

NORTHERN TERRITORY OF AUSTRALIA

COMMERCIAL AND PRIVATE AGENTS LICENSING ACT

As in force at 1 July 1996

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 1996

COMMERCIAL AND PRIVATE AGENTS LICENSