

## PRIVATE INQUIRY AGENTS ACT.

### Act No. 52, 1955.

An Act to provide for the licensing and control of private inquiry agents and their subagents; and for purposes connected therewith. [Assented to, 13th December, 1955.] Elizabeth II,  
No. 52, 1955.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Private Inquiry Agents Act, 1955." Short title  
and com-  
mencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**2.** In this Act unless the context or subject matter otherwise indicates or requires— Interpreta-  
tion.

"License" means a private inquiry agent's license or a subagent's license, as the case may be.

"Licensed private inquiry agent" means the holder of a private inquiry agent's license.

"Licensed subagent" means the holder of a subagent's license.

"Prescribed" means prescribed by this Act or the regulations.

"Private inquiry agent" means any person (whether or not he carries on any other business) who exercises or carries on or advertises or notifies

or

or states that he exercises or carries on or that he is willing to exercise or carry on or in any way holds himself out to the public as ready to undertake any of the following functions, namely:—

- (a) obtaining and furnishing information as to the personal character or actions of any person or as to the character or nature of the business or occupation of any person;
- (b) searching for missing persons; or
- (c) furnishing guards or watchmen,

on behalf of any other person and for or in consideration of any payment or other remuneration (whether monetary or otherwise).

“Private inquiry agent’s license” means a valid and unexpired private inquiry agent’s license or renewed license issued under this Act.

“Register” means the register mentioned in section eight of this Act.

“Registered address”, in relation to a private inquiry agent or subagent, means the address that is for the time being entered in the register in respect of the private inquiry agent or subagent, as the case may be.

“Regulations” means regulations made under this Act.

“Subagent” means any person in the direct employ of or acting for or by arrangement with a private inquiry agent who performs for such private inquiry agent any of the functions of a private inquiry agent as defined by this Act whether his remuneration is by way of salary, wages, commission or otherwise.

“Subagent’s license” means a valid and unexpired subagent’s license or renewed license issued under this Act.

**3. (1) This Act shall not be construed as requiring—** No. 52, 1955.

- (a) any member of the police force of the Commonwealth or this State or any other State or territory of the Commonwealth or any other part of Her Majesty's dominions or any peace officer appointed under the Peace Officers Act 1925 of the Parliament of the Commonwealth in the exercise of his functions as such member or peace officer;
- (b) any member of the Defence Forces of the Commonwealth in the exercise of his functions as such member;
- (c) any officer or employee of—
- (i) the Crown in right of the Commonwealth or of this State;
  - (ii) any responsible Minister of the Crown whether a Minister of the Commonwealth or of this State; or
  - (iii) any Government Department of the Commonwealth or of this State, in the exercise of his functions as such officer or employee;
- (d) any solicitor acting in the ordinary course of his profession or any solicitor's clerk acting in the ordinary course of his master solicitor's profession;
- (e) any person bona fide carrying on the business of insurance or of an insurance adjustment agency or any employee or agent of such a person in the exercise of his functions as such employee or agent;
- (f) any inspector, guard, watchman, or other person employed to do inspecting, guarding, watching, or inquiry work for one employer only (such employer not being a private inquiry agent) in respect of inspecting, guarding, watching or inquiry work done for that employer for the protection

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protection of persons or property or arising out of the functions or business exercised or carried on by that employer,

to hold a license under this Act.

(2) The fact that any person carries on the business of obtaining or furnishing information as to the financial rating or standing of any person shall not of itself require the person carrying on that business or any employee or agent of that person to hold a license under this Act.

(3) The Governor may by regulations—

- (a) exempt to the extent prescribed any class of persons from the operation of this Act; and
- (b) specify what provisions, if any, of this Act and the regulations are, with such modifications as are necessary or seem desirable, to apply to any class of persons so exempted.

No person  
to act  
as  
private  
inquiry  
agent  
without  
a license.

4. (1) Subject to this Act after the expiration of two months from the commencement of this Act no person shall—

- (a) exercise or carry on or advertise, notify or state that he exercises or carries on or is willing to exercise or carry on the business of or shall act as a private inquiry agent; or
- (b) in any way hold himself out to the public as ready to undertake for payment or other remuneration (whether monetary or otherwise) any of the functions of a private inquiry agent,

unless he is the holder of a private inquiry agent's license.

(2) Any person who contravenes or fails to comply with any of the provisions of this section shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

5.

**5.** (1) Subject to this Act after the expiration of **No. 52, 1955.**  
two months from the commencement of this Act—

- (a) no person, unless he is the holder of a sub-agent's license, shall be or act as a subagent for any licensed private inquiry agent; and
- (b) no person shall be or act as a subagent for any person who should be but is not the holder of a private inquiry agent's license.

Subagents  
to be  
licensed.  
cf. Act No. 7,  
1935, s. 31.

(2) Any person who contravenes or fails to comply with any of the provisions of this section shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

**6.** (1) A license shall be in the form prescribed and shall set forth the name, place of business and place of abode of the person taking out the license.

Licenses.  
cf. *Ibid.* s. 6.

(2) The fee payable for a license shall be such amount as may be prescribed.

(3) Every license shall be taken out in the true name of the person applying for the license, and, if taken out in any other name, shall be void.

(4) A license, unless sooner cancelled, shall be in force for twelve months from the date of its issue.

A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

**7.** (1) Every person who desires to obtain a license or renewal of license shall make application in the prescribed form.

Application  
for  
license.  
cf. *Ibid.* s. 7.

(2) Where the applicant resides in New South Wales the application shall be lodged with the clerk of the court of the petty sessions district within which the applicant proposes to carry on business or if there is more than one such court then with the clerk of the court within that district nearest to the place where the applicant proposes to carry on business.

(3) Where the applicant resides out of New South Wales the application shall be lodged with the clerk of any court of petty sessions.

(4)

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(4) Upon the receipt of an application for the grant or the renewal of a license under this Act the clerk shall forthwith notify the officer in charge of police at the nearest police station who shall inquire into and report upon the character of the applicant.

(5) No application shall be heard until after the expiration of seven days after the lodging of the application.

(6) No application shall be heard except by a court of petty sessions holden before a stipendiary magistrate.

(7) Every application shall be heard in open court, and the consideration of the application shall be deemed to be a judicial proceeding.

(8) It shall be the duty of the court of petty sessions to refuse the grant or the renewal of a license if—

- (a) satisfactory evidence has not been produced of the good fame and character of the applicant;
- (b) satisfactory evidence has been produced that the applicant is not a fit and proper person to hold a license;
- (c) satisfactory evidence has not been produced that the applicant is of the age of twenty-one years or upwards;
- (d) the applicant has been convicted of any offence punishable on indictment;
- (e) the applicant is not a natural born or naturalised subject of Her Majesty;
- (f) the applicant has not been continuously resident in Australia for the period of twelve months immediately preceding the making of the application;
- (g) the applicant is disqualified under this Act from holding a license.

(9) Where the court grants an application for a license or renewal of a license the clerk of the court shall, on payment to him of the prescribed fee, issue the license.

(10)

(10) In any case where satisfactory proof has been given of the loss or destruction of the original, a stipendiary magistrate may order the issue of a duplicate license subject to payment of the prescribed fee. No. 52, 1955.

8. The clerk of petty sessions shall within seven days after the issue of a license or renewal thereof or after the cancellation thereof under this Act notify the Commissioner of Police of such issue or cancellation, and the Commissioner of Police shall keep a register of all such licenses and of all renewals and cancellations of licenses, which register shall be available for perusal by any member of the public upon payment of the fee prescribed in that behalf. Register to be kept by Commissioner of Police.  
cf. Act No. 7, 1935, s. 13.

9. (1) Any licensed private inquiry agent or licensed subagent may on the information of a member of the police force of or above the rank of sergeant be summoned before a court of petty sessions holden before a stipendiary magistrate to show cause why his license should not be cancelled and why he should not be disqualified either permanently or temporarily from holding a private inquiry agent's license or a subagent's license, as the case may be, on the ground— Cancellation of license.  
cf. *Ibid.* s. 14.

