

**Private Security Personnel and
Private Investigators Bill**

Government Bill

As reported from the committee of the whole
House

Private Security Personnel and Private
Investigators Bill

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

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Hon Nathan Guy

Private Security Personnel and Private Investigators Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Private Security Personnel and Private Investigators Act **2008**.
- 2 Commencement**
This Act comes into force on ~~1 December 2010~~ 1 April 2011. 5

Part 1
Preliminary provisions

- 3 Purpose**
The purpose of this Act is to ensure that persons offering specified private security and investigation services for hire, and personnel providing those services,— 10
(a) are suitably qualified to carry out that work; and
(b) do not behave in ways that are contrary to the public interest.
- 4 Interpretation** 15
In this Act, unless the context otherwise requires,—
certificate of approval means a certificate of approval issued under **section 50**, or a temporary certificate of approval issued under **section 55**; and **certificate holder** means a person who holds a certificate of approval 20
Complaints, Investigation, and Prosecution Unit means the unit established under **section 93**

confidential document destruction agent has the meaning given to it in **section 8**

confidential document destruction agent employee has the meaning given to it in **section 13C**

credit bureau means a person, or an association of persons 5
whether incorporated or unincorporated, who, in consideration of the payment of a subscription, fee, or levy, supplies to a subscriber to the service provided by that person or association, or to a member of that association, but to no other person, information relating to the financial position of a person 10

crowd controller has the meaning given to it in **section 11**

crowd controller employee has the meaning given to it in **section 13F**

Crown has the meaning given to it in section 2(1) of the Public Finance Act 1989 15

debt-collecting agency means a person, or an association of persons whether incorporated or unincorporated, who, for valuable consideration, recovers or attempts to recover for a person any money owing to that person by another person

licence means a licence issued under **section 29** 20

Licensing Authority or **Authority** means the Private Security Personnel Licensing Authority appointed under **section 81**; and includes a Deputy Private Security Personnel Licensing Authority appointed under **section 84**

Minister means the Minister of the Crown who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act 25

misconduct, for the purposes of **sections 67, 68, 74, and 77**, means conduct by a licensee or certificate holder that a reasonable person would consider to be disgraceful or conduct that contravenes this Act or any regulations made under this Act 30

offence of dishonesty means—

- (a) a crime described in any of sections 104, 105B, 108 to 117, and 217 to 266 of the Crimes Act 1961; and 35
- (b) any offence described in sections 15 to 20 of the Summary Offences Act 1981

offence of violence means an offence under—

- (a) any of sections 128B to 149A, 158 to 181, 188 to 204, 208, 209, and 216B to 216D of the Crimes Act 1961; or
- (b) any of sections 3, 5, 5A, 6 to 6B, 7, 9, 10, 14, or 21 of the Summary Offences Act 1981

5

officer, in relation to a company, means—

- (a) a director as that term is defined in section 126 of the Companies Act 1993; and
- (b) the chief executive of the company, or any person occupying the equivalent position

10

personal guard has the meaning given to it in **section 10**

personal guard employee has the meaning given to it in **section 13E**

Police employee has the meaning given to it in section 4 of the Policing Act 2008

15

private investigator has the meaning given to it in **section 5**

private investigator employee has the meaning given to it in **section 13**

private security business means any or all of the classes of business described in **sections 5 to 11**

20

property guard has the meaning given to it in **section 9**

property guard employee has the meaning given to it in **section 13D**

public record means—

- (a) a record, register, file, or document that any member of the public is entitled under an enactment, whether on payment of a fee or otherwise, to—
 - (i) inspect; or
 - (ii) obtain a copy of or an extract from; or
- (b) a newspaper within the meaning of section 2 of the Films, Videos, and Publications Classification Act 1993

25

30

responsible department means the department of State that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

responsible employee means any or all of the classes of employee defined in **sections 13 to 13F**

35

responsible Minister means the Minister of the Crown who is responsible for the department that is authorised by the Prime Minister to provide administrative support to the Licensing Authority

security consultant has the meaning given to in **section 7** 5

security consultant employee has the meaning given to it in **section 13B**

security technician has the meaning given to it in **section 6**

security technician employee has the meaning given to it in **section 13A.** 10

5 Meaning of private investigator

- (1) In this Act, **private investigator** means a person who, for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business seeking or obtaining for any person or supplying to any person any information described in **subsection (2).** 15
- (2) For the purposes of this section, **information**—
- (a) means any information relating to—
 - (i) the personal character, actions, or behaviour of any person; or 20
 - (ii) the financial position of any person; or
 - (iii) the occupation or business of any person; or
 - (iv) the identity or whereabouts of any person; but
 - (b) does not include information that is contained in a public record. 25
- (3) For the purposes of this section but without limiting the meaning of the term **carries on any business**, a person is carrying on a business if he or she holds himself or herself out to the public as being ready to carry on that business.
- (4) Despite **subsection (1)**, no person is a private investigator 30 within the meaning of this Act by reason of the fact that—
- (a) he or she seeks, obtains, or supplies any information—
 - (i) for or to the Crown, or any constable, or any local authority; or
 - (ii) at the request of a person who is not a client of 35 the business; or

- (iii) only as a necessary, usual, or reasonable incident of any other activity by that person that is not described in that subsection; or
- (iv) for any purpose relating to the dissemination of news or other information to the public or to any section of the public; or 5
- (v) for any cultural or historical purpose or for any purpose relating to education, literature, or science; or
- (vi) relating only to the person by whom he or she is engaged or retained; or 10
- (vii) in the course of and for the purposes of the business of a bank, or of a credit bureau, or of a debt collecting agency; or
- (b) he or she is a security technician, security consultant, confidential document destruction agent, property guard, personal guard, or crowd controller. 15

6 Meaning of security technician

- (1) In this Act, **security technician** means a person who for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business— 20
 - (a) installing or repairing on, or removing from, any part of any premises that are not owned or occupied by himself or herself or his or her firm or any of his or her partners— 25
 - (i) a burglar alarm or similar warning device intended to immediately alert a person or persons to the presence of a person or persons in a particular place; or
 - (ii) a locking device for a safe or a strongroom; or 30
 - (b) installing, operating, causing to be operated, or repairing, on or in, or removing from, any premises or other place not owned or occupied by himself or herself or his or her firm or any of his or her partners, any camera or similar device for the purpose of detecting the commission of any offence by any person. 35
- (2) **Subsection (1)(b)** applies even if more than one purpose exists for the installation, operation, repair, or removal of the

camera or similar device so long as one of the purposes is to detect the commission of any offence by any person.

7 Meaning of security consultant

In this Act, **security consultant** means a person who for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business— 5

- (a) entering any premises that are not owned or occupied by himself or herself or his or her firm or any of his or her partners for the purpose of selling or attempting to sell any device of the kind referred to in **paragraph (a) or (b) of section 6(1)**; or 10
- (b) entering any premises that are not owned or occupied by himself or herself or his or her firm or any of his or her partners for the purpose of advising the owner or occupier of the premises on the desirability of having installed on the premises any, or any further, such device; or 15
- (c) entering any premises that are not owned or occupied by himself or herself or his or her firm or any of his or her partners for the purpose of advising the owner or occupier of the premises on the desirability of having guarded the premises or any other property that may from time to time be on the premises or dispatched from the premises. 20

8 Meaning of confidential document destruction agent 25

In this Act, **confidential document destruction agent** means a person who for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business—

- (a) collecting, for destruction, documents identified as being of a confidential nature; and 30
- (b) destroying those documents.

9 Meaning of property guard

- (1) In this Act, **property guard** means a person who for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business— 35

- (a) guarding, elsewhere than on premises owned or occupied by himself or herself or his or her firm or any of his or her partners, any real or personal property belonging to another person; or
 - (b) monitoring in real time, elsewhere than on premises owned or occupied by himself or herself or his or her firm or any of his or her partners, any of the following:
 - (i) a burglar alarm or similar warning device intended to immediately alert a person or persons to the presence of a person or persons in a particular place: 5
 - (ii) a camera or similar device; or
 - (c) responding to any device in **paragraph (b)(i) or (ii)** that has been activated and that is on any part of any premises that are not owned or occupied by himself or herself or his or her firm or any of his or her partners. 15
- (2) A person is not a property guard solely because he or she does the work described in **section 8**.

10 Meaning of personal guard

In this Act, **personal guard** means a person who for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business— 20

- (a) guarding a specific person or persons; or
- (b) guarding a specific person or persons and keeping order at any place (not being premises or a conveyance licensed under the Sale of Liquor Act 1989) where the person or persons being guarded may be. 25

11 Meaning of crowd controller

(1) In this Act, **crowd controller** means a person who for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business doing all or any of the following: 30

- (a) screening entry to a place (other than simply ensuring that admission has been paid or that those entering have appropriate invitations or passes): 35

- (b) keeping order in a place (more than merely being expected to draw the attention of others to behaviour that is inappropriate or threatens to become inappropriate):
 - (c) removing any person from a place.
 - (2) A person is not a crowd controller solely because he or she does the work described in **section 10**. 5
- 12 Governor-General may, by Order in Council, exclude certain persons from sections 5 to 11**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,— 10
 - (a) declare that certain persons or classes of persons are not any one of the persons defined in **sections 5 to 11** (as specified in the Order in Council) by reason only of the fact that they carry on any occupation or business described in the order: 15
 - (b) declare that certain persons or classes of persons are not any one of the persons defined in **sections 5 to 11** (as specified in the Order in Council) by reason only of the fact that they carry on any occupation or business described in the order conditional on— 20
 - (i) those persons being members or affiliates of a named professional organisation or licensed under the law of New Zealand or any other place outside New Zealand; or
 - (ii) some other requirement being satisfied: 25
 - (c) declare that certain persons or classes of persons are not any one of the persons defined in **sections 5 to 11** (as specified in the Order in Council) if they carry on an occupation or business only during the period or in the circumstances described in the order. 30
 - (2) The Minister must not make a recommendation under **sub-section (1)** unless the Minister—
 - (a) is satisfied that there is no material benefit to be gained by requiring the persons concerned to be licensed; and
 - (b) has consulted the persons or organisations that, in the opinion of the Minister, have an interest in the proposed declaration. 35

13 Meaning of private investigator employee

In this Act, **private investigator employee** means an individual who in the course of his or her employment, or engagement as a contractor, by a private investigator seeks, or obtains for any person or supplies to any person, any information specified in **section 5(2)**. 5

13A Meaning of security technician employee

In this Act, **security technician employee** means an individual who in the course of his or her employment, or engagement as a contractor, by a security technician— 10

(a) installs or repairs on, or removes from, any part of any premises that are not owned or occupied by the security technician, the security technician's firm, or any of the security technician's partners—

(i) a burglar alarm or similar warning device intended to immediately alert a person or persons to the presence of a person or persons in a particular place; or 15

(ii) a locking device for a safe or a strongroom; or
(b) installs, operates, causes to be operated, or repairs, on or in, or removes from, any premises or other place not owned or occupied by the security technician, the security technician's firm, or any of the security technician's partners any camera or similar device for the purpose of detecting the commission of any offence by any person. 20 25

13B Meaning of security consultant employee

In this Act, **security consultant employee** means an individual who in the course of his or her employment, or engagement as a contractor, by a security consultant—

(a) enters any premises that are not owned or occupied by the security consultant, the security consultant's firm, or any of the security consultant's partners for the purpose of selling or attempting to sell any device of the kind referred to in **section 6(1)(a) or (b)**; or 30

(b) enters any premises that are not owned or occupied by the security consultant, the security consultant's firm, or any of the security consultant's partners for the purpose 35

- of advising the owner or occupier of the premises on the desirability of having installed on the premises any, or any further, such device; or
- (c) enters any premises that are not owned or occupied by the security consultant, the security consultant's firm, or any of the security consultant's partners for the purpose of advising the owner or occupier of the premises on the desirability of having guarded the premises or any other property that may from time to time be on the premises or dispatched from the premises.

13C Meaning of confidential document destruction agent employee

In this Act, **confidential document destruction agent employee** means an individual who in the course of his or her employment, or engagement as a contractor, by a confidential document destruction agent—

- (a) collects, for destruction, documents identified as being of a confidential nature; and
- (b) destroys those documents.

13D Meaning of property guard employee

In this Act, **property guard employee** means an individual who in the course of his or her employment, or engagement as a contractor, by a property guard—

- (a) guards, elsewhere than on premises owned or occupied by the property guard, the property guard's firm, or any of the property guard's partners, any real or personal property belonging to another person; or
- (b) monitors in real time, elsewhere than on premises owned or occupied by the property guard, the property guard's firm, or any of the property guard's partners, any of the following:
- (i) a burglar alarm or similar warning device intended to immediately alert a person or persons to the presence of a person or persons in a particular place;
- (ii) a camera or similar device; or

- (c) responds to any device in **paragraph (b)(i) or (ii)** that has been activated and that is on any part of any premises that are not owned or occupied by the property guard, the property guard's firm, or any of the property guard's partners. 5

13E Meaning of personal guard employee

In this Act, **personal guard employee** means an individual who in the course of his or her employment, or engagement as a contractor, by a personal guard—

- (a) guards a specific person or persons; or 10
- (b) guards a specific person or persons and keeps order at any place (not being premises or a conveyance licensed under the Sale of Liquor Act 1989) where the person or persons being guarded may be.

