licence or registration (as the case may be); or
 - (f) a decision of the Chief Commissioner to take an action under section 56 or 111 in relation to such a licence or registration (as the case may be); or
 - (g) a decision of the Chief Commissioner refusing an application to issue, or imposing a condition on, a permit under Division 6 of Part 3 or a permit under Division 5 of Part 4; or

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- (h) any request made for information made by the Chief Commissioner in the course of conducting an investigation or making an inquiry under section 23 or 80, being a request that is unreasonable or not related to the purposes of the investigation or inquiry.
- (2) Subsection (1) does not apply if the relevant decision is a refusal of the Chief Commissioner to grant an application under this Act because any one or more of the following persons is a prohibited person (within the meaning of Part 3)—
- (a) the applicant;
 - (b) a close associate of the applicant;
 - (c) if the applicant is a body corporate, the nominated person or an officer of the body corporate.

151 Time period for making application for review

An application for review under section 150 must be made within 28 days of the later of—

- (a) the day on which the decision is made; or
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
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PART 8—INSPECTION AND ENFORCEMENT

Division 1—Inspection powers

152 Appointment of authorised persons

- (1) The Chief Commissioner may, by instrument, appoint any person who is—
 - (a) employed in the administration of this Act; and
 - (b) qualified to act as an authorised person—
to be an authorised person for the purposes of this Act.
- (2) The Chief Commissioner must, in an instrument of appointment under subsection (1), specify the period for which the person is appointed.
- (3) The Chief Commissioner must give an identity card to each person appointed under subsection (1) which must set out—
 - (a) the name of the person so appointed; and
 - (b) the name of the person who has appointed that person; and
 - (c) the period for which the person is appointed; and
 - (d) the purposes for which the person is appointed.

153 Offence to hinder or obstruct

- (1) A person must not, without reasonable excuse, hinder or obstruct an authorised person or a member of the police force who is exercising any function under this Act.

Penalty: 60 penalty units.

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- (2) It is a reasonable excuse to an offence under subsection (1) if the member of the police force or authorised person (as the case requires) did not, before exercising the function under this Act—
- (a) identify himself or herself; or
 - (b) inform the person that it is an offence to hinder or obstruct a person who is exercising such a function.

154 Warrants to search premises

- (1) A member of the police force may apply to a magistrate for the issue of a search warrant in relation to particular premises, if the member believes on reasonable grounds that an offence against this Act or the regulations is being or is about to be committed.
- (2) If the magistrate is satisfied by the evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that an offence against this Act or the regulations is being or is about to be committed, the magistrate may issue a search warrant authorising the member named in the warrant and any assistants the member considers necessary—
- (a) to enter the premises named or described in the warrant; and
 - (b) to search for and seize any evidence of the offence named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
- (a) the offence suspected; and
 - (b) the premises to be searched; and
 - (c) a description of the evidence to be searched for; and
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- (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the prescribed form under that Act.
 - (5) The rules to be observed with respect to search warrants set out by or under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.
 - (6) A person executing a warrant under this section must prepare a list of any evidence seized under this section and must give a copy of the list or record of the evidence so seized to the occupier of the premises.

155 Announcement before entry

- (1) Before executing a search warrant, the member named in the warrant or person assisting must announce that he or she is authorised by warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.
- (2) The member or a person assisting the member need not comply with subsection (1) if he or she believes, on reasonable grounds, that immediate entry to the premises is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

156 Copy of the warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the premises when a search warrant is being executed, the member must—

- (a) identify himself or herself to the person as a member of the police force; and
- (b) give that person a copy of the execution copy of the warrant.

Division 2—Enforcement

157 Proceedings for offences

The Chief Commissioner, an authorised person or a member of the police force may take proceedings for an offence against this Act or the regulations.

158 Evidence of matters relating to register

A certificate certifying any matter relating to the contents of the register kept by the Chief Commissioner under section 173, and purporting to be signed by the Chief Commissioner or a person appointed as a delegate of the Chief Commissioner for the purposes of this section, is admissible in any proceedings as evidence of the matters appearing in the certificate.

159 Liability of officers of body corporate for offences committed by the body corporate

If a body corporate is guilty of an offence against this Act or any regulation, any officer of the body corporate who was in any way, by act or omission, directly or indirectly, knowingly concerned in or a party to the commission of the offence is also guilty of that offence and liable to the penalty for that offence.