- (a) that he improperly obtained his license contrary to the provisions of this Act;
- (b) that he is not a fit and proper person to continue any longer to hold a license;
- (c) that he has been convicted of any offence punishable on indictment; or
- (d) that he has been guilty of such conduct as a private inquiry agent or, as the case may be, as a subagent as renders him unfit to continue any longer to hold a license.

(2) Upon being satisfied of the truth of any of the grounds aforesaid the court may order that such private inquiry agent's license or subagent's license be delivered up forthwith and cancelled and that such private inquiry agent or subagent be disqualified either permanently or  
for

No. 52, 1955. for such period as the court specifies from holding a license under this Act whether as a private inquiry agent or as a subagent.

(3) Where the court makes an order under this section or refuses any application under section seven of this Act, the private inquiry agent or subagent or the person making the application, as the case may be, may appeal in accordance with the rules of court to the District Court exercising jurisdiction in the district within which the court of petty sessions that made the order or refused the application is situated.

Every such appeal shall be in the nature of a rehearing.

Notice of appeal shall be given to such persons as may be prescribed by rules of court, or as the District Court may direct.

Registered  
address.  
cf. Act No.  
7, 1935,  
s. 15.

**10.** (1) Every licensed private inquiry agent and every licensed subagent shall have a registered address within New South Wales to which all communications and notices may be addressed.

(2) Notice of the registered address and of any change therein shall be lodged by the private inquiry agent or subagent, as the case may be, with the court from which the license issued within the prescribed time, and the clerk of such court shall record such notice and advise the Commissioner of Police who shall enter the address or the change therein in the register kept by him.

(3) If any licensed private inquiry agent carries on business without complying with the requirements of this section he shall be liable to a penalty not exceeding five pounds for every day during which he so carries on business; and if any licensed subagent acts as a subagent without complying with the provisions of this section he shall be liable to a penalty not exceeding five pounds.

As to  
displaying  
notice on  
places of  
business,  
etc.  
cf. *Ibid.*  
s. 16.

**11.** (1) Every licensed private inquiry agent shall paint or affix and keep painted or affixed on his place or places of business, so as to be easily read from outside such place or places, his name and description as a licensed private inquiry agent.

(2)



(2) Any person—

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- (a) who contravenes or fails to comply with any of the provisions of subsection one of this section; or
- (b) who, not being the holder of a private inquiry agent's license, keeps up or exhibits on or near his office, house or place of business or exhibits anywhere or allows to remain unobliterated any sign, writing, painting or other mark implying that such office, house or place of business is that of a person licensed to carry on the business of or to act as a private inquiry agent,

shall be guilty of an offence against this Act.

**12.** Any private inquiry agent who by any wilfully false, misleading or deceptive statement, representation or promise or by any wilful concealment of material fact, induces or attempts to induce any person to enter into an agreement or contract in connection with his business as a private inquiry agent shall be guilty of an offence against this Act.

Misrepresentation, etc., by private inquiry agent. cf. Act No. 7, 1935, s. 21.

**13.** (1) If a private inquiry agent or subagent is convicted in any court of any indictable offence or if in any proceeding before a court in which any private inquiry agent or subagent gives evidence the court is of opinion on the evidence given before it, whether that evidence is given by the private inquiry agent or subagent or any other person, that such private inquiry agent or subagent ought to be summoned before a court of petty sessions under section nine of this Act to show cause why his license should not be cancelled and why he should not be disqualified either permanently or temporarily from holding a private inquiry agent's license or a subagent's license, as the case may be, the court before which he is so convicted or gives evidence, as the case may be, may order—

Power of court to order private inquiry agent or subagent to be summoned under section nine. cf. *Ibid.* s. 23.

- (a) that his license be suspended for a period not exceeding twenty-eight days; and

(b)

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(b) that he deliver up his license to the court within such time as may be specified in the order for transmission to the Commissioner of Police.

(2) Any private inquiry agent or subagent who fails to comply with an order made under paragraph (b) of subsection one of this section shall be guilty of an offence against this Act.

(3) The clerk of the court shall forthwith transmit to the Commissioner of Police—

- (a) a copy of any such order; and
- (b) upon the delivery up to the court of a license pursuant to any such order, the license so delivered up.

The Commissioner of Police shall retain any license so delivered up during the period for which it is suspended under subsection one or five of this section.

(4) The Commissioner of Police—

- (a) shall forthwith upon the receipt of such copy cause the fact of such suspension to be noted in the register kept by him under this Act; and
- (b) shall, as soon as practicable thereafter, cause the private inquiry agent or subagent, as the case may be, to be summoned before a court of petty sessions under section nine of this Act to show cause why his license should not be cancelled and why he should not be disqualified either permanently or temporarily from holding a private inquiry agent's license or subagent's license, as the case may be.

(5) Where the private inquiry agent or subagent, as the case may be, is so summoned during the period for which his license is suspended under subsection one of this section, the court before which the proceedings are taken may, if those proceedings are not concluded before the expiration of the period for which his license was suspended under that subsection, order that the license be further suspended until the conclusion of those proceedings.

(6)

(6) During the period for which a private inquiry agent's license or subagent's license is suspended under this section, the private inquiry agent or subagent, as the case may be, shall be deemed not to be the holder of a license under this Act. No. 52, 1955.

(7) Notice of any order made under subsection one or five of this section shall be served upon the private inquiry agent or subagent concerned by the clerk of the court that made the order by forwarding a copy thereof by post to his registered address.

**14.** (1) A licensed private inquiry agent shall not knowingly employ in any way whatever in connection with his business—

(a) as a subagent any person who is not a licensed subagent; or

(b) any person who is for the time being disqualified under this Act from holding a private inquiry agent's license or a subagent's license, or whose application for a private inquiry agent's license or subagent's license has been refused, unless such an application has been subsequently granted.

Certain persons not to be employed by licensed private inquiry agents. cf. Act No. 7, 1935, s. 25.

(2) Subject to this section no such person shall participate or be in any way concerned in the business of a licensed private inquiry agent or in the work of a licensed subagent.

(3) Any licensed private inquiry agent or any person aforesaid who contravenes or fails to comply with any of the provisions of this section shall be liable for every such offence to a penalty of not less than five pounds and not more than one hundred pounds.

**15.** When in any proceedings under this Act or the regulations against any person it is alleged in the information that such person is not the holder of a private inquiry agent's license or, as the case may be, of a subagent's license, it shall in the absence of proof to the contrary be presumed that such person is not the holder of such a license. Burden of proof. cf. *Ibid.* s. 26.

**16.**

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Saving as  
to licensed  
subagents,  
etc.  
cf. Act No.  
7, 1935, s. 33.

**16.** Nothing in this Act shall be construed as requiring any licensed subagent, so far as he performs for any licensed private inquiry agent any of the functions of a private inquiry agent and is duly authorised thereunto by such private inquiry agent, to hold a private inquiry agent's license under this Act, or as requiring any licensed private inquiry agent to hold a subagent's license under this Act.

Private  
inquiry  
agent or  
subagent not  
to lend  
license.  
cf. Act No. 7,  
1935, s. 37.

**17.** Any private inquiry agent or subagent who lets out, hires or lends his license to any other person or permits any other person to use his license shall be guilty of an offence against this Act, and on conviction for such offence and in addition to any penalty therefor his license shall thereupon become absolutely void and shall be delivered up to the court and cancelled.

Unlicensed  
private  
inquiry  
agent or  
subagent  
not to  
recover  
fee.  
cf. *Ibid.*  
s. 38.

**18.** Subject to this Act no person shall be entitled to bring any proceeding in any court to recover any commission, fee, gain or reward for any service done or performed by him as a private inquiry agent or subagent after the expiration of two months from the commencement of this Act unless he was the holder of a private inquiry agent's license or of a subagent's license, as the case may be, at the time of doing or performing such service.