13F Meaning of crowd controller employee

15

- (1) In this Act, **crowd controller employee** means an individual who in the course of his or her employment, or engagement as a contractor, by a crowd controller or other person—

- (a) screens entry to a place (other than simply ensuring that admission has been paid or that those entering have appropriate invitations or passes): 20
- (b) keeps order in a place (more than merely being expected to draw the attention of others to behaviour that is inappropriate or threatens to become inappropriate):
- (c) removes any person from a place. 25

- (2) A person is not a crowd controller employee if—

- (a) he or she is not employed or engaged primarily to do work of a kind specified in **subsection (1)(a), (b), or (c)**, but performs that work incidentally to the principal work he or she performs; or 30
- (b) he or she does the work specified in **section 13E(b)** and no other work of a kind specified in **subsection (1)(a), (b), or (c)**.

13G ~~Governor-General may by Order in Council exclude persons from definition of crowd controller employee~~

- (1) The Governor-General may, by Order in Council, made on the recommendation of the Minister,—
- (a) declare that certain persons or classes of persons are not crowd controller employees by reason only of the fact that they do anything described in the order: 5
 - (b) declare that certain persons or classes of persons are not crowd controller employees if they do anything specified in **section 13F(1)(a), (b), or (c)** only in the circumstances described in the order: 10
 - (c) declare that certain persons or classes of persons are not crowd controller employees for the purpose of their work at a specified event or type of event provided that conditions specified in the order are complied with: 15
- (2) The Minister must not make a recommendation under **sub-section (1)** unless the Minister—
- (a) is satisfied that there is no material benefit to be gained by requiring the persons concerned to hold certificates of approval; and 20
 - (b) has consulted the persons or organisations that, in the opinion of the Minister, have an interest in the proposed declaration: 20

13G Governor-General may by Order in Council exclude persons from definition of property guard employee, personal guard employee, and crowd controller employee 25

- (1) The Governor-General may, by Order in Council, made on the recommendation of the Minister, declare that certain persons or classes of persons are not any one of the classes of responsible employee described in **sections 13D, 13E, and 13F**— 30
- (a) by reason only of the fact that they do anything described in the order; or
 - (b) if they do anything described in **section 13D, 13E, or 13F**, as the case may be, only in the circumstances described in the order; or 35
 - (c) for the purpose of their work at a specified event or type of event provided that conditions specified in the order are complied with.

- (2) The Minister must not make a recommendation under **sub-section (1)** unless the Minister—
- (a) has consulted the persons or organisations that, in the opinion of the Minister, have an interest in the proposed declaration and is satisfied that there is no material benefit to be gained by requiring the persons concerned to hold certificates of approval; or 5
 - (b) is satisfied that the benefit to be gained by requiring the persons concerned to hold certificates of approval is outweighed by the public interest in ensuring that there are sufficient persons doing the work described in **sections 13D to 13F** available to work at a major event declared under section 7 of the Major Events Management Act 2007, or events (whether or not organised by the major event organiser) associated with the major event. 10 15

14 Act binds the Crown

Except as provided in **section 15**, this Act binds the Crown.

15 Application of Act in certain cases

Nothing in this Act—

- (a) requires any Police employee to hold a licence or certificate of approval in respect of any act performed in the course of his or her employment by the Commissioner of Police; or 20
- (b) requires the Commissioner of Police to hold a licence or certificate of approval; or 25
- (c) requires any employee of the Crown to hold a licence or certificate of approval in respect of—
 - (i) any act performed in the course of his or her employment by the Crown; or
 - (ii) any act performed by any other employee of the Crown in the course of his or her employment by the Crown; or 30
- (d) requires any person to hold a licence or certificate of approval in respect of the carrying on by that person of an occupation or business in accordance with a practising certificate, licence, permit, or other authority, granted or issued to him or her under any other enactment. 35

Part 2 Licences and certificates

Subpart 1—Licences

Who must be licensed

- | | | |
|-----------|---|----|
| 16 | Persons who must hold licence | 5 |
| (1) | The following persons must hold a licence under this Act: | |
| | (a) a private investigator: | |
| | (b) a security technician: | |
| | (c) a security consultant: | |
| | (d) a confidential document destruction agent: | 10 |
| | (e) a property guard: | |
| | (f) a personal guard: | |
| | (g) a crowd controller. | |
| (2) | Every person who contravenes this section commits an offence and is liable on summary conviction— | 15 |
| | (a) in the case of an individual, to a fine not exceeding \$40,000: | |
| | (b) in the case of a body corporate, to a fine not exceeding \$60,000. | |

Applying for licence 20

- | | | |
|-----------|---|----|
| 19 | Application for licence: individual applicant | |
| (1) | An application by an individual for a licence must be made to the Licensing Authority in the manner prescribed by regulations made under this Act and must— | |
| | (a) be in the prescribed form; together with 1 additional copy; and | 25 |
| | (b) be accompanied by 2 identical photographs of the applicant, authenticated in the prescribed manner; and | |
| | (a) <u>be in the prescribed form; and</u> | |
| | (b) <u>be accompanied by a photograph of the applicant, authenticated in accordance with any prescribed requirements; and</u> | 30 |
| | (c) be accompanied by the prescribed fee. | |
| (2) | The application must specify— | |
| | (a) the full name, residential address, occupation, and date of birth of the applicant; and | 35 |

- (b) the full address of every place of business from which the applicant proposes to carry on the business or businesses to which the application relates; and
 - (c) the proposed principal place of business of the applicant, being one of the places of business specified in the application; and 5
 - (d) the particular class or classes of private security business that the applicant proposes to carry on; and
 - (e) whether any of the grounds of disqualification in **section 56A** apply to the applicant; and 10
 - (f) whether the applicant has ever—
 - (i) been convicted outside New Zealand of an offence; or
 - (ii) had an order imposed in relation to him or her by any court or tribunal outside New Zealand, instead of passing sentence, that the applicant be treated or cared for in relation to the applicant's mental impairment; and 15
 - (g) any other prescribed information.
- (3) An application may also state an address, other than the residential address of the applicant, at which documents relating to the application may be served on the applicant. 20

20 Application for licence: company applicant

- (1) An application by a company for a licence must be made to the Licensing Authority in the manner prescribed by regulations made under this Act and must— 25
- ~~(a) be in the prescribed form, together with 1 additional copy; and~~
 - (a) be in the prescribed form; and
 - (b) specify the names of the officers of the company and be accompanied by a declaration statement by each of those officers as to whether any ground of disqualification applies to him or her and, if so, which ground; and 30
 - (c) be accompanied by the prescribed fee.
- (2) The application must specify— 35
- (a) the full name, residential address, occupation, and date of birth of every officer of the company; and

- (b) the full address of every place of business from which the company proposes to carry on the business or businesses to which the application relates; and
- (c) the proposed registered office of the company, being one of the places of business specified in the application; and 5
- (d) the particular class or classes of private security business that the company proposes to carry on; and
- (e) the nature of all other business carried on or proposed to be carried on by the company; and 10
- (f) whether or not any grounds of disqualification as set out in **section 56B** apply in respect of the company; and
- (g) whether the company or any officer of the company has ever been convicted outside New Zealand of an offence; and 15
- (h) whether any officer of the company has ever had an order imposed in relation to him or her by any court or tribunal outside New Zealand, instead of passing sentence, that he or she be treated or cared for in relation to his or her mental impairment; and 20
- (i) any other prescribed information.

21 Licensing Authority may make inquiries and request report

- (1) On receipt of an application under **section 19 or 20**, the Licensing Authority— 25
 - (a) may make whatever inquiries it considers necessary in order to determine whether or not the application should be granted; and
 - (b) without limiting **paragraph (a)**, may provide a copy of the application to the chief investigator of the Complaints, Investigation, and Prosecution Unit and request the chief investigator to cause a report on the application to be prepared by the unit for the Licensing Authority. 30
- (2) For the purpose of preparing a report under **subsection (1)(b)** the chief investigator of the Complaints, Investigation, and Prosecution Unit and any person authorised by the chief investigator may make whatever inquiries he or she considers 35

necessary in order to verify the information contained in the application.

22 Notice of application for licence

- (1) ~~The Licensing Authority must serve a copy of every application for a licence on the Police.~~ 5
- (1) The Licensing Authority must serve on the Police a notice of every application for a licence and the information contained in it.
- (2) Every applicant for a licence must publish a notice of the applicant's intention to make the application in the prescribed form (if any) and in the prescribed manner. 10
- (4) The application must not be heard before the expiry of 1 month after **subsections (1) and (2)** have been complied with.

Objections

23 Objections by Police to application for licence

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- (1) ~~The Police may, within 1 month after a copy of an application for a licence has been served on~~ the notice of the application has been served on them under **section 22(1)**, file with the Licensing Authority a notice of objection to the grant of the application. 20
- (2) The notice must state the grounds of the objection.
- (3) The Licensing Authority must serve a copy of the notice of objection on the applicant within 7 days after it is filed with the Licensing Authority.

24 Objections by other persons

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- (1) Any person other than a constable may, within 1 month after the first date of publication of a notice under **section 22(2)** in respect of an application for a licence, file with the Licensing Authority a notice of objection to the grant of the application.
- (2) No objection may be made under this section except on one of the following grounds: 30
 - (a) that the applicant is disqualified on 1 or more grounds in **section 56A or 56B**, as the case may be; or
 - (b) that there are other reasons relating to the applicant's character, circumstances, or background why the appli- 35

cant is unsuitable to carry on the class or classes of private security business to which the application relates.

- (3) The grounds of objection specified in **subsection (2)** may relate either to the application as a whole or to any particular class or classes of private security business that the applicant proposes to carry on. 5
- (4) The notice must state the grounds of the objection.
- (5) The Licensing Authority must serve a copy of the notice of objection on the applicant within 7 days after it is filed with the Licensing Authority. 10

Hearing of application

25 Application determined on papers

- (1) The Licensing Authority must determine an application on the papers if no notices of objection to the grant of the application have been filed with the Licensing Authority in accordance with **section 23 or 24**. 15
- (2) If 1 or more notices of objection to the grant of an application have been filed with the Licensing Authority in accordance with **section 23 or 24**,—
 - (a) the Licensing Authority must determine the application on the papers unless it thinks an oral hearing is required; and 20
 - (b) if determining the application on the papers, the Licensing Authority may request that the applicant file a written response to any notice of objection within a period of time specified by the Authority. 25
- (3) The Licensing Authority may refuse an application without holding an oral hearing in accordance with **section 26** if the Licensing Authority is unable to verify information provided in the application. 30

26 Application determined by oral hearing

- (1) If the Licensing Authority is to hold an oral hearing of an application for a licence, the Licensing Authority must fix a time and place for the hearing, and must give not less than 10 working days' notice of the hearing to— 35
 - (a) the applicant; and

- (b) any person who has filed a notice of objection in accordance with **section 23 or 24**; and
 - (c) if the Licensing Authority received a report on the application from the Complaints, Investigation, and Prosecution Unit, the chief investigator of the unit. 5
- (2) If the Licensing Authority received a report requested under **section 21(1)(b)** and suspects on the basis of that report that there may be grounds for refusing the application, the Licensing Authority must, not later than 10 working days before the date of the hearing, provide the applicant with a statement of the reasons for this. 10
- (3) At the hearing, the applicant, every objector, and, if the Licensing Authority received a report on the application from the Complaints, Investigation, and Prosecution Unit, the chief investigator of the unit or a person authorised by the chief investigator— 15
 - (a) is entitled to appear, be heard, call evidence, and cross-examine and re-examine witnesses; and
 - (b) may conduct his or her case personally or may be represented by counsel. 20
- (4) The Licensing Authority may from time to time adjourn the hearing to a time and place fixed by it.

Decision on application

- 27 **Consideration of application relating to more than 1 class of business** 25
- If an application relates to more than 1 class of private security business the Licensing Authority—
- (a) must assess the application in respect of each class of business to which it relates; and
 - (b) may, under **section 28**,— 30
 - (i) grant the application in respect of all those classes of business; or
 - (ii) grant the application in respect of only 1 or more of those classes of business and refuse it in respect of the other 1 or more of those classes of business to which the application relates; or 35
 - (iii) refuse the application entirely.

28 Decision on application for licence

- (1) The Licensing Authority may grant an application only if—
- (a) in the case of an applicant who is an individual, the applicant is of or over the age of 18 years; and
 - (b) in the case of an applicant that is a company, each officer of the company is of or over the age of 18 years; and 5
 - (c) the requirements of **section 19 or 20**, as the case may be, are satisfied.
- (2) **Subsection (3)** applies if the Licensing Authority is satisfied that no grounds of disqualification under **section 56A or 56B**, as the case may be, apply to the applicant. 10
- (3) The Licensing Authority must grant the application in respect of a particular class of business to which it relates unless the Licensing Authority is satisfied, based on any other evidence provided to the Authority relating to the character, circumstances, or background of the applicant, that the person is not suitable to carry on that class of business. 15
- (4) **Subsection (5)** applies if the Licensing Authority is satisfied that 1 or more grounds of disqualification under **section 56A or 56B**, as the case may be, apply to the applicant. 20
- (5) The Licensing Authority may grant the application in respect of a class of business to which it relates if, and only if, the Licensing Authority is satisfied that the person is suitable to carry on that class of business taking into account—
- (a) the grounds on which the applicant is disqualified under **section 56A or 56B**, as the case may be, and the way in which that influences the suitability of the applicant; and 25
 - (b) any other evidence provided to the Authority relating to the character, circumstances, or background of the applicant. 30
- (6) **Subsections (3) and (5)** are subject to **subsection (1)**.
- (7) The Licensing Authority may impose conditions on the carrying on by the licensee of any business in respect of which the licence is issued. 35
- (8) The Licensing Authority must give written notice to the applicant and any person who filed an objection when it grants or

refuses to grant an application and give reasons for the grant or refusal of the application.

Issue, duration, etc, of licence

29 Issue of licence

- (1) If the Licensing Authority grants an application in whole or in part under **section 28**, the Licensing Authority must issue a licence in the prescribed form specifying—
 - (a) the class or, if more than 1, each class of business in respect of which the Authority has granted the application; and
 - (b) the registered office or the principal place of business, as the case may be, of the applicant; and
 - (c) the places from which the applicant is authorised to carry on each class of business to which the licence relates; and
 - (d) any other prescribed matter.
- (2) A licence issued to an individual must contain a photograph of the licensee.

30 Effect of licence

- (1) Subject to this Act and to any conditions imposed by the Authority, a licence authorises the licensee to carry on the class or classes of private security business for which the licence is issued, on his or her own account during the currency of the licence.
- (2) The licensee may carry on that class or those classes of business either by himself or herself or in partnership with any other person or persons who are the holders of licences that include that same authority.
- (3) A licence does not authorise a licensee to carry on the business to which the licence relates from any place of business that is not specified in the licence.

31 Duration of licence

- (1) Unless cancelled earlier, a licence expires 5 years from its date of issue.
- (2) A licence may be renewed under **section 37**.

- (3) Despite **subsection (1)**, if an application for renewal of a licence is made before the expiry of the licence, the licence continues in force until the application for renewal is determined.

32 Licensing Authority to notify Commissioner of Police when licence issued

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The Licensing Authority must, after issuing a licence, notify the Commissioner of Police in writing of—

- (a) the full name and (if the licensee is an individual) residential address of the licensee; and
- (b) the nature and number of the licence; and
- (c) the date on which it was issued; and
- (d) the registered office of the licensee (if a company) or principal place of business of the licensee (if not a company) and the other places of business specified in the licence.

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Temporary certificate of approval for applicant for licence

33 Temporary certificate of approval for applicant for licence

- (1) An individual who has applied for a licence under **section 19** may also request in writing that he or she be issued with a temporary certificate of approval under **section 55**. 20
- (2) If an individual makes a request under **subsection (1)** the individual must state the name of his or her current employer (if any), or employers if more than 1.
- (3) If an individual makes a request under **subsection (1)**, **section 55** applies as if— 25
 - (a) the application for a licence is an application under **section 42**; and
 - (b) the application is for a certificate of approval to be a responsible employee of a class that corresponds to the class or classes of private security business that the applicant for the licence proposes to carry on. 30

General provisions, amendments, renewals, etc

- 34 Name under which licensee may carry on business**
- (1) Unless another name has been approved in writing by the Licensing Authority, no licensee who is an individual may carry on the business to which the licence relates under any name that is not— 5
- (a) his or her own name; or
- (b) in the case of a firm, the name of one of the partners.
- (2) An applicant for a licence, or a licensee, may at any time apply in writing to the Licensing Authority to approve a name under **subsection (1)**. 10
- (3) The Licensing Authority must not approve a name under **subsection (1)** if it considers that the name so nearly resembles the name of any other person, firm, or company carrying on a class or classes of private security business as to be likely to deceive, or that the name is that of any other person, firm, or company— 15
- (a) whose licence has been suspended or cancelled under **section 70 or 72**; or
- (b) whose application for a licence has at any time been refused under this Act and who has not subsequently obtained a licence. 20
- (4) No licensee that is a company may carry on the business to which the licence relates under any name other than the name by which the company is registered or incorporated. 25
- (5) Every licensee who contravenes **subsection (1) or (4)** commits an offence against this Act.
- Compare: 1974 No 48 s 31
- 35 Persons not to act as officers of licensed company without consent of Licensing Authority** 30
- (1) In the case of a licensee that is a company, unless with the prior approval of the Licensing Authority, no person who is not an officer of the company at the time when the application for the licence is granted may subsequently act as an officer of the company. 35
- (2) A licensee may at any time apply in writing to the Licensing Authority for approval of any person under **subsection (1)**.

- (2A) An application for approval of any person must be in the prescribed form and accompanied by the prescribed fee (if any).
- (3) The Licensing Authority must not give its approval under **subsection (1)** in respect of a person unless the Licensing Authority is satisfied that— 5
- (a) the officer is of or over the age of 18 years; and
- (b) no ground of disqualification under **section 56A** applies to the officer or, if 1 or more grounds do apply, that this does not make the company unsuitable to hold the licence. 10
- (4) Every person who contravenes **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- (5) Every licensee who, being a company, employs any person or permits any person to act as an officer of the company in contravention of **subsection (1)**, commits an offence and is liable on summary conviction to a fine not exceeding \$20,000. 15
- Compare: 1974 No 48 s 32
- 36 Amendment of licence**
- (1) If the Licensing Authority has under **section 29** issued a licence that is limited in its effect to any particular class or classes of private security business, the licensee may at any time during the currency of the licence apply to the Licensing Authority to amend the licence by adding or removing any class or classes of private security business. 20 25
- (2) **Sections 19 to 29, 32, 56A, and 56B** apply with any necessary modifications.
- (3) If the Licensing Authority grants an application to add, or remove, a class or classes of private security business to, or from, the licence, the Licensing Authority must, on payment of the prescribed fee (if any), issue to the applicant an amended licence specifying the class or classes of private security business that the licensee may carry on. 30
- 37 Renewal of licence**
- (1) A licence may be renewed. 35

- (2) **Sections 19 to 29, 32, 56A, and 56B** apply to an application for renewal of a licence as if the application were an application for a licence.
- (3) A renewed licence is to be treated for all purposes as a new licence issued under **section 29**. 5
- 38 Annual return updating licence and certificate of approval information**
- (1) At 12-monthly intervals after the date of issue of a licence, the licensee must send to the Licensing Authority a return advising— 10
- (a) whether there has been any change to the details included in the licensee’s application for a licence; and
- (b) in respect of each person (if any) who is employed or engaged by the licensee and who is a certificate holder, whether there has been any change to the details that were included in the application for the certificate holder’s certificate of approval of which the licensee is aware, or ought reasonably to be aware. 15
- (2) The return must be accompanied by the prescribed fee (if any).
- (3) On receiving a return under **subsection (1)**, the Licensing Authority must, if there has been a change to the details recorded on the licence issued to the licensee, or on a certificate of approval issued to a person employed or engaged by the licensee, issue an amended licence or certificate of approval, as the case may be. 25
- (4) The amended licence or certificate of approval is not a new or renewed licence or certificate of approval.
- (5) If an amended licence or certificate of approval is issued, the licensee or certificate holder, as the case may be, must, within 7 days of receiving the amended licence or certificate, return the old licence or certificate of approval to the Licensing Authority. 30
- (6) If a licensee fails to comply with **subsection (1) or (2)** the licence issued to the licensee is automatically suspended from the date of the non-compliance until the requirements of **subsection (1) or (2)**, as the case may be, are satisfied. 35

- (7) A person commits an offence who fails without reasonable excuse to comply with **subsection (5)**.

Subpart 2—Certificates of approval

Who must hold certificate of approval

- 39 Persons who must hold certificate of approval** 5
- (1) The following individuals must hold a certificate of approval under this Act:
- (a) a private investigator employee:
 - (b) a security technician employee:
 - (c) a security consultant employee: 10
 - (d) a confidential document destruction agent employee:
 - (e) a property guard employee:
 - (f) a personal guard employee:
 - (g) a crowd controller employee.
- (2) A person commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 who—
- (a) is employed, engaged as a contractor, acts, or holds himself or herself out to any person or to the public as a person of any kind specified in **subsection (1)**; and
 - (b) does not hold a certificate of approval authorising him or her as a responsible employee of that kind. 20
- (3) This section is subject to **section 56**.
- 40 Offences by licensees, etc, relating to requirements to hold certificate of approval**
- (1) No person who holds a licence may employ, engage as a contractor, or permit to act as a responsible employee any individual who does not hold an appropriate certificate of approval. 25
- (2) No person, not being the holder of a licence, may employ, engage as a contractor, or permit to act as a crowd controller employee any individual who does not hold a certificate of approval as a crowd controller employee. 30
- (3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$20,000. 35

- (4) It is a defence in any prosecution for an offence against this section if the defendant proves that he or she took all reasonable steps to ascertain whether the person who was employed, engaged, or permitted to act held a certificate of approval.
- (5) This section is subject to **section 56**. 5

Applying for certificate of approval

42 Application for certificate of approval

- (1) An application for a certificate of approval must be made to the Licensing Authority in the manner prescribed by regulations made under this Act and must— 10
- (a) ~~be in the prescribed form; together with 1 additional copy; and~~
 - (b) ~~be accompanied by 2 identical photographs of the applicant, authenticated in the prescribed manner; and~~
 - (a) be in the prescribed form; and 15
 - (b) be accompanied by a photograph of the applicant, authenticated in accordance with any prescribed requirements; and
 - (c) be accompanied by the prescribed fee.
- (2) The application must specify— 20
- (a) the applicant's full name, residential address, occupation, and date of birth; and
 - (b) the particular class or classes of responsible employee in relation to which a certificate of approval is sought by the applicant; and 25
 - (c) if the applicant is employed, the name of the applicant's current employer, or employers if more than 1; and
 - (d) whether or not any of the grounds of disqualification in **section 56A** apply to the applicant; and
 - (e) whether the applicant has ever— 30
 - (i) been convicted outside New Zealand of an offence; or
 - (ii) had an order imposed in relation to him or her by any court or tribunal outside New Zealand, instead of passing sentence, that he or she be treated or cared for in relation to his or her mental impairment; and 35

- (f) any other prescribed information.

43 Licensing Authority may make inquiries and request report

- (1) On receipt of an application, the Licensing Authority—
- (a) may make whatever inquiries it considers necessary in order to determine whether or not the application should be granted; and 5
- (b) without limiting **paragraph (a)**, may provide a copy of the application to the chief investigator of the Complaints, Investigation, and Prosecution Unit and request the chief investigator to cause a report on the application to be prepared by the unit for the Licensing Authority. 10
- (2) For the purpose of preparing a report under **subsection (1)(b)** the chief investigator of the Complaints, Investigation, and Prosecution Unit and any person authorised by the chief investigator may make whatever inquiries he or she considers necessary in order to verify the information contained in the application. 15

44 Notice of application for certificate of approval

- ~~(1) The Licensing Authority must serve a copy of every application for a certificate of approval on the Police.~~ 20
- (1) The Licensing Authority must serve on the Police a notice of every application for a certificate of approval and the information contained in it.
- (2) The application must not be heard before the expiry of 1 month after **subsection (1)** has been complied with. 25

Objections

45 Objections by Police to application for certificate of approval

- (1) The Police may file with the Licensing Authority a notice of objection to the grant of an application for a certificate of approval— 30
- (a) within 1 month after a ~~copy~~ notice of the application has been served on them (if the applicant's employer, on the same date as the application for the certificate of 35

- approval was made, applied under **section 19 or 20** for a licence); or
- (b) within 7 days after the ~~copy~~ notice is served on them (in any other case).
- (2) The notice must state the grounds of the objection. 5
 - (3) The Licensing Authority must serve a copy of the notice of objection on the applicant within 7 days after it is filed with the Licensing Authority.

Hearing of application

- 46 Application determined on papers** 10
- (1) The Licensing Authority must determine an application on the papers if no notice of objection to the grant of the application has been filed with the Licensing Authority in accordance with **section 45**.
 - (2) If a notice of objection to the grant of an application has been filed with the Licensing Authority in accordance with **section 45**,— 15
 - (a) the Licensing Authority must determine the application on the papers unless it thinks an oral hearing is required; and 20
 - (b) if determining the application on the papers, the Licensing Authority may request that the applicant file a written response to the objection within a period of time specified by the Authority.
 - (3) The Licensing Authority may refuse an application without holding a hearing in accordance with **section 47** if the Licensing Authority is unable to verify information provided in the application. 25
- 47 Application determined by oral hearing**
- (1) If the Licensing Authority is to hold an oral hearing of an application for a certificate of approval, the Licensing Authority must fix a time and place for the hearing, and must give not less than 10 working days' notice of the hearing to— 30
 - (a) the applicant; and
 - (b) if the Police have filed a notice of objection, the police; and 35

- (c) if the Licensing Authority has received a report on the application from the Complaints, Investigation, and Prosecution Unit, the chief investigator of the unit.
- (2) **Section 26** applies, with any necessary modifications, in respect of the hearing in the same way as if it were an oral hearing of an application for a licence. 5

Decision on application

48 Consideration of application relating to more than 1 class of responsible employee

If an application relates to more than 1 class of responsible employee, the Licensing Authority— 10

- (a) must assess the application in respect of each class of responsible employee to which it relates; and
- (b) may, under **section 49**,—
- (i) grant the application in respect of all those classes of responsible employee; or 15
- (ii) grant the application in respect of only 1 or more of those classes of responsible employee and refuse it in respect of the other 1 or more of those classes of responsible employee to which the application relates; or 20
- (iii) refuse the application entirely.

49 Decision on application for certificate of approval

- (1) The Licensing Authority may grant an application only if— 25
- (a) in the case of an applicant applying for a certificate as a responsible employee of a class in **section 13, 13A, 13D, 13E, or 13F**, the applicant is of or over the age of 18 years; and
- (b) the requirements of **section 42** are satisfied.
- (2) **Subsection (3)** applies if the Licensing Authority is satisfied that no grounds of disqualification under **section 56A** apply to the applicant. 30
- (3) The Licensing Authority must grant the application in respect of a particular class of responsible employee to which it relates unless the Licensing Authority is satisfied, based on any other evidence provided to the Authority relating to the character, 35

circumstances, or background of the applicant, that the person is not suitable to be a responsible employee of that class.

- (4) **Subsection (5)** applies if the Licensing Authority is satisfied that 1 or more grounds of disqualification under **section 56A** apply to the applicant. 5
- (5) The Licensing Authority may grant the application in respect of a class of responsible employee to which it relates if, and only if, the Licensing Authority is satisfied that the person is suitable to be a responsible employee of that class taking into account— 10
- (a) the grounds on which the applicant is disqualified under **section 56A** and the way in which that influences the suitability of the applicant; and
- (b) any other evidence provided to the Authority relating to the character, circumstances, or background of the applicant. 15
- (6) **Subsections (3) and (5)** are subject to **subsection (1)**.
- (7) The Licensing Authority may impose conditions on the performance by the certificate holder of duties as a responsible employee of any particular class in respect of which the certificate is issued. 20
- (8) The Licensing Authority must give written notice to the applicant and the Police (if an objection was filed) when it grants or refuses to grant an application, and give reasons for the grant or refusal of the application. 25

Issue, duration, etc, of certificate of approval

50 Issue of certificate of approval

- (1) If the Licensing Authority grants an application in whole or in part under **section 49**, the Licensing Authority must issue a certificate of approval in the prescribed form specifying— 30
- (a) the class or, if more than 1, each class of responsible employee in respect of which the Authority has granted the application; and
- (b) any other prescribed matter.
- (2) A certificate of approval must contain a photograph of the certificate holder. 35

- 51 Effect of certificate of approval**
Subject to this Act and to any conditions imposed by the Authority, a certificate of approval authorises the holder to work during the currency of the certificate—
- (a) as a responsible employee of any licensee carrying on the business to which the certificate of approval relates; or
 - (b) in the case of a crowd controller, as a responsible employee of any person.
- 52 Duration of certificate of approval**
- (1) Unless cancelled earlier, a certificate of approval expires 5 years from its date of issue.
 - (2) A certificate of approval may be renewed under **section 54**.
 - (3) Despite **subsection (1)**, if an application for renewal of a certificate of approval is made before the expiry of the certificate of approval, the certificate of approval continues in force until the application for renewal is determined.
- 53 Licensing Authority to notify Commissioner of Police when certificate of approval issued**
The Licensing Authority must, after issuing a certificate of approval, notify the Commissioner of Police in writing of—
- (a) the full name and residential address of the certificate holder; and
 - (b) the nature and number of the certificate of approval; and
 - (c) the date on which it was issued.
- 53A Amendment of certificate of approval**
- (1) If the Licensing Authority has under **section 50** issued a certificate of approval that is limited in its effect to any particular class or classes of responsible employee, the certificate holder may at any time during the currency of the certificate of approval apply to the Licensing Authority to amend the certificate of approval by adding or removing any class or classes of responsible employee.
 - (2) **Sections 42 to 50, 53, and 56A** apply with any necessary modifications.

- (3) If the Licensing Authority grants an application to add, or remove, a class or classes of responsible employee to, or from, the certificate of approval, the Licensing Authority must, on payment of the prescribed fee (if any), issue to the applicant an amended certificate of approval specifying the class or classes of responsible employee in respect of which the holder may carry out work. 5

54 Renewal of certificate of approval

- (1) A certificate of approval may be renewed.
- (2) **Sections 42 to 50, 53, and 56A** apply to an application for renewal of a certificate of approval as if the application were an application for a certificate of approval. 10
- (3) A renewed certificate of approval is to be treated for all purposes as a new certificate issued under **section 50**.

Temporary certificates of approval 15

55 Temporary certificates of approval

- (1) A person who has applied for a certificate of approval under **section 42** may also apply in writing for a temporary certificate of approval.
- (2) The Licensing Authority may issue a temporary certificate of approval at any time after receiving a correct application for a certificate of approval under **section 42** if,— 20
- (a) in the case of an applicant applying for a certificate as a responsible employee of a class in **section 13, 13A, 13D, 13E, or 13F**, the applicant is of or over the age of 18 years; and 25
- (b) the prescribed fee (if any) is paid; and
- (c) except as provided for in **subsection (3)(b)**, the application does not disclose any ground on which the applicant is disqualified under **section 56A**; and 30
- (d) there is no reason to believe that the application contains statements that are incorrect; and
- (e) in the opinion of the Licensing Authority there are no other reasons disclosed by the application why the applicant may be unsuitable to be a responsible employee of the class or classes to which the application relates. 35

- (3) The Licensing Authority may issue a temporary certificate of approval under this section even if—
- (a) the time for the Police to file an objection under **section 45** has not expired; or
 - (b) the applicant has not met the requirements prescribed in regulations made under **section 106(1)(g)**. 5
- (4) A temporary certificate of approval issued under **subsection (2)** gives the holder all the rights and duties of a certificate of approval issued under **section 50** to be a responsible employee of the class or classes to which the application relates. 10
- (5) A temporary certificate of approval is in force for a period of 3 months after the date of its issue, or until a certificate of approval is issued to the applicant under **section 50**, whichever comes first.

Emergency appointments of responsible employees 15

56 Emergency appointment of responsible employee

- (1) A person who does not hold an appropriate certificate of approval may be employed, engaged on contract, or act, as a responsible employee if— 20
- (a) he or she has applied for a certificate of approval and paid the prescribed fee; and
 - (b) the person who engages the person, or permits the person to act,—
 - (i) has, owing to employee illness or emergency, insufficient employees who hold a certificate of approval to carry on his or her business; and 25
 - (ii) is satisfied on reasonable grounds that the person has applied for an appropriate certificate of approval and that the information provided in the application indicates that no ground of disqualification under **section 56A** exists; and 30
 - (iii) is to the best of his or her knowledge satisfied that the person is not currently charged with an offence that, if it resulted in conviction, would be a ground of disqualification under **section 56A**; and 35
- and

- (iv) has no reason to believe that any statement in the application is incorrect; and
 - (v) notifies the Licensing Authority in the prescribed manner before employing or engaging the person, or permitting the person to act, as a responsible employee; and 5
 - (vi) complies with any requirements prescribed in regulations made under this Act relating to the making of emergency appointments under this section. 10
- (2) Except with the prior approval of the Licensing Authority, a person (Y) must not in reliance on this section employ or engage a person, or permit a person to act, as a responsible employee, or continue to do so, if Y—
- (a) has already employed, engaged, or permitted the person to act as a responsible employee in reliance on this section for a continuous period of 2 weeks; or 15
 - (b) has already employed, engaged, or permitted the person to act as a responsible employee in reliance on this section on an occasion more than 2 weeks previously. 20
- (3) If under **subsection (1)** a person (Y) employs or engages a person, or permits a person to act, as a responsible employee, Y must immediately stop the person from undertaking any work for which the person would be required to hold a certificate of approval if Y is instructed by the Licensing Authority to do so by service of a notice in writing. 25

Subpart 3—Grounds of disqualification

Grounds of disqualification: individual

56A Grounds of disqualification for individual applicant

The grounds of disqualification for an individual applicant for a licence, or an applicant for a certificate of approval, are that the individual— 30

- (a) has been ordered by a court to be detained in a hospital owing to his or her mental condition and is currently subject to such an order; or 35
- (b) has ever had an order made in relation to him or her under section 34(1)(b) of the Criminal Procedure

- (Mentally Impaired Persons) Act 2003, section 118 of the Criminal Justice Act 1985, or section 39J of the Criminal Justice Act 1954 (being an order imposed, instead of passing sentence, that the offender be treated or cared for in a manner that the offender's mental impairment requires, either in the offender's interest, or for the safety of the public, or for the safety of a person or class of person); or
- (c) has ever been ordered by a court to be detained in a penal institution following conviction for an offence and that conviction or order has not been quashed on appeal; or
- (d) has ever been convicted of a specified offence as defined in section 4 of the Criminal Records (Clean Slate) Act 2004; or
- (e) has ever been disqualified from driving under section 65 of the Land Transport Act 1998 or an earlier equivalent provision; or
- (f) has, within the preceding 7 years, been convicted of any—
- (i) offence under the Arms Act 1983; or
 - (ii) offence under any of sections 216H to 216J of the Crimes Act 1961; or
 - (iii) offence under section 10, 11, 13, 16, 19, 21, 24, 47F, or 47J of the Fair Trading Act 1986; or
 - (iv) offence under section 8 or 25 of the Harassment Act 1997; or
 - (v) offence against section 6 of the Misuse of Drugs Act 1975 in relation to a Class A controlled drug, a Class B controlled drug, or a Class C controlled drug, in relation to which the amount, level, or quantity at and over which the drug is presumed to be for supply is specified in Schedule 5 of that Act; or
 - (vi) offence of dishonesty; or
 - (vii) offence of violence; or
 - (viii) offence under this Act of working while not holding a licence or relevant certificate of approval or employing or engaging a person without a relevant certificate of approval, or an offence under

- section 16, 34, or 52 of the Private Investigators and Security Guards Act 1974; or
- (g) holds a licence or certificate of approval that has been suspended; or
 - (h) has, within the preceding 7 years, had a licence or certificate of approval cancelled under this Act or the Private Investigators and Security Guards Act 1974; or 5
 - (i) does not meet the requirements prescribed in regulations made under **section 106(1)(g)**; or
 - (j) in the case of an applicant for a licence, has not, within the preceding 5 years, had 12 months' relevant experience as a licensee or responsible employee in the class or classes of private security business to which the application relates. 10

Grounds of disqualification: company 15

56B Grounds of disqualification for company

- (1) The grounds of disqualification for a company applicant for a licence are that—
 - (a) the company has, within the preceding 7 years, been convicted of any— 20
 - (i) offence under section 10, 11, 12, 16, 19, 21, 24, 47F, or 47J of the Fair Trading Act 1986; or
 - (ii) offence of dishonesty; or
 - (iii) offence against section 6 of the Misuse of Drugs Act 1975 in relation to a Class A controlled drug, a Class B controlled drug, or a Class C controlled drug, in relation to which the amount, level, or quantity at and over which the drug is presumed to be for supply is specified in Schedule 5 of that Act; or 25 30
 - (iv) offence under this Act of operating while unlicensed or employing or engaging a person without a certificate of approval, or an offence under section 16, 34, or 52 of the Private Investigators and Security Guards Act 1974; or 35
 - (b) the company holds a licence that has been suspended; or

- (c) the company has, within the preceding 7 years, had a licence cancelled under this Act or the Private Investigators and Security Guards Act 1974; or
 - (d) an officer of the company was, or is, an officer of another company (whether or not that other company is still in existence) that, within the preceding 7 years, had a licence cancelled under this Act or the Private Investigators and Security Guards Act 1974; or 5
 - (e) any of the grounds of disqualification in **section 56A(a) to (h)** apply to any officer of the company; or 10
 - (f) every officer of the company is disqualified under **section 56A(i) and (j)**.
- (2) For the purposes of **subsection (1)(e) and (f)**, **section 56A** must be read as if the officer were the applicant for the licence.

Waiver of ground of disqualification 15

56C Waiver of ground of disqualification while licence or certificate of approval in force

- (1) This section applies if, while a licence or certificate of approval is in force, an event occurs that means that 1 or more grounds of disqualification apply to the licensee or certificate holder under **section 56A or 56B**, as the case may be. 20
- (2) The licensee or certificate holder may apply in writing to the Licensing Authority for a waiver of the disqualification.
- (3) The application must be accompanied by the prescribed fee, if any. 25
- (4) The Licensing Authority may waive the disqualification if the Authority is satisfied that the licensee or certificate holder is, despite the disqualification, suitable to be a licensee or certificate holder, as the case may be, in relation to the class or classes of business or work to which the licence or certificate relates. 30
- (5) A waiver of disqualification under this section expires on the expiry of the licence or certificate of approval in respect of which it was granted.
- (6) If a waiver of disqualification has been granted under this section, no complaint may be made under **Part 4** against the li- 35

censee or certificate holder on the grounds that he or she is disqualified in the respect covered by the waiver.

Part 3
Responsibilities of licensees and certificate holders

5

57 Production of licence

- (1) A licensee must produce his or her licence on demand to—
- (a) the Licensing Authority; or
 - (b) any constable; or
 - (c) a person authorised by the chief investigator of the Complaints, Investigation, and Prosecution Unit; or 10
 - (d) any person with whom the licensee is dealing when carrying on or attempting to carry on any private security business to which the licence relates.
- (2) If the licensee is a company, it is sufficient compliance with the requirements of **subsection (1)** if the licence is kept in the company's registered office and is made available for inspection on demand by any of the persons referred to in that subsection. 15
- (3) A licensee who knowingly contravenes **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$2,000. 20
- Compare: 1974 No 48 s 45

58 Production of certificate of approval

- (1) A certificate holder must produce his or her certificate of approval on demand to— 25
- (a) the Licensing Authority; or
 - (b) any constable; or
 - (c) a person authorised by the chief investigator of the Complaints, Investigation, and Prosecution Unit; or 30
 - (d) any person with whom the certificate holder is dealing in the course of performing his or her duties as a responsible employee.
- (2) A certificate holder must, on demand by any person specified in **subsection (1)**, inform that person of the name and address 35

of the person by whom the holder is employed or engaged as a responsible employee.

- (3) A certificate holder who knowingly contravenes **subsection (1) or (2)** commits an offence and is liable on summary conviction to a fine not exceeding \$2,000. 5

Compare: 1974 No 48 s 46

59 Requirement to wear identification badge

- (1) An individual who is the holder of a licence to carry on any of the classes of private security business described in **sections 6 to 11** must wear an identification badge issued by the Authority at all times during the course of carrying on or attempting to carry on that business. 10
- (2) The holder of a certificate of approval as a responsible employee of any kind described in **sections 13A to 13F** must wear an identification badge issued by the Authority at all times during the course of performing his or her duties as a responsible employee. 15
- (3) The identification badge must be worn in a position that is readily visible.
- (4) Despite **subsections (1) and (2)**, no licensee or certificate holder is required to wear an identification badge if the licensee or certificate holder reasonably believes that wearing it would threaten his or her safety or the safety of any person. 20
- (5) A licensee or certificate holder who intentionally contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$2,000. 25

59A Identification badge

- (1) An identification badge must contain the following information:
- (a) a unique identifier number or code: 30
 - (b) a photograph of the licensee or certificate holder:
 - (c) the class or classes of work that the licensee or certificate holder is authorised to carry out:
 - (d) the expiry date of the licence or the certificate of approval. 35

- (2) In the case of an identification badge to be worn by the holder of a temporary certificate of approval, the identification badge must identify the wearer as the holder of a temporary certificate of approval.
- (3) An identification badge must not include the name or address of the licensee or certificate holder. 5

60 Licensee and certificate holder to keep records

A licensee or certificate holder or person who employs or engages any crowd controller employee commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who fails without reasonable excuse to comply with any requirement to keep records that is prescribed in regulations made under **section 106**. 10

61 Access by Police and Complaints, Investigation, and Prosecution Unit to records 15

- (1) A licensee or certificate holder or person who employs or engages any crowd controller employee must, when required to do so by a constable or a person authorised by the chief investigator of the Complaints, Investigation, and Prosecution Unit (**authorised person**),— 20
- (a) show the constable or authorised person without delay any record or document that is required by regulations made under this Act to be kept by the licensee or certificate holder:
- (b) make a copy of all or specified parts of a record or document of a kind referred to in **paragraph (a)** and give it to the constable or authorised person, or if that is impracticable, give the constable or authorised person the record or document or specified part of it. 25
- (2) If a licensee or certificate holder or person who employs or engages any crowd controller employee gives a constable or authorised person a record or document, or a specified part of it, under **subsection (1)(b)**, the constable or authorised person must— 30
- (a) give a receipt for the record or document or specified part of it; and 35
- (b) return it within 2 hours.

- (3) A licensee or certificate holder or person who employs or engages any crowd controller employee commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 if the licensee or certificate holder or person fails without reasonable excuse to comply with **subsection (1)**. 5
- 63 Updating certificate information**
- (1) A certificate holder must advise the Licensing Authority—
- (a) of any change to the certificate holder's name or residential address; or
 - (b) if, subsequent to the application for a certificate of approval, any of the grounds of disqualification described in **section 56A** apply to him or her. 10
- (2) A certificate holder commits an offence if he or she fails without reasonable excuse to comply with **subsection (1)**.
- 64 Private investigator to display notices at offices** 15
- (2) A licensee authorised to carry on the business of a private investigator must cause the information specified in **subsection (2A)** to be conspicuously displayed on—
- (a) all notices, advertisements, and other publications issued by him or her or on his or her behalf, in the course of or in connection with the business of a private investigator; and 20
 - (b) all letters, accounts, and other documents sent out by him or her or on his or her behalf, in the course of or in connection with the business of a private investigator. 25
- (2A) The information referred to in **subsection (2)** is—
- (a) the licensee's full name; and
 - (b) the fact that the licensee is the holder of a licence authorising him or her to carry on the business of a private investigator; and 30
 - (c) if the business is not carried on in the licensee's own name, the name under which he or she carries on the business.
- (3) A licensee authorised to carry on the business of a private investigator must cause to be conspicuously shown on all letters sent out or published by him or her or on his or her behalf, in the course of or in connection with the business of a private in- 35

investigator, a statement to the effect that he or she has no more authority than that of an ordinary private citizen to require a reply to the letter.

- (4) A licensee who knowingly contravenes **subsection (2) or (3)** commits an offence. 5

Compare: 1974 No 48 s 48

Part 4 Discipline

Complaints

67 Complaint against licensee 10

- (1) A constable may at any time file a written complaint with the Licensing Authority against a licensee.

- (2) A person other than a constable may at any time, with the leave of the Authority, file a written complaint with the Authority against a licensee. 15

- (3) The Authority must refuse leave under **subsection (2)** unless the Authority is satisfied that the complainant has an interest, greater than that of the public generally, in the subject matter of the complaint, and that the complaint is made in good faith and is not frivolous or vexatious. 20

- (4) No complaint may be made under this section except on 1 or more of the following grounds:

(a) that 1 or more grounds of disqualification under **section 56A or 56B**, as the case may be, now apply to the licensee: 25

(ab) that there are 1 or more grounds for cancelling the licence under **section 74**:

(b) that the licensee has contravened any provision of this Act or regulations made under this Act:

(c) that the licensee or, if the licensee is a company, any officer of the company, has been guilty of misconduct or gross negligence in the course of the business to which the licence relates: 30

(d) that a false statement was made in the application for the licence. 35

- (5) The complaint must specify the grounds on which it is made.

- (6) The complainant must, within 7 days after filing the complaint with the Licensing Authority, serve a copy of the complaint on the licensee.

Compare: 1974 No 48 s 53

68 Complaint against certificate holder 5

- (1) A constable may at any time file a written complaint with the Licensing Authority against a certificate holder.

- (2) A person other than a constable may at any time, with the leave of the Authority, file a written complaint with the Authority against a certificate holder. 10

- (3) The Authority must refuse leave under **subsection (2)** unless the Authority is satisfied that the complainant has an interest, greater than that of the public generally, in the subject matter of the complaint, and that the complaint is made in good faith and is not frivolous or vexatious. 15

- (4) No complaint may be made under this section except on 1 or more of the following grounds:

(a) that 1 or more grounds of disqualification under **section 56A** now apply to the certificate holder:

(ab) that there are 1 or more grounds for cancelling the certificate of approval under **section 77**: 20

(b) that the certificate holder has contravened any provision of this Act or regulations made under this Act:

(c) that the certificate holder has been guilty of misconduct or gross negligence in the course of being a responsible employee: 25

(d) that a false statement was made in the application for the certificate of approval.

- (5) The complaint must specify the grounds on which it is made.

- (6) The complainant must, within 7 days after filing the complaint with the Licensing Authority, serve a copy of the complaint on the certificate holder. 30

Compare: 1974 No 48 s 59

- 69 Licensing Authority may refer matter to Police or to Complaints, Investigation, and Prosecutions Unit**
- (1) On receipt of a complaint from a person under **section 67(2) or 68(2)**, the Licensing Authority may—
- (a) send a copy of the complaint to the Commissioner of Police and request the Commissioner to cause a report on the complaint to be prepared by the Police for the Licensing Authority; or 5
 - (b) send a copy of the complaint to the person in charge of the Complaints, Investigation, and Prosecution Unit and request the chief investigator to cause a report on the complaint to be prepared for the Licensing Authority. 10
- (2) In any other case where the Licensing Authority suspects on reasonable grounds that there may be any grounds for complaint against a licensee or certificate holder, the Licensing Authority may— 15
- (a) refer the matter to the Commissioner of Police and request the Commissioner to investigate it with a view to deciding whether a complaint against the licensee or certificate holder should be filed under **section 67(1) or 68(1)**; or 20
 - (b) refer the matter to the chief investigator of the Complaints, Investigation, and Prosecution Unit and request the chief investigator to cause a report on the matter to be prepared by the unit for the Licensing Authority. 25
- 70 Suspension of licence or certificate of approval pending determination of complaint**
- (1) The Licensing Authority may make an order suspending a licence or certificate if a complaint has been filed against the holder of it under **section 67 or 68** and the Licensing Authority is satisfied that it is necessary or desirable to do so having regard to— 30
- (a) the interests of the public; and
 - (b) the possibility of further loss or damage occurring if the Licensing Authority does not make an order under this section. 35

- (1A) A licence or certificate may be suspended either in whole or in part in respect of 1 or more classes (of business or responsible employee) for which it was granted.
- (2) The Licensing Authority is not obliged to give notice to the licensee or certificate holder that it intends to make an order of suspension under this section. 5
- (3) The Licensing Authority must notify the licensee or certificate holder in writing of any order of suspension made by it under this section and of its reasons for making the order.
- (4) As soon as practicable after the notification under **subsection (3)**, the Licensing Authority must give the licensee or certificate holder an opportunity to make representations to the Licensing Authority for the revocation of the order. 10
- (5) If an order of suspension is made under this section, the order— 15
- (a) comes into force when the licensee or certificate holder is notified of the order in accordance with **subsection (3)**; and
 - (b) lasts until the complaint is heard and determined by the Licensing Authority in accordance with this Part. 20
- (6) During the period that a licence is suspended—
- (a) the licence has no effect and must not be renewed; and
 - (b) no new licence may be issued authorising the licensee to carry on the class of business, or (if more than 1) any 1 or more of the classes of business, to which the suspended licence relates. 25
- (7) During the period that a certificate of approval is suspended—
- (a) the certificate has no effect and must not be renewed; and
 - (b) no new certificate may be issued authorising the holder to be a responsible employee of any class, or (if more than 1) any 1 or more of the classes of responsible employee, to which the suspended certificate relates. 30
- (8) The Licensing Authority may at any time, on its own motion or on the application of the licensee or the certificate holder, revoke an order of suspension made under this section. 35

Compare: 1974 No 48 s 55

Disciplinary hearing

71 Hearing

- (1) The Licensing Authority—
 - (a) must hold a hearing if a complaint has been filed with the Licensing Authority against a licensee under **section 67** or certificate holder under **section 68**, and the Licensing Authority is satisfied that the requirements of the relevant section have been complied with; and 5
 - (b) may on its own motion hold a hearing if it has received a report requested under **section 69(2)** and suspects on reasonable grounds that there may be grounds of the kind in **section 67(4)** for disciplinary action against a licensee or grounds of the kind in **section 68(4)** for disciplinary action against a certificate holder. 10
- (2) The Licensing Authority must fix a time and place for the hearing. 15
- (3) The Licensing Authority must give not less than 10 working days' notice of the hearing—
 - (a) to the licensee or certificate holder; and
 - (b) to the complainant (if any); and 20
 - (c) if the Licensing Authority wishes the Police to attend, to the Commissioner of Police; and
 - (d) if the Licensing Authority received a report from the Complaints, Investigation, and Prosecution Unit, the chief investigator of the unit. 25
- (4) If the Licensing Authority is holding a hearing under **subsection (1)(b)**, the Licensing Authority must, not later than 10 working days before the date of the hearing, provide the licensee or certificate holder with a statement of the reasons for this. 30
- (5) At the hearing, the following persons are entitled to appear, be heard, call evidence, and to cross-examine and re-examine witnesses:
 - (a) the complainant (if any); and
 - (b) the licensee or certificate holder; and 35
 - (c) the Commissioner of Police or any other constable on the Commissioner's behalf; and

- (d) the chief investigator of the Complaints, Investigation, and Prosecution Unit or any other person authorised by the chief investigator.
- (6) Any party at the hearing may conduct his or her case personally or may be represented by counsel. 5
- (7) The Licensing Authority may from time to time adjourn the hearing to a future time and place fixed by it.

Powers of Authority: licensees

- 72 Disciplinary powers of Licensing Authority in respect of licensee** 10
- (1) If, after a hearing in accordance with **section 71**, the Licensing Authority is satisfied that the grounds for disciplinary action in the complaint or under **section 71(1)(b)**, as the case may be, have been proved, the Licensing Authority—
- (a) must cancel the licence if **section 73** applies: 15
- (b) may cancel the licence if **section 74** applies:
- (c) may, in addition to cancellation under **paragraph (a)**, or in addition to or instead of cancellation under **paragraph (b)**, do all or any of the following things that may be appropriate: 20
- (i) make an order suspending the licence for a period, not exceeding 3 years, that the Licensing Authority specifies in the order:
- (ia) make an order that the licensee undergo training: 25
- (ib) make an order that the licensee work under supervision for a period that the Licensing Authority specifies in the order:
- (ic) make an order that the licensee work subject to conditions and for a period that the Licensing Authority specifies in the order: 30
- (id) bar the licensee from applying for a licence or certificate of approval for a period that the Licensing Authority specifies in the order or until certain conditions are met:
- (ii) fine the licensee any amount not exceeding \$2,000: 35
- (iii) reprimand the licensee:

- (iv) if the Licensing Authority is satisfied in the case of a licensee that is a company that the grounds for disciplinary action relate to any conduct or omission by a particular officer of the company, make an order directing the licensee to terminate the employment of that officer within the time the Licensing Authority specifies in the order. 5
- (2) If, after the hearing, the Licensing Authority is not satisfied that the grounds for disciplinary action have been proved, the Authority must dismiss the matter. 10
- (3) A cancellation must be in writing, with reasons, and state the date on which the cancellation takes effect.
- (4) While any order of suspension of a licence made under this section continues in force,—
- (a) the licence has no effect and must not be renewed; and 15
- (b) no new licence may be issued authorising the licensee to carry on the class of private security business, or (if more than 1) any 1 or more of the classes of private security business, to which the suspended licence relates.
- (5) A fine imposed by the Licensing Authority on a licensee under **subsection (1)** is a debt due by the licensee to the Crown, and is recoverable in any court of competent jurisdiction. 20
- (6) The Licensing Authority must as soon as practicable give notice in writing of the decision made by the Authority under this section, and of any penalty imposed, to— 25
- (a) the licensee; and
- (b) the Commissioner of Police; and
- (c) any complainant; and
- (d) the chief investigator of the Complaints, Investigation, and Prosecution Unit. 30
- (7) If the Licensing Authority makes an order under **subsection (1)(c)(iv)**, it must as soon as practicable also give notice in writing of the order to the officer to whom it relates.
- 73 Mandatory grounds for cancellation of licence**
- (1) This section applies (and, under **section 72**, cancellation of the licence is mandatory) if— 35