160 How to determine state of mind of a body corporate

If, in any proceeding for an offence against this Act or the regulations it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show that—

- (a) the conduct was engaged in by an officer, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) the officer, employee or agent had that state of mind.

161 Liability of body corporate or holder of licence or registration for acts of officers, employees or agents

- (1) If an officer, employee or agent of a body corporate, that is the holder of a private security licence or a private security registration, engages in conduct on behalf of the body corporate within the scope of his or her actual or apparent authority, the body corporate must be taken, for the purposes of prosecution for an offence against this Act or the regulations, also to have engaged in the conduct unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.
- (2) If an officer, employee or agent of the holder of a private security licence or the holder of a private security registration engages in conduct on behalf of the holder within the scope of his or her actual or apparent authority, the holder must be taken, for the purposes of prosecution for an offence against this Act or the regulations, also to have engaged in the conduct, unless the holder establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

162 Service of documents

A notice or other document required or authorised by this Act or the regulations to be served on or given to a person is deemed to have been duly served on or given to the person—

- (a) if delivered personally to the person; or
 - (b) if left with an adult person at the premises that is the last known place of residence or business of the person on or to whom the notice or document is to be served or given;
or
 - (c) if sent to the person by post at the registered address of the person.
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PART 9—INFRINGEMENT NOTICES

S. 163
amended by
No. 32/2006
s. 94(Sch.
item 40(1))
(LA s. 39B(1)).

163 Power to serve a notice

- (1) A member of the police force or an authorised person may serve an infringement notice on any person that he or she has reason to believe has committed—
 - (a) an offence against section 59(1), 62(1), 114(1), 117(1), 128(3), 129(2), 129(4), 133, 134(1), 134(2), 138, 141(1), 176(1) or 176(2); or
 - (b) a prescribed offence against the regulations.

S. 163(2)
inserted by
No. 32/2006
s. 94(Sch.
item 40(1)).

- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 164
substituted by
No. 32/2006
s. 94(Sch.
item 40(2)).

164 Form of notice

For the purposes of section 163, an infringement notice must be in the form required by the **Infringements Act 2006** and may contain any additional information approved by the Chief Commissioner.

Ss 165–170
repealed by
No. 32/2006
s. 94(Sch.
item 40(3)).

* * * * *

PART 10—GENERAL

171 Chief Commissioner may delegate functions

The Chief Commissioner may, by instrument, delegate any of his or her functions under this Act or the regulations, other than this power of delegation to—

- (a) a member of the force; or
- (b) a police reservist appointed under Part VI of the **Police Regulation Act 1958**; or
- (c) a protective services officer appointed under Part VIA of the **Police Regulation Act 1958**; or
- (d) an employee within the meaning of the **Public Administration Act 2004**; or
- (e) a class of the people specified in paragraphs (a) to (d).

S. 171(d)
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 161).

172 Chief Commissioner may approve training requirements etc.

- (1) The Chief Commissioner may approve any of the following—
 - (a) security industry training or other requirements for the purposes of section 25(3), 26(3)(b) or 31(1)(a)(i); or
 - (b) a security industry training provider to provide any training requirement approved under paragraph (a);

-
- (c) a security industry organisation for the purposes of section 26(3)(a).
 - (2) The Chief Commissioner may vary or revoke any approval given under this section and may impose conditions on any such approval.

173 Chief Commissioner to keep register

- (1) The Chief Commissioner must keep a register of holders of private security licences, holders of private security registrations and holders of permits under Division 6 of Part 3 and Division 5 of Part 4 in accordance with the prescribed procedure for keeping the register and containing the prescribed particulars.
- (2) A person may, for the purpose of enabling verification of whether a person is licensed or registered under this Act, inspect the part of the register that has been prescribed for the purposes of such inspections.
- (3) The Chief Commissioner must ensure that the part of the register that has been prescribed for the purposes of subsection (2) is made available for inspection.

174 Requirement to notify Chief Commissioner of changes to close associates

- (1) If—
 - (a) at any time during the course of a private security business licence a person becomes a close associate of the holder of the licence, or a person ceases to be a close associate of the holder of the licence; or

- (b) at any time during the course of a private security business registration a person becomes a close associate of the holder of the registration, or a person ceases to be a close associate of the holder of the registration—

the holder must immediately notify the Chief Commissioner of that fact.

Penalty: 20 penalty units.

- (2) A notice under subsection (1) must—
- (a) be in writing; and
 - (b) set out the name and address of the person who has become, or ceased to be, a close associate (as the case requires); and
 - (c) be signed by each close associate specified in the notice; and
 - (d) be accompanied by any prescribed documents or information.

175 Body corporate to notify Chief Commissioner of changes to officers

- (1) If—
- (a) at any time during the course of a private security business licence held by a body corporate a person becomes, or ceases to be, an officer of the body corporate; or
 - (b) at any time during the course of a private security business registration held by a body corporate a person becomes, or ceases to be, an officer of the body corporate—

the body corporate must immediately notify the Chief Commissioner of that fact.

Penalty: 20 penalty units.

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- (2) A notice under subsection (1) must—
- (a) be in writing; and
 - (b) set out the name and address of the person who has become, or ceased to be, the officer of the body corporate; and
 - (c) be accompanied by any prescribed documents or information.

176 Requirement to notify Chief Commissioner of criminal charges

- (1) If at any time during the course of a private security licence—
- (a) the holder of the licence, if a natural person; or
 - (b) a close associate of the holder of the licence; or
 - (c) if the holder is a body corporate, the nominated person or an officer of the body corporate—

is charged with a particular indictable offence or a disqualifying offence within the meaning of Part 3, the holder, close associate, nominated person or officer (as the case may be) must notify the Chief Commissioner in writing, within 7 days of being charged, of the offence with which the person has been charged and the date and place of the hearing.

Penalty: 20 penalty units.

- (2) If at any time during the course of a private security registration—
- (a) the holder of the registration, if a natural person; or
 - (b) a close associate of the holder of the registration; or

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- (c) if the holder is a body corporate, the nominated person or an officer of the body corporate—

is charged with an indictable offence, the holder, close associate, nominated person or officer (as the case may be) must notify the Chief Commissioner in writing, within 7 days of being charged, of the offence with which the person has been charged and the date and place of the hearing.

Penalty: 20 penalty units.

177 Annual reporting

The Chief Commissioner must provide by 1 October each year a report to the Minister that includes the following information—

- (a) the number of applications relating to the granting, renewal or variation of private security business licences, private security individual operator licences, private security business registrations and private security individual operator registrations made to the Chief Commissioner during the financial year immediately preceding the report;
- (b) the number of such applications that are considered by the Chief Commissioner during the financial year immediately preceding the report;
- (c) the number of such applications granted by the Chief Commissioner during the financial year immediately preceding the report;
- (d) the number of such applications refused by the Chief Commissioner during the financial year immediately preceding the report;

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- (e) the number of variations made to private security business licences, private security individual operator licences, private security business registrations and private security individual operator registrations on the Chief Commissioner's own motion during the financial year immediately preceding the report;
 - (f) the number of applications for the issue of permits under Division 6 of Part 3 or Division 5 of Part 4 made to the Chief Commissioner during the financial year immediately preceding the report;
 - (g) the number of applications referred to in paragraph (f) considered, granted or refused by the Chief Commissioner during the financial year immediately preceding the report;
 - (h) the number of, the reasons for and the outcomes of, any inquiries conducted by the Chief Commissioner during the financial year immediately preceding the report;
 - (i) the number of applications made to the Victorian Civil and Administrative Tribunal for review of decisions made by the Chief Commissioner during the financial year immediately preceding the report and the outcome of each review;
 - (j) any other prescribed matters.

178 Statutory review of this Act

- (1) The Minister must review this Act to determine whether—
 - (a) the policy objectives of the Act remain valid; and
 - (b) the provisions of the Act are still appropriate for securing those objectives.
- (2) The Minister must undertake the review as soon as possible after the period of 3 years from the day on which this Act receives the Royal Assent.
- (3) The Minister must ensure that a report detailing the outcome of the review is tabled in each House of Parliament within 12 months after the end of the period of 3 years.

179 Supreme Court—Limitation of Jurisdiction

It is the intention of sections 127(1) and 127(2) to alter or vary section 85 of the **Constitution Act 1975**.

