



compliance

The Office of Consumer and Business Affairs investigates breaches of the *Security and Investigation Agents Act 1995*, including unlicensed operators.

SUBSTANTIAL PENALTIES MAY BE IMPOSED

We strongly recommend that you obtain a copy of the *Security and Investigation Agents Act 1995* and Regulations from:

Service SA, Government Legislation Outlet, Lands Titles Office, 101 Grenfell Street, Adelaide SA 5000
Telephone **13 23 24**
or visit
www.parliament.sa.gov.au

Office of Consumer and Business Affairs

Business and Occupational Services

Level 3, Chesser House
91 - 97 Grenfell Street
Adelaide SA 5000
Telephone (08) 8204 9686

Regional Centres

Berri, Mount Gambier, Naracoorte, Port Augusta, Port Lincoln, Port Pirie
Telephone **131 882**

Translating and Interpreting Services (TIS)

Telephone **131 450**

www.ocba.sa.gov.au

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Security & Investigation Agents

Licensing

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Business and
Occupational Services



www.ocba.sa.gov.au

The main reason for licensing security and investigation agents is to provide consumer protection. The Commissioner for Consumer Affairs administers the *Security and Investigation Agents Act 1995*. The legislation sets out minimum entry standards and promotes professional and ethical work practices in the security industry.

Agents Must be Licensed

Any person (including a company) who carries on business or holds himself or herself out as a security and/or investigation agent, must be licensed under the *Security and Investigation Agents Act 1995*. If a business operates as a partnership then each partner must hold their own licence. Persons employed to perform certain work (see below) are also required to hold a licence.

You will not be entitled to collect any fee or consideration if conducting your security or investigation agents business without a licence.

Are You Considered an Agent?

You are considered to be acting as a security agent if you perform one or more of the following work functions for fee or reward:

- Crowd controlling
- Security systems work associated with providing advice, hiring out or otherwise supplying, or installing or maintaining security alarm or surveillance systems
- Security guarding associated with:
 - protecting or guarding a person or property or keeping a person or property under surveillance
 - preventing, detecting or investigating the commission of an offence in relation to a person or property, or
 - hiring out or otherwise supplying dogs or other animals for the purpose of protecting or guarding a person or property (i.e. canine handling).

You are considered to be acting as an investigation agent if you perform one or more of the following work functions for fee or reward:

- Collection work associated with:
 - ascertaining the whereabouts of or repossessing goods that are subject to a security interest
 - collecting or requesting the payment of debts
 - executing legal process for the enforcement of a judgement or order of a court
 - executing distress for the recovery of rates, taxes or money.
- Inquiry work associated with:
 - obtaining or providing (without the written consent of a person) information about the personal character or actions of the person, or about the business or occupation of the person
 - searching for missing persons, or
 - obtaining evidence for the purpose of legal proceedings (whether the proceedings have been commenced or are prospective).

Licence Not Required

The Act does not apply to certain people. You are not required to hold a licence as a security agent or investigation agent if you are:

- a member of the police force of South Australia
- a sheriff, deputy sheriff, sheriff's officer, bailiff or other officer of a court or tribunal, while performing official functions
- a person who holds the required qualifications in loss adjusting while practising as a loss adjuster
- employed as a shop assistant providing advice on security alarm or surveillance systems only as an incidental part of your duties
- any of the following while acting in the ordinary course of the profession or business:
 - a person registered as an agent under the *Land Agents Act 1994*
 - a person who practises as a legal practitioner, or
 - a person performing only clerical or secretarial functions on behalf of an agent.

Please refer to Section 4 of the Act and Regulations 7 and 8 for a complete list.

Process Servers

Process servers who, for fee or reward, serve a writ, summons or other legal process, are now negatively licensed. This means that a licence is no longer required to practise this occupation. However if you intend to run a business or employ someone to perform this type of work, you and your employee will be required to hold certain qualifications specified in the Regulations (none as at June 2006) and must not have been convicted of any offence contained in Schedule 1 of the Regulations.