- (a) the Licensing Authority is satisfied that 1 or more grounds for disqualification under **section 56A or 56B**, as the case may be, now apply to the licensee and the Licensing Authority is satisfied that, because of this, the licensee is not suitable to hold a licence; or 5
- (b) the Licensing Authority is satisfied that the licence was issued by mistake or by reason of fraud on the part of the applicant for the licence.
- (2) **Subsection (3)** applies if— 10
- (a) the licensee is a company; and
- (b) the reason that the Licensing Authority is satisfied that the licensee is unsuitable to be a licensee under **subsection (1)(a)** is because an officer of the company is disqualified under **section 56A**.
- (3) The Licensing Authority must not cancel the company's licence if— 15
- (a) the person became an officer of the company after the company obtained its licence; and
- (b) within 2 weeks of the person becoming an officer of the company, the company applied to the Licensing Authority under **section 35(2)** for the approval of the officer; and 20
- (c) either—
- (i) the Licensing Authority has not yet determined whether or not to approve the officer; or 25
- (ii) the Licensing Authority has advised the company, in writing, that it refuses to approve the officer but less than 2 weeks has elapsed since the advice was sent.
- 74 Discretionary grounds for cancellation of licence** 30
- (1) This section applies (and, under **section 72**, the Authority may cancel the licence) if—
- (a) a person specified in **subsection (2)** has breached a condition of the licence imposed under **section 28(7)**;
- (b) a person specified in **subsection (2)** has been convicted of an offence under any of the provisions specified in **Schedule 1**: 35

- (c) a person specified in **subsection (2)** in the course of carrying on the business to which the licence relates uses any dog and, in respect of that dog, is convicted of an offence against any of the provisions of the Dog Control Act 1996: 5
- (d) a person specified in **subsection (2)**, having been convicted of an offence against this Act is, within 3 years after the date of the conviction, again convicted of an offence against this Act:
- (e) a person specified in **subsection (2)** has been guilty of misconduct or gross negligence in the course of the business to which the licence relates: 10
- (f) a person specified in **subsection (2)** has—
- (i) been convicted outside New Zealand of an offence; or 15
- (ii) had an order imposed in relation to him or her by any court or tribunal outside New Zealand, instead of passing sentence, that he or she be treated or cared for in relation to his or her mental impairment: 20
- (g) a person specified in **subsection (2)** is adjudged bankrupt, or makes any assignment for the benefit of his or her creditors, or makes any composition with his or her creditors:
- (h) in the case of a licensee that is a company, the High Court makes an order for the winding up of the licensee, or the licensee passes a resolution for voluntary winding up: 25
- (i) in the case of a licensee that is a company, the licensee fails to comply with an order made under **section 72(1)(c)(iv)** in respect of any officer of the company: 30
- (j) the Licensing Authority determines that a false statement was made in the application for a licence of any person specified in **subsection (2)**.
- (2) The persons referred to in **subsection (1)** are— 35
- (a) the licensee; and
- (b) in the case of a licensee that is a company, any officer of the company.

*Powers of Authority: certificate holders***75 Disciplinary powers of Licensing Authority in respect of holder of certificate of approval**

- (1) If, after a hearing in accordance with **section 71**, the Licensing Authority is satisfied that the grounds for disciplinary action in the complaint or under **section 71(1)(b)**, as the case may be, have been proved, the Licensing Authority—
- (a) must cancel the certificate of approval if **section 76** applies:
 - (b) may cancel the certificate of approval if **section 77** applies:
 - (c) may, in addition to cancellation under **paragraph (a)**, or in addition to or instead of cancellation under **paragraph (b)**, do all or any of the following things that may be appropriate:
 - (i) make an order suspending the certificate of approval for a period, not exceeding 3 years, that the Licensing Authority specifies in the order:
 - (ia) make an order that the certificate holder undergo training:
 - (ib) make an order that the certificate holder work under supervision for a period that the Licensing Authority specifies in the order:
 - (ic) make an order that the certificate holder work subject to conditions and for a period that the Licensing Authority specifies in the order:
 - (id) bar the certificate holder from applying for a licence or certificate of approval for a period that the Licensing Authority specifies in the order or until certain conditions are met:
 - (ii) fine the certificate holder any amount not exceeding \$2,000:
 - (iii) reprimand the certificate holder.
- (2) If, after a hearing, the Licensing Authority is not satisfied that the grounds for disciplinary action have been proved, the Authority must dismiss the matter.
- (3) A cancellation must be in writing, with reasons, and state the date on which the cancellation takes effect.

- (4) While any order of suspension of a certificate of approval made under this section continues in force,—
- (a) the certificate of approval ceases to have effect and must not be renewed; and
 - (b) no new licence in respect of the business or (if more than 1) any 1 or more of the businesses to which the certificate relates or new certificate of approval of the same type may be issued to the holder. 5
- (5) A fine imposed by the Licensing Authority on a certificate holder under this section is a debt due by the holder to the Crown, and is recoverable in any court of competent jurisdiction. 10
- (6) The Licensing Authority must as soon as practicable give notice in writing of the decision made by the Authority under this section, and of any penalty imposed by the Authority to— 15
- (a) the certificate holder; and
 - (b) the person by whom he or she is for the time being employed; and
 - (c) the Commissioner of Police; and
 - (d) the complainant (if any) if the complainant is not a constable; and 20
 - (e) the chief investigator of the Complaints, Investigation, and Prosecution Unit.
- 76 Mandatory grounds for cancellation of certificate of approval** 25
- This section applies (and, under **section 75**, cancellation of the certificate of approval is mandatory) if—
- (a) the Licensing Authority is satisfied that 1 or more grounds of disqualification under **section 56A** now apply to the certificate holder and the Licensing Authority is satisfied that, because of this, the certificate holder is not suitable to hold a certificate; or 30
 - (b) the Licensing Authority is satisfied that the certificate was issued by mistake or by reason of fraud on the part of the applicant for the certificate. 35

- 77 Discretionary grounds for cancellation of certificate**
- This section applies (and, under **section 75**, the Authority may cancel the licence) if—
- (a) the certificate holder has breached a condition of the certificate of approval imposed under **section 49(7)**: 5
 - (b) the certificate holder has been convicted of an offence under any of the provisions specified in **Schedule 1**:
 - (c) the certificate holder, in the course of carrying on the business to which the certificate relates, uses any dog and, in respect of that dog, is convicted of an offence against any of the provisions of the Dog Control Act 1996: 10
 - (d) the certificate holder, having been convicted of an offence against this Act is, within 3 years after the date of the conviction, again convicted of an offence against this Act: 15
 - (e) the certificate holder has been guilty of misconduct or gross negligence in the course of carrying out the work to which the certificate relates:
 - (f) the certificate holder has— 20
 - (i) been convicted outside New Zealand of an offence; or
 - (ii) had an order imposed in relation to him or her by any court or tribunal outside New Zealand, instead of passing sentence, that he or she be treated 25 or cared for in relation to his or her mental impairment:
 - (g) the certificate holder is adjudged bankrupt, or makes any assignment for the benefit of his or her creditors, or makes any composition with his or her creditors: 30
 - (h) the Licensing Authority determines that a false statement was made in the application for the certificate.

General provisions

- 78 Evidence of convictions in proceedings before Licensing Authority** 35
- For the purposes of any proceedings under this Part, a certificate containing the substance of the conviction of any person of any offence purporting to be signed by the Registrar

of the Court by which the person was convicted is sufficient evidence of that conviction without proof of the signature or official character of the person appearing to have signed the certificate.

Compare: 1974 No 48 s 61

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79 Cancelled and suspended licences and certificates of approval must be returned to Licensing Authority

(1) A person whose licence or certificate of approval is cancelled or suspended under this Part must return it to the Licensing Authority within 7 days after being notified of the cancellation or suspension.

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(2) A person commits an offence if he or she fails without reasonable excuse to comply with **subsection (1)**.

Compare: 1974 No 48 s 62

80 Penalties for offences not affected

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Nothing in this Part limits the jurisdiction of any court, or limits or affects any other provisions in this Act relating to the punishment of offences.

Compare: 1974 No 48 s 63

Part 5

20

**Licensing Authority and Complaints,
Investigation, and Prosecution Unit**

Licensing Authority

81 Private Security Personnel Licensing Authority

(1) The Governor-General may, by warrant, on the recommendation of the responsible Minister, appoint a person to be the Private Security Personnel Licensing Authority.

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(2) Subject to **section 82(2)**, the office of Licensing Authority may be held concurrently with any other office.

Compare: 1974 No 48 s 5

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81A Functions of Authority

The functions of the Authority are—

- (a) to discharge its functions under **Part 2** in relation to consideration of applications for licences and certificates of approval and the issue of licences and certificates of approval:
 - (b) to exercise its powers under **Part 4** in relation to the discipline of licensees and certificate holders: 5
 - (c) to discharge its functions under **sections 90 to 92** in relation to the keeping of registers of licensees and certificate holders.
- 82 Qualifications of Licensing Authority** 10
- (1) No person may hold office as Licensing Authority unless he or she is a barrister or solicitor of the High Court of not less than 5 years' standing.
 - (2) No public servant may hold office as the Licensing Authority.
Compare: 1974 No 48 s 6 15
- 83 Term of office of Licensing Authority**
- (1) The Licensing Authority—
 - (a) must be appointed for a term of 3 years; and
 - (b) may from time to time be reappointed.
 - (2) The Licensing Authority may at any time resign from office by notice in writing to the responsible Minister. 20
 - (3) The Governor-General may, on the recommendation of the responsible Minister, at any time remove the Licensing Authority for inability to perform the functions of office, bankruptcy, neglect of duty, or misconduct, and the person removed is not entitled to compensation. 25
Compare: 1974 No 48 s 7
- 84 Deputy Private Security Personnel Licensing Authority**
- (1) The Governor-General may, by warrant, on the recommendation of the responsible Minister, appoint 1 or more Deputy Private Security Personnel Licensing Authorities if the Minister is satisfied that— 30
 - (a) the Licensing Authority is unable, because of absence (whether by reason of leave, ill health, or any other reason), to exercise his or her functions of office; or 35

- (b) the amount of work to be done by the Licensing Authority is more than can reasonably be done by 1 person at that time.
- (2) No person who is incapable of holding office as Licensing Authority may be appointed to be a Deputy Licensing Authority. 5
- (3) A Deputy Licensing Authority must be appointed for a fixed term as determined by the responsible Minister.
- (4) A Deputy Licensing Authority has all the powers, duties, and functions of the Licensing Authority, subject to the control of the Licensing Authority. 10
- (5) The Governor-General may, on the recommendation of the Responsible Minister at any time remove a Deputy Licensing Authority for inability to perform the functions of office, bankruptcy, neglect of duty, or misconduct, and the person removed is not entitled to compensation. 15
- (6) The fact that a Deputy Licensing Authority exercises the powers, duties, and functions of the Licensing Authority is conclusive evidence of his or her authority to do so.
- (7) No appointment of a deputy under this section, and no act done by him or her when acting as Licensing Authority, may be questioned in any proceedings on the grounds that the occasion for the appointment had not arisen or had ceased. 20

Compare: 1974 No 48 s 8

85 Remuneration, and status under certain Acts

- (1) The Licensing Authority and any Deputy Licensing Authority must be paid fees and expenses in accordance with the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies, as if the Licensing Authority were the chairperson of a statutory body and any Deputy Licensing Authority were a member of that body. 30
- (2) For the purposes of the State Sector Act 1988 and the Government Superannuation Fund Act 1956, a Licensing Authority or Deputy Licensing Authority is not, by reason merely of that appointment, employed in the service of the Crown. 35

Compare: 1974 No 48 s 9

86 Licensing Authority to be Commission of Inquiry for certain purposes

- (1) Where under this Act the Licensing Authority has the function of hearing or determining any matter, the Licensing Authority has the same powers as are conferred on a Commission of Inquiry by sections 4, 4B, 4C, 4D, 10, and 11 of the Commissions of Inquiry Act 1908 in respect of an inquiry under that Act. 5
- (2) Subject to the other provisions of this Act, the provisions of the Commissions of Inquiry Act 1908 referred to in **subsection (1)** and sections 5, 6, 7, 9, 12, and 14 of that Act apply. 10
- (3) At the hearing of any matter under any of **sections 26, 36, 37, 47, 53A, and 54**, the Licensing Authority may receive as evidence any statement, document, information, or matter that in his or her opinion may assist him or her to deal with the matter, whether or not it would be otherwise admissible in a court of law. 15

Compare: 1974 No 48 s 10

87 Protection of Licensing Authority and Deputy Licensing Authorities

Neither the Licensing Authority nor any Deputy Licensing Authority is personally liable for any act done or omission made by him or her while acting in good faith while performing or exercising his or her functions, powers, and duties under this Act. 20

Compare: 1974 No 48 s 11

25

88 Administrative and secretarial services

The chief executive of the responsible department must provide for the Licensing Authority and any Deputy Licensing Authorities the administrative and secretarial services that may be necessary to enable those persons to exercise their functions and powers, and perform their duties, under this Act. 30

Compare: 1974 No 48 s 12

89 Delegations

- (1) The Licensing Authority may, in writing, delegate to any person— 35

- (a) the power under **section 25** to grant an application for a licence without holding an oral hearing, if no notices of objection have been filed:
 - (b) the power under **section 33** to issue a temporary certificate of approval: 5
 - (c) the power of the Licensing Authority under **section 38**:
 - (d) the power under **section 46** to grant an application for a certificate of approval without holding an oral hearing, if no notices of objection have been filed:
 - (e) the power under **section 55** to issue a temporary certificate of approval: 10
 - (f) the functions of the Licensing Authority under **section 90** (registers).
- (2) Subject to any general or special directions given or conditions attached to a delegation, the person to whom a delegation is made under this section must perform and may exercise the power or functions in the same manner and with the same effect as if they had been conferred on that person directly by this section and not by delegation. 15
 - (3) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation. 20
 - (4) A delegation may be to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or specified classes of offices. 25
 - (5) A delegation is revocable in writing at will, and a delegation does not prevent the exercise of any function, duty, or power by the Licensing Authority.
 - (6) A delegation continues in force according to its tenor until revoked, even if the Licensing Authority who made it has ceased to hold office. 30

Registers

90 Registers

- (1) The Licensing Authority must establish and maintain the following registers: 35
 - (a) a register of licensees:
 - (b) a register of certificate holders.