Furnishing  
incorrect  
particulars  
in applica-  
tions.  
cf. *Ibid.*  
s. 39.

**19.** Any person who in any application made pursuant to this Act makes any statement which is not correct or furnishes any particulars which are not correct or knowingly omits to furnish any particulars required to be furnished by or under this Act shall be liable to a penalty not exceeding fifty pounds.

Excessive  
charges  
may be  
reduced.

**20.** (1) In any proceedings taken by a private inquiry agent for the recovery of money under an agreement for services rendered in his capacity as such agent or in any proceedings instituted under subsection three of this section, if it appears to the court that the amount charged directly or indirectly under the agreement by the private inquiry agent in respect of the services rendered by him is excessive the court may reopen the transaction.

(2)

(2) The court reopening any transaction under this section may, notwithstanding any statement or settlement of accounts, reopen any account already taken between the parties and relieve the private inquiry agent's client (or any guarantor of that client) of any liability in excess of such sum as the court adjudges to be fairly and reasonably payable for the services rendered by the private inquiry agent (including any expenses reasonably and necessarily incurred), and may set aside, either wholly or in part, or revise, or alter any agreement made or security given in connection with the transaction, and may give a verdict or judgment for any party for such amount as, having regard to the relief, if any, that the court thinks fit to grant, is justly due to that party.

(3) Proceedings may be instituted under this subsection by the client of a private inquiry agent for the purpose of obtaining relief under this section.

In any such proceedings the court shall have and may exercise all or any of the powers conferred by subsections one and two of this section.

**21.** (1) No proceedings relating to an agreement between a private inquiry agent and any other person for the rendering of services by the private inquiry agent in his capacity as such agent shall be brought or taken in a court of petty sessions other than a court of petty sessions holden before a stipendiary magistrate sitting alone.

Jurisdiction  
of courts  
of petty  
sessions.

(2) A court of petty sessions holden before a stipendiary magistrate sitting alone shall, in addition to the jurisdiction that might be exercised by it if this section had not been enacted, have jurisdiction in respect of proceedings relating to an agreement between a private inquiry agent and any other person for the rendering of services by the private inquiry agent in his capacity as such agent in all cases in which the amount charged directly or indirectly under the agreement by the private inquiry agent in respect of the services rendered by him does not exceed two hundred and fifty pounds.

(3)

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(3) The costs of any proceedings relating to any such agreement as is referred to in subsection one of this section that are brought or taken in a court of petty sessions shall be in the discretion of the court, and the court, when allowing any costs to any party in those proceedings, may assess the amount thereof.

Any order made under the authority of this Act for the payment of money or of costs by a court of petty sessions shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such under the provisions of that Act.

This subsection shall not be construed so as to affect in any way the jurisdiction of any other court in relation to costs.

Offences  
against  
Act.

**22.** (1) Every person who contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence against this Act.

(2) Where no penalty is specially provided for any offence against this Act any person guilty of such offence shall be liable to a penalty not exceeding one hundred pounds.

(3) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Publication  
of name  
and place  
of business  
in adver-  
tisements.  
cf. Act No.  
7, 1935,  
s. 41.

**23.** Any private inquiry agent who publishes (whether in a newspaper or otherwise) any advertisement relating to or in connection with his business without specifying therein his name as a licensed private inquiry agent and his registered address shall be guilty of an offence against this Act.

Regulations.

**24.** (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

(a) prescribing any forms to be used under this Act;

(b) prescribing the fee for a private inquiry agent's license and the fee for a subagent's license;

(c)

- (c) the procedure on applications and other proceedings under this Act; No. 52, 1955.
- (d) exempting any class of persons from the operation of this Act and prescribing the extent of such exemptions and specifying the provisions (if any) of this Act which are to apply to any class of persons so exempted; and
- (e) generally, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may prescribe penalties not exceeding fifty pounds for any breach thereof.

(3) All regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.