Penalties

If you are trading as a security agent or investigation agent without holding a licence and you are convicted by the courts you may be liable for a penalty of up to \$20,000.

If you are in any doubt about how the Act affects you, please seek independent legal advice.

Entitlement to a Licence

If you intend to work as an employee you are entitled to hold a licence if you:

- hold the approved qualifications
- are not suspended or disqualified from practising or carrying on an occupation, trade or business
- have not been convicted of an offence listed in Schedule 1 of the Regulations, and
- are a fit and proper person.

If you intend to operate a business you are entitled to hold a licence if you:

- hold the approved qualifications (or one of your business partners is qualified)
- have sufficient business knowledge, experience and financial resources (or together your business partnership does)
- are not suspended or disqualified from practising or carrying on an occupation, trade or business
- are not an undischarged bankrupt or have not been subject to a composition or deed or scheme of arrangement with or for the benefit of creditors
- have not, during the period of five years preceeding the application for a licence, been a director for a body corporate that has been wound-up for the benefit of creditors

- have not been convicted of an offence listed in Schedule 1 of the Regulations, and
- are a fit and proper person.

Your company is entitled to hold a licence if:

- it is not suspended or disqualified from carrying on an occupation, trade or business
- it is not being wound up and is not under official management or receivership
- it has sufficient financial resources
- together the directors have sufficient business knowledge and experience
- each director was not, in the last five years, a director of a company wound up for the benefit of creditors
- each director has not been suspended or disqualified from carrying on an occupation, trade or business
- each director has not been convicted of an offence listed in Schedule 1 of the Regulations, and
- each director is a fit and proper person.

If the Commissioner refuses your licence you can appeal to the District Court within one month from the date of refusal.

Please note: when you apply for a new security agent's licence, the Commissioner of Police will evaluate your good character and that of your associates. This includes fingerprinting all applicants (or for companies, all directors) and full history checks undertaken. The Commissioner of Police has the right to object to the granting of a licence. All applicants will have the opportunity to respond to such an objection.

Management of a Company

In the case of the licensed agent being a company, the Act requires the business to be properly managed and supervised by a natural person who is licensed as an agent to personally perform the work functions authorised on the company's licence without supervision.

Qualifications/Experience

To be licensed as an agent, you must hold the qualifications that have been approved by the Commissioner. You can obtain a list of these qualifications by contacting our office. If you intend to operate an agent's business, you must also

demonstrate that you have sufficient business knowledge and experience. The Office of Consumer and Business Affairs can advise you of these requirements.

If you do not hold the required qualifications but believe your qualifications and/or experience would be equivalent or comparable to having such credentials, you should contact our office for further advice.

Obtaining a Licence

You can apply for a new licence by answering a series of questions orally, either over the telephone or in person at our Grenfell Street office. We will complete the application form for you using our computer-based system and an application form with your answers will be produced for you to check and sign. You will need to lodge with your application the specified fees and supporting documents. Our office will then assess your application to determine if you have met all the necessary criteria.

Licence Conditions

The Act allows licences to be granted subject to conditions that limit any aspect of the licence. An officer from Business and Occupational Services will explain these limitations to you when processing your licence application. If your licence has a condition, you can apply to have it changed at any time. However the Commissioner may refuse your application if you do not meet the relevant criteria, current at the time of application.

Licence Fees

A schedule of fees is included with the application form.

To maintain the currency of your licence, you must pay a licence fee each year and provide the Commissioner with certain information. If you fail to do this a penalty may be imposed and the licence cancelled.

In the case of partnerships, all partners are required to pay the relevant fees.