- (2) The register of licensees must show in relation to each licensee—
- (a) the full name and, if the licensee is an individual, the residential address and occupation of the licensee; and
 - (b) the date on which the licence was issued; and 5
 - (c) the class or classes of private security business in respect of which the licence was issued; and
 - (d) every date on which the licence was renewed; and
 - (e) the registered office of the holder (if a company) or principal place of business of the holder (if not a company), and every other place of business specified in the licence; and 10
 - (f) details, including dates, of any suspension or cancellation of the licence; and
 - (g) any other prescribed information. 15
- (3) The register of certificate holders must show in relation to each certificate holder—
- (a) the full name, residential address, and occupation of the certificate holder; and
 - (b) the date on which the certificate of approval was issued; and 20
 - (c) the class or classes of responsible employee in respect of which the certificate was issued; and
 - (d) every date on which the certificate of approval was renewed; and 25
 - (e) details, including dates, of any suspension or cancellation of the certificate of approval; and
 - (f) any other prescribed information.
- (4) The Licensing Authority must determine the form of the registers, and may amend the form from time to time as he or she 30 considers necessary, providing that the content of the registers is as required by **subsections (2) and (3)**.

Compare: 1974 No 48 s 13

91 Inspection of registers

- (1) The Licensing Authority must take all reasonable steps to ensure— 35

- (a) that the information contained in the registers is available to members of the public to view at all reasonable times; and
 - (b) that members of the public may copy or purchase all, or any part of, the information contained in the registers at no more than a reasonable cost. 5
- (2) Despite **subsection (1)**,—
- (a) no residential address recorded under **section 90(2)(a) or 90(3)(a)** may be made available to the public for inspection; and 10
 - (b) no copy of a register or part of a register provided to a member of the public may contain a residential address recorded under **section 90(2)(a) or 90(3)(a)**.

92 Statement by Licensing Authority as to contents of register 15

A written statement of either of the following kinds signed by the Licensing Authority is, in any judicial proceedings, sufficient evidence, until the contrary is proved, of the matters referred to in the statement:

- (a) a statement to the effect that any specified person is or is not the holder of a licence or certificate of approval, or was or was not the holder of a licence or certificate of approval at any particular time or during any period specified in the statement; or 20
- (b) a statement as to any entry in a register. 25

Compare: 1974 No 48 s 15

Complaints, Investigation, and Prosecution Unit

93 Complaints, Investigation, and Prosecution Unit

- (1) The chief executive of the department of State designated by the Prime Minister must provide a Complaints, Investigation, and Prosecution Unit consisting of employees of that department. 30
- (2) The chief executive of the department designated under **subsection (1)** must designate an employee of that department to be the chief investigator of the unit. 35

- (3) The chief investigator of the unit, and persons authorised by the chief investigator, have the powers conferred on them by this Act.

93A Functions of Complaints, Investigation, and Prosecution Unit 5

The functions of the Complaints, Investigation, and Prosecution Unit are—

- (a) to prepare reports on applications for licences and certificates of approval when requested under **Part 2**: 5
- (b) to take part in oral hearings of applications for licences and certificates of approval as provided for in **Part 2**: 10
- (c) to prepare reports on complaints against licensees and certificate holders and matters referred by the Authority when requested under **Part 4**: 15
- (d) to take part in disciplinary hearings as provided for in **Part 4**: 15
- (e) to institute prosecutions for contraventions of this Act, and regulations made under this Act, in the cases that the chief investigator of the unit considers appropriate.

Part 6 20

General and miscellaneous provisions

General provisions

94 Appeals to District Court

- (1) The following persons have a right of appeal to a District Court against a decision of the Licensing Authority under this Act: 25
- (a) if an application is refused (whether in whole or in part), the applicant; and
 - (b) if an applicant is dissatisfied with a condition imposed by the Authority under **section 28(7) or 49(7)**, the applicant; and 30
 - (c) if an application is granted (in whole or in part), a person who objected to the granting of the application; and
 - (d) if a licence is suspended or cancelled, the licensee; and
 - (e) if a certificate of approval is suspended or cancelled, the person whose certificate of approval is suspended or cancelled; and 35

- (f) if the employment of an officer of a company that is a licensee is terminated, the officer; and
 - (g) if a licensee or person holding a certificate of approval is fined, the licensee or person; and
 - (h) if there was a complaint made by a constable under **Part 4** but the licence or certificate of approval in relation to which the complaint was made was not suspended or cancelled, the Commissioner of Police. 5
- (2) An appeal under this section must be brought within 28 days after the date on which the appellant was notified in writing by the Licensing Authority of the decision appealed against, or within any further period that the court may allow. 10
- (3) The appeal—
- (a) must be made by way of originating application in accordance with the District Courts Rules 2009; and 15
 - (b) must be filed in the office of the District Court nearest to the registered office of the licensee (if a company) or principal place of business of the licensee (if not a company), or to the place of employment or engagement of the certificate holder, as the case may require. 20
- (4) On hearing the appeal, the court may—
- (a) confirm, vary, or reverse the decision appealed against; or
 - (b) in the case of an order suspending a licence or certificate of approval, vary the period of the suspension; or 25
 - (c) refer the matter back to the Licensing Authority with directions to him or her to reconsider the whole or any specified part of the matter.
- (5) Subject to any order of the court, every decision of the Licensing Authority against which an appeal is made continues in force and has effect according to its tenor pending the determination of the appeal. 30

Compare: 1974 No 48 s 64

94A Appeals to High Court on questions of law only

If a party to proceedings before the District Court under **section 94** is dissatisfied with any determination of the court as being erroneous in point of law, the party may, with the leave 35

of the High Court, appeal to the High Court on a question of law only.

95 Power of Police and Complaints, Investigation, and Prosecution Unit to require information

- (1) Any constable or a person authorised by the chief investigator of the Complaints, Investigation, and Prosecution Unit (**authorised person**) who has reasonable cause to suspect that a person has committed or is committing or is attempting to commit any offence against this Act may require that person to give particulars of his or her— 5
10
(a) name and address; and
(b) date of birth.
- (2) If the constable or authorised person has reasonable grounds to suspect that any particulars provided under **subsection (1)** are false, he or she may require the person to supply satisfactory evidence of those particulars. 15
- (3) If any person, without reasonable excuse, refuses or fails to supply any particulars or evidence when required to do so by any constable or authorised person under this section, and persists in that refusal or failure after being cautioned by the constable or authorised person, that person may be arrested, without warrant, by any constable. 20
- (4) A person commits an offence who, having been required by a constable or authorised person to supply particulars or evidence under this section, without reasonable excuse,— 25
(a) refuses or fails to supply the particulars or evidence; or
(b) knowingly or recklessly supplies any particulars or evidence that are false in a material respect.
- (5) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding \$20,000. 30

96 Providing false information

A person commits an offence, and is liable on summary conviction to a fine not exceeding \$20,000, who—

- (a) is required by or under this Act to provide information to the Licensing Authority, a person authorised by the 35

- chief investigator of the Complaints, Investigation, and Prosecution Unit, or a constable; and
- (b) gives false information knowing that it is false or being reckless as to whether it is false.
- 97 Liability of officers of company for offences** 5
If a company commits an offence against this Act, every officer of the company is guilty of the same offence, and is liable to the same penalty, unless he or she proves that the offence was committed either without his or her knowledge or without his or her consent. 10
- 98 General penalty for offences**
A person who commits an offence under this Act, or against any regulations made under this Act, for which no penalty is otherwise provided by this Act or by the regulations, is liable on summary conviction to a fine not exceeding \$2,000. 15
- 99 Defence to charges involving failure to show or make copy of document, or show or make available any thing**
- (1) It is a defence to a charge under this Act involving a failure, following a request by a constable, to show, make a copy of, and give a document, or a failure to show or make available any other thing, to that constable if— 20
- (a) the constable was not in uniform and did not, at the time of making the request, produce evidence that he or she was a constable; or
- (b) the request was made at a time or in a manner that was unreasonable in the circumstances. 25
- (2) This section does not limit any other defences that may be available.
- Miscellaneous provisions*
- 101 Licence or certificate not to confer additional powers on holder** 30
- (1) No person, by virtue of being the holder of a licence or certificate of approval, has any power or authority that he or she would not have if this Act had not been passed.

- (2) No person, being the holder of a licence or certificate of approval, may—
 - (a) either orally or in writing claim, suggest, or imply that, by virtue of his or her licence, certificate of approval, occupation, or business, he or she has any power or authority that he or she does not in law have; or 5
 - (b) use or attempt to use his or her licence or certificate of approval for the purpose of exercising, claiming, suggesting, or implying such a power or authority; or
 - (c) either orally or in writing describe or refer to himself or herself as a detective or by any other expression or term containing the word “detective”; or 10
 - (d) wear any article of clothing, badge, or other article, that is likely to cause any member of the public to believe that the holder of the licence or certificate of approval is a constable. 15
- (3) Every person who contravenes **subsection (2)** commits an offence and is liable on summary conviction to a fine not exceeding \$20,000. 20
Compare: 1974 No 48 s 66

102 Misleading conduct

- (1) This section applies to the following classes of private security personnel:
 - (a) a property guard, personal guard, crowd controller: 25
 - (b) a property guard employee, personal guard employee, or crowd controller employee.
- (2) No person who does not hold a licence or certificate of approval as a class of person to whom this section applies may, with the intention of misleading any other person to believe that he or she is the holder of a licence or certificate of approval,—
 - (a) put on, or assume, any dress indicating that he or she is a person of that class; or 30
 - (b) wear any insignia indicating that he or she is person of that class. 35
- (3) Every person who contravenes **subsection (1)** commits an offence against this Act.

103 Lost licences and certificates of approval

If the Licensing Authority is satisfied that a holder of a licence or certificate of approval has lost his or her licence or certificate of approval the Licensing Authority may issue to the holder a substitute licence or certificate of approval— 5

- (a) on payment of the prescribed fee (if any); and
- (b) on receipt of ~~2 identical photographs~~ a photograph of the holder that, in the opinion of the Licensing Authority, ~~comply~~ complies with the requirements (if any) of any regulations made under this Act. 10

Compare: 1974 No 48 s 67

104 Voluntary surrender of licence or certificate of approval

(1) A holder of a licence or certificate of approval may at any time surrender his or her licence or certificate of approval by delivering it with a notice in writing to that effect to the Licensing Authority. 15

(2) On receipt of the documents by the Licensing Authority, the licence or certificate of approval ceases to have effect.

(3) If a holder of a licence or certificate of approval gives a notice under **subsection (1)** to the Licensing Authority, he or she must also, within 7 days, serve a copy of the notice on the Commissioner of Police. 20

(4) The surrender of a licence or certificate of approval under **subsection (1)** does not affect the liability of the holder—

- (a) to pay any fees or other money payable in accordance with the provisions of this Act on or before the date on which the licence or certificate of approval would expire if it had not been surrendered; or 25
- (b) to perform any duty or obligation that he or she was required to perform on or before the date specified in **paragraph (a)**; or 30
- (c) for any act done or default or omission made before the date of surrender.

Compare: 1974 No 48 s 68

105 Change of place of business

35

(1) A licensee may at any time apply in writing to the Licensing Authority to amend his or her licence by—

- (a) changing the registered office of the licensee; or
 - (b) specifying any additional place from which the licensee may carry on the business or businesses to which the licence relates; or
 - (c) deleting any place of business specified in the licence. 5
- (2) Every application must be accompanied by the licence to which it relates.
- (3) If the Licensing Authority grants the application, the Authority must endorse the licence accordingly and return it to the licensee, and must also notify the Commissioner of Police in writing of that fact. 10
- Compare: 1974 No 48 s 69

106 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 15
- (a) prescribing forms to be used for the purposes of this Act:
 - (b) prescribing the matters for which fees are payable under this Act and the amount of those fees: 20
 - (c) providing for the exemption from fees, in whole or in part:
 - (d) prescribing the circumstances in which the Licensing Authority may waive or refund a prescribed fee in a particular case: 25
 - (e) prescribing the manner in which applications under **sections 19, 20, and 42** are to be made:
 - (f) prescribing information required to be supplied with an application for a licence or certificate, which may include information to establish the applicant's identity or, in the case of a company applicant, the identity of an officer of the company: 30
 - (fa) requiring an individual to whom a licence or certificate is issued to collect the licence or certificate in person, or provide evidence of his or her identity when collecting the issued licence; or both: 35
 - (g) ~~prescribing the competency, knowledge, and skills required by applicants for licences and certificates of ap-~~

- ~~proval or for renewal of licences and certificates of approval, including without limitation, by—~~
- ~~(i) requiring that a particular course of study or training has been successfully completed:~~
 - ~~(ii) requiring a person to have met a specified standard or other measure of competency, knowledge, and skills:~~ 5
- (g) prescribing the competency, knowledge, and skills required by applicants for licences and certificates of approval, applicants for renewal of licences and certificates of approval, and licensees and certificate holders, including, without limitation, by— 10
- (i) requiring that a particular course of study or training has been successfully completed:
 - (ii) requiring a person to have met a specified standard or other measure of competency, knowledge, and skills: 15
- (h) prescribe the organisation or organisations that may provide the courses of study or training referred to in **paragraph (g)(i)** and provide for the monitoring of those organisations by the Licensing Authority: 20
- (j) prescribing requirements and other matters relating to the making of emergency appointments under **section 56**:
- (k) requiring records or other documents to be kept by any class or classes of licensees, certificate holders, or persons other than licensees who employ or engage crowd controller employees under the Act: 25
- (m) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section or **section 106A**, and prescribing the amount of any fine that may be imposed in respect of such offence, being an amount not exceeding \$2,000 and, where the offence is a continuing one, a further amount not exceeding \$20 for every day during which the offence has continued: 30 35
- (n) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.