180 Regulations

- (1) The Governor in Council may make regulations for or with respect to prescribing—
 - (a) in relation to the register to be kept by the Chief Commissioner under section 173—
 - (i) the procedure for keeping the register; and
 - (ii) the particulars to be contained in the register; and
 - (iii) the parts of the register that may be inspected; and
 - (b) any records to be kept by the Chief Commissioner; and
 - (c) any forms to be used under this Act; and

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- (d) the procedure for applications under this Act, the particulars to be included in those applications and the documents and information to accompany those applications; and
 - (e) the classes of person who may give references in relation to applications made under this Act; and
 - (f) particulars to be contained or specified in licence documents or registration documents under this Act; and
 - (g) types of devices or equipment for the purposes of the definition of *security equipment*; and
 - (h) permanent records to be kept by holders of licences and registrations under this Act and the inspection of those records; and
 - (i) duties and functions of the Chief Commissioner; and
 - (j) the identification to be worn by crowd controllers; and
 - (k) the register to be made available under Part 6, including—
 - (i) the form of the register; and
 - (ii) the details that are to be recorded in relation to incidents involving crowd controllers; and
 - (iii) any other details that are to be recorded in the register; and
 - (iv) the time at which details are to be recorded in the register; and
 - (v) how details are to be recorded in the register; and
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- (l) provisions for the verification by statutory declaration of any information supplied for the purposes of this Act or the regulations; and
 - (m) fees to be charged in respect of anything done under or for the purposes of this Act or the regulations including fees for—
 - (i) applications; or
 - (ii) licences, registrations, or permits and the renewal or variation of any licences or registrations; or
 - (iii) the issue of duplicate documents; and
 - (n) approval of training requirements in relation to applications for private security licences, approval of on-going training requirements for holders of private security licences and approval of training providers to provide those training requirements; and
 - (o) approval of security industry organisations; and
 - (p) matters to be included in the annual report prepared by the Chief Commissioner; and
 - (q) the classes of person exempted from licensing and registration requirements under this Act and the extent of the exemption; and
 - (r) conditions that may be imposed on licences or registrations under this Act; and
 - (s) penalties, not exceeding 20 penalty units, for contraventions of the regulations; and
 - (t) offences in respect of which infringement notices may be issued and infringement penalties for those offences; and

S. 180(1)(t)
amended by
No. 32/2006
s. 94(Sch.
item 40(4)).

-
- (u) documents or information to accompany notices of changes to nominated persons, close associates or officers of holders of licences or registrations under this Act; and
 - (v) any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place and circumstances; and
 - (c) may confer a discretionary authority or impose a duty on the Chief Commissioner; and
 - (d) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Chief Commissioner; and
 - (e) may provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to the extent that is specified; and
 - (f) may make provision for fees that may differ in respect of—
 - (i) in the case of applications under this Act—
 - (A) the nature of applications; or
 - (B) the classes of persons making applications or related to persons making applications; or
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- (C) the classes of other related matters including related applications; or
 - (ii) in the case of licences, registrations or permits under this Act, or renewals or variations of licences or registrations under this Act—
 - (A) the nature of the licences, registrations, permits, variations or renewals; or
 - (B) the classes of holder of licences, registrations or permits or persons being granted variations or renewals or persons related to those holders or persons; or
 - (C) the classes of other related matters including related licences, registrations, permits, renewals or variations; and
 - (g) may make provision for the reduction or waiver or refund in whole or in part of any fees; and
 - (h) may make provision for fees to be charged on a pro-rata basis.
 - (3) If, under subsection (2)(g), regulations provide for a reduction, waiver or refund in whole or in part of a fee, the reduction, waiver or refund may be expressed to apply either generally or specifically—
 - (a) in respect of certain applications or classes of applications under this Act; or
 - (b) when an event happens; or
 - (c) in respect of certain persons or classes of persons; or
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(d) in respect of any combination of such applications, events or persons—
and may be expressed to apply subject to specified conditions or in the discretion of the Chief Commissioner.

PART 11—TRANSITIONAL PROVISIONS

181 Definitions

In this Part—

old Act means the **Private Agents Act 1966**;

commencement day means the day on which this Part comes into operation.