Licence Card/Certificate

As a licensed agent you will be issued with a photographic licence card, which you must carry at all times whilst working as an agent and produce when requested by a police officer, the Commissioner, an officer authorised under the *Fair Trading Act 1987*, or a person with whom you are dealing with as an agent such as a consumer or client. If your company is licensed, you will receive a licence certificate, which you can display at your business premises.

Trust Accounts and Collection Agents

If you are a licensed agent authorised to carry on business as a collection agent then you are required to deposit monies received from your clients into a trust account in accordance with the rules set out under the Security and Investigation Agents Regulations 1996.

Random Alcohol and Drug Testing of Crowd Controllers

You can now be alcohol tested on duty. While on duty you will not be permitted to have any alcohol in your blood. Police will perform, on premises, alcohol tests while crowd controllers are on duty. The procedure will be similar to that used to test the blood alcohol level of motorists.

No amount of prohibited drugs in a crowd controller's blood stream is permitted. These include such drugs as cannabis, morphine, amphetamine, or cocaine. A crowd controller can be served with a notice requiring them to attend at a designated time and place to give a sample of blood or urine to be tested for the presence of prohibited drugs.

The Power to Suspend a Security Agent's Licence

The Commissioner for Consumer Affairs has the power to suspend a security agent's licence upon the agent being charged with a specified offence. Also, mandatory suspensions occur for crowd controllers who are charged with offences related to drugs, firearms or violence.

A licensee will have the right to be heard about a licence suspension, other than a mandatory suspension, although the suspension will apply from service of the notice of suspension. The licensee can also appeal a suspension. Any conviction for certain offences (which vary according to type of licence held) leads to immediate cancellation of a security agent's licence. The Commissioner for Consumer Affairs can also take disciplinary action against a licensee who is convicted of other types of offences.

Psychological Assessment

To demonstrate your suitability to hold a licence you may be required to undergo psychological assessment. The Commissioner for Consumer Affairs may require crowd controllers or applicants for a security agent's licence authorising crowd control work to undergo a psychological assessment.

Crowd Controllers for Licensed Premises

From 2007, only an approved crowd controller or other 'authorised persons' will be allowed to remove persons from licensed premises, or prevent their entry, using reasonable force if necessary.

An approved crowd controller is one who has a security agent's licence and additional approval from the Liquor and Gambling Commissioner.

There are currently procedures in place that must be followed for the prevention of entry or the removal of persons using force.

For information on these requirements, please contact the Office of the Liquor and Gambling Commissioner on telephone: (08) 8226 8410.

Disciplinary Action

Security and investigation agents can be disciplined under the Act. The forum for disciplinary action is the Administrative and Disciplinary Division of the District Court and any person, including the Commissioner, may lodge a complaint to the court alleging grounds for disciplinary action to be commenced. The types of causes that may constitute this type of action are set out in the Act.

Disciplinary action court outcomes are recorded on the Licensing Public Register available on OCBA's Internet site.

Some of Your Obligations

You must comply with all the requirements of the Security and Investigation Agents Act and Regulations. You must carry your photographic licence card at all times whilst working as an agent. Licensed collection agents who operate trust accounts must comply with all requirements specified in the Regulations, including the lodgement of an audit statement with the Commissioner each year. Crowd controllers are required to wear an identification badge or tag that complies with the Regulations when working. People who use the services of crowd controllers, at either private or public venues, are responsible for issuing the identification badges or tags, and must maintain a register at the venue for each event, providing details of the person to whom the identification badge was issued. If you wish to know more about identification tags and registers, please contact this office and ask for a copy of the 'Working as or employing a licensed Crowd Controller' information sheet.

You must notify the Commissioner in writing (within 14 days) of changes to your personal or business details (e.g. address, directorship, business name, partnerships, etc).

Mutual Recognition

If you want to carry on business in South Australia as a security and/or investigation agent and hold a current interstate/New Zealand registration in an equivalent occupation, you may be able to apply for mutual recognition in this State. For more details please contact this office.

Mutual Recognition only applies to individuals and not companies.