- (2) Regulations made under **subsection (1)(g)** may—
 - (a) prescribe different requirements in relation to—
 - (i) different classes of private security business or different classes of responsible employees:
 - (ii) different types of work within a class of private security business or class of responsible employees: 5
 - (b) exempt certain persons or classes of persons from all or part of the prescribed requirements:
 - (c) without limiting **paragraph (b)**, provide that a standard or other measure of competency, knowledge, and skills met within a certain period before a specified date be accepted as meeting the requirements prescribed under **subsection (1)(g)(ii)**. 10

106A Codes of conduct 15

- (1) The Governor-General may, from time to time, by Order in Council made on the recommendation of the Minister, make regulations prescribing codes of conduct for licensees or certificate holders.
- (2) Regulations made under **subsection (1)** may— 20
 - (a) prescribe separate requirements or separate codes of conduct in relation to different classes of private security business or different classes of responsible employees:
 - (b) prescribe a code of conduct for 1 or more classes of private security business or different classes of responsible employees and not for others. 25
- (3) Without limiting **subsection (1)**, the Minister must recommend that the Governor-General make regulations under that subsection, to be in force at all times on and after ~~1 December 2010~~ 1 April 2011, prescribing a code of conduct containing matters that the Minister is satisfied are necessary or desirable in relation to the surveillance of individuals by private investigators and private investigator employees. 30

107 Service of documents

- (1) Any notice or other document that under this Act may be or is required to be given to or served on any applicant for a licence or certificate of approval may be served—
- (a) by delivering it to the applicant personally; or 5
 - (b) by leaving it or sending it by post addressed to the applicant at his or her residential address, principal place of business, or registered office specified in his or her application; or
 - (c) by leaving it at any address for service specified in his or her application. 10
- (2) Any notice or other document that under this Act may be or is required to be given to or served on a holder of a licence or certificate of approval may be served by delivering it to him or her personally, or by leaving it or sending it by post addressed to him or her— 15
- (a) at his or her usual or last known place of residence in New Zealand; or
 - (b) in the case of a licensee, at his or her registered office, principal place of business, or at any other place of business specified in his or her licence; or 20
 - (c) in the case of a certificate holder, at the place of business at which he or she is employed or engaged.
- (3) In the absence of proof to the contrary, a notice or other document sent by post in accordance with **subsection (1) or (2)** must be treated as having been given to the person at the time when the letter would have been delivered in the ordinary course of post. 25
- (4) In proving service of the notice, it is sufficient to prove that it was properly addressed and posted. 30
- (5) Where under this Act any notice or other document is to be given to or served on the Police, it may be given to or served on the senior member, for the time being, of the police in the district or place of residence of the applicant, or holder of the licence or certificate of approval, to whom the notice or other document relates. 35

Compare: 1974 No 48 s 72

108 Photographs

If under this Act any photograph is to be submitted to the Licensing Authority, the Licensing Authority may require that the photograph comply with the requirements of any regulations made under this Act.

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Compare: 1974 No 48 s 72B

109 Civil remedies not affected

Nothing in this Act affects any civil remedy that any person may have against a holder of a licence or certificate of approval in respect of any matter.

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Compare: 1974 No 48 s 73

Repeals, revocations, and amendments

110 Repeals

The Private Investigators and Security Guards Act 1974 is repealed.

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110A Revocations

The following enactments are revoked:

- (a) the Private Investigators and Security Guards Act Commencement Order 1975 (SR 1975/187);
- (b) the Private Investigators and Security Guards Regulations 1975 (SR 1975/188).

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111 Amendments to other enactments

- (1) The Acts listed in **Schedule 2** are amended in the manner indicated in that schedule.
- (2) The regulations listed in **Schedule 3** are amended in the manner indicated in that schedule.

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Transitional and savings provisions

112 Existing licences

- (1) A person who, immediately before the commencement of this Act, held a licence as a security guard under the Private Investigators and Security Guards Act 1974 for the classes of business described in section 4(1)(a) or (e) of that Act is deemed

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to hold a licence under this Act as a property guard and a confidential document destruction agent.

- (2) A person who, immediately before the commencement of this Act, held a licence as a security guard under the Private Investigators and Security Guards Act 1974 for the classes of business described in section 4(1)(b) or (c) of that Act is deemed to hold a licence under this Act as a security technician. 5
- (3) A person who, immediately before the commencement of this Act, held a licence as a security guard under the Private Investigators and Security Guards Act 1974 for the class of business described in section 4(1)(d) of that Act is deemed to hold a licence under this Act as a security consultant. 10
- (4) A person who, immediately before the commencement of this Act, held a licence as a private investigator under the Private Investigators and Security Guards Act 1974 is deemed to hold a licence under this Act as a private investigator. 15

113 Application of Act to, and expiry of, existing licences

- (1) This section applies to a licence that is deemed by **section 112** to be held under this Act.
- (2) Any matters specified on the licence under section 26(3) or 28(2) of the Private Investigators and Security Guards Act 1974 are deemed to be conditions imposed under **section 28(7)** of this Act. 20
- (3) Nothing in **section 38** applies in respect of the licence.
- (4) The licence expires— 25
 - (a) on the date an application for a licence under this Act is determined, if the licensee applies for the licence before the close of ~~31 January~~ 1 June 2011; or
 - (b) in every other case, on ~~31 March~~ 2 June 2011.

113A Existing certificates of approval 30

- (1) A person who, immediately before the commencement of this Act, held a certificate of approval as a responsible employee in relation to a security guard licensed under the Private Investigators and Security Guards Act 1974 to carry on the classes of business described in section 4(1)(a) or (e) of that Act is deemed to hold a certificate of approval under this Act as a 35

property guard employee and a confidential document destruction agent employee.

- (2) A person who, immediately before the commencement of this Act, held a certificate of approval as a responsible employee in relation to a security guard licensed under the Private Investigators and Security Guards Act 1974 to carry on the classes of business described in section 4(1)(b) or (c) of that Act is deemed to hold a certificate of approval under this Act as a security technician employee. 5
- (3) A person who, immediately before the commencement of this Act, held a certificate of approval as a responsible employee in relation to a security guard licensed under the Private Investigators and Security Guards Act 1974 to carry on the class of business described in section 4(1)(d) of that Act is deemed to hold a certificate of approval under this Act as a security consultant employee. 10 15
- (4) A person who, immediately before the commencement of this Act, held a certificate of approval as a responsible employee in relation to a private investigator is deemed to hold a certificate of approval under this Act as a private investigator employee. 20

113B Expiry of existing certificates of approval

- (1) This section applies to a certificate of approval that is deemed by **section 113A** to be held under this Act.
- (2) The certificate of approval expires— 25
 - (a) on the date an application for a certificate of approval under this Act is determined, if the certificate holder applies for the certificate before the close of ~~31 January~~ 1 June 2011; or
 - (b) in every other case, on ~~31 March~~ 2 June 2011.

113C Transition period for business or work of personal guard or crowd controller 30

- (1) A person who is a personal guard within the meaning of **section 10** is not required to hold a licence under this Act in respect of that class of business until ~~1 June 2011~~ the specified date. 35

- (2) A person who is a crowd controller within the meaning of **section 11** is not required to hold a licence under this Act in respect of that class of business until ~~1 June 2011~~ the specified date.
- (3) A person who performs the work of a personal guard employee described in **section 13E** is not required to hold a certificate of approval under this Act in respect of that class of work until ~~1 June 2011~~ the specified date. 5
- (4) A person who performs the work of a crowd controller employee described in **section 13F** is not required to hold a certificate of approval under this Act in respect of that class of work until ~~1 June 2011~~ the specified date. 10
- (5) In this section, **specified date** means the date that is specified for the purpose of this section by the Governor-General by Order in Council. 15

114 Applications in progress

- (1) This section applies to any application for a licence or certificate of approval made under the Private Investigators and Security Guards Act 1974 that, immediately before the commencement of this Act, was not yet determined. 20
- (2) The Private Investigators and Security Guards Act 1974 continues to apply to the application as if it had not been repealed.
- (3) If an application to which this section applies is granted, **section 112 or 113A** applies to the licence or certificate of approval as if the licence or certificate had been in force immediately before the commencement of this Act. 25

115 Disciplinary proceedings in progress

- (1) This section applies to any complaint made against a licensee or certificate holder under section 53 of the Private Investigators and Security Guards Act 1974 that, immediately before the commencement of this section, was not yet determined. 30
- (2) The Private Investigators and Security Guards Act 1974 continues to apply in respect of the complaint as if it had not been repealed.

116 Provisions relating to Registrar

- (1) The Registrar under the Private Investigators and Security Guards Act 1974 remains in office until the close of ~~30 June~~ 31 October 2011 to determine the applications and proceedings referred to in **sections 114 and 115**. 5
- (2) For the purposes of **sections 114 and 115**, the Registrar has all the necessary powers and may exercise, despite the repeal of the Private Investigators and Security Guards Act 1974 by this Act, the powers conferred on the Registrar by that Act.
- (2A) After ~~30 June~~ 31 October 2011, any applications or proceedings still to be completed must be referred to the Licensing Authority, and **sections 114 and 115** apply. 10
- (2B) As soon as practicable after ~~30 June~~ 31 October 2011, the Registrar must provide the Licensing Authority with— 15
- (a) all information that the Registrar holds in respect of applications and proceedings in progress; and
 - (b) the registers kept under section 13 of the Private Investigators and Security Guards Act 1974.
- (3) To avoid doubt, nothing in this Act entitles the Registrar to any compensation in respect of the repeal of the Private Investigators and Security Guards Act 1974, including for any salary or allowances that would otherwise be payable for the remainder of the term of an appointment affected by the repeal. 20

117 Savings provision for Order in Council

The Private Investigators (Exclusion of Occupations) Order 1976 (SR 1976/128) continues to have effect and may be amended, revoked, or replaced under **section 12**. 25

Schedule 1

ss 74, 77

**Discretionary grounds for cancellation of
licence or certificate**

- 1 Any of **sections 79, 101, or 102** of this Act.
 - 3 Section 29 or 30 of the Summary Offences Act 1981. 5
 - 4 Sections 3, 4, or 9 of the Trespass Act 1980.
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Schedule 2
Amendments to Acts

s 111(1)

Dog Control Act 1996 (1996 No 13)

Definition of **working dog** in section 2: repeal paragraph (b)(v) and substitute:

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“(v) owned by a property guard as defined in **section 9** of the Private Security Personnel and Private Investigators Act **2008** or a property guard employee as defined in **section 13D** of that Act, and kept solely or principally for the purpose of doing the things specified in **section 9(1)(a) to (c)** of that Act; or”.

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Financial Transactions Reporting Act 1996 (1996 No 9)

Section 3(2): omit “security guard within the meaning of section 4 of the Private Investigators and Security Guards Act 1974” and substitute “security technician, security consultant, confidential document destruction agent, or property guard within the meaning of the Private Security Personnel and Private Investigators Act **2008**”.

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Ombudsmen Act 1975 (1975 No 9)

Part 2 of Schedule 1: insert in its appropriate alphabetical order: “Private Security Personnel Licensing Authority”.

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Privacy Act 1993 (1993 No 28)

Schedule 2: insert in its appropriate alphabetical order the following item:

Private Security Personnel and Private **Section 90**
Investigators Act **2008**

Resource Management Act 1991 (1991 No 69)

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Section 38(2)(a): repeal and substitute:

“(a) the holder of a licence as a property guard issued under **section 29** of the Private Security Personnel and Private Investigators Act **2008**; or”.

Schedule 3 **s 111(2)**
Amendments to regulations

**Domestic Violence (Public Registers) Regulations 1998 (SR
1998/342)**

Schedule 1: Insert in the appropriate alphabetical order the following 5
item:

Private Security Personnel and Private **Section 90**
Investigators Act **2008**

Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)

Rule 26(2)(f)(iii): omit “security guard” and substitute “personal
guard”.

Rule 26(3): revoke the definition of **security guard** and substitute: 10
“**personal guard** has the meaning given to it in **section 10**
of the Private Security Personnel and Private Investigators Act
2008”.

Land Transport (Road User) Rule 2004 (SR 2004/427)

Rule 7.4(4)(c): omit “security guard’s licence issued under the Pri- 15
vate Investigators and Security Guards Act 1974” and substitute “li-
cence as a property guard under the Private Security Personnel and
Private Investigators Act **2008**”.

Legislative history

11 September 2008	Introduction (Bill 297–1)
29 April 2009	First reading and referral to Justice and Electoral Committee
29 March 2010	Reported from Justice and Electoral Committee (Bill 297–2)
7 September 2010	Second reading