182 Licences under old Act deemed to be private security business licences

- (1) On and from the commencement day, a licence granted under Part IIA of the old Act, in force immediately before that day, which authorised a person to carry on the business of providing other persons to carry on a class A security activity is deemed, on and from that day, to be a private security business licence that authorises the person to carry on such a business.
- (2) A licence that is deemed to be a private security business licence under subsection (1)—
 - (a) is subject to any conditions to which the licence was subject immediately before the commencement day; and
 - (b) remains in force for the remainder of the term of the licence unless before the end of that term—
 - (i) the licence is cancelled or suspended under Part 3; or
 - (ii) a private security business licence that authorises the carrying on of such a business is granted, or refused to be granted, under Part 3 to that person—whichever is the sooner.

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- (3) The holder of a licence that is deemed to be a private security business licence under subsection (1) is not entitled to renew that licence under this Act.
 - (4) If an application has been made under Part 3 for the issue of a new licence by the holder of a licence that is deemed to be a private security business licence under subsection (1), the licence is deemed to continue in force, after the expiry of the licence period, until the Chief Commissioner makes a decision in relation to the application or refuses to make a decision in relation to the application.

183 Licences under old Act deemed to be private security individual operator licences

- (1) On and from the commencement day, a licence granted under Part IIA of the old Act, in force immediately before that day, which authorised a person to carry on a class A security activity is deemed, on and from that day, to be a private security individual operator licence that authorises the person to carry on such an activity.
- (2) A licence that is deemed to be a private security individual operator licence under subsection (1)—
 - (a) is subject to any conditions to which the licence was subject immediately before the commencement day; and
 - (b) remains in force for the remainder of the term of the licence unless before the end of that term—
 - (i) the licence is cancelled, or suspended under Part 3; or

- (ii) a private security individual operator licence that authorises the carrying on of such an activity is granted, or refused to be granted, under Part 3 to that person—

whichever is the sooner.

- (3) The holder of a licence that is deemed to be a private security individual operator licence under subsection (1) is not entitled to renew that licence under this Act.
- (4) If an application has been made under Part 3 for the issue of a new licence by the holder of a licence that is deemed to be a private security individual operator licence under subsection (1), the licence is deemed to continue in force, after the expiry of the licence period, until the Chief Commissioner makes a decision in relation to the application or refuses to make a decision in relation to the application.

184 Transitional provision for security equipment installers, security advisers and bodyguards

Part 2 does not apply to a person who—

- (a) immediately before the commencement day, was a security equipment installer, security adviser or bodyguard; and
- (b) lodges an application for the appropriate licence or registration under this Act on or before 6 weeks after the commencement day—

until the Chief Commissioner makes a decision in relation to the application or refuses to make a decision in relation to the application.

185 Proceedings at VCAT for review of decisions under the old Act

Any proceeding commenced in the Victorian Civil and Administrative Tribunal to review a decision to cancel or suspend a licence granted under Part IIA of the old Act pursuant to an application under section 42A of that Act, which has not been determined by the Tribunal before the commencement day is deemed to be a proceeding pursuant to an application under Part 7 to review a decision of the Chief Commissioner to cancel or suspend the licence (as the case may be).

Pts 12, 13
(Headings
and ss 186–
211)
repealed by
No. 28/2007
s. 3(Sch.
item 53).

* * * * *

Private Security Act 2004
No. 33 of 2004

Sch.

* * * * *

Sch.
repealed by
No. 28/2007
s. 3(Sch.
item 53).

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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 22 April 2004

Legislative Council: 12 May 2004

The long title for the Bill for this Act was "to provide for the licensing or registration of certain participants in the private security industry, to otherwise regulate that industry, to amend the **Private Agents Act 1966** and for other purposes."

The **Private Security Act 2004** was assented to on 1 June 2004 and came into operation as follows:

Sections 1, 2, 203 and 204 on 2 June 2004: section 2(1); rest of Act on 1 July 2005: section 2(3).

2. Table of Amendments

This Version incorporates amendments made to the **Private Security Act 2004** by Acts and subordinate instruments.

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 161) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Private Security Act 2004**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 85) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Private Security Act 2004**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 40) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Private Security Act 2004**

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 53) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Private Security Act 2004**

Endnotes

3. Explanatory Details

No entries at date of publication.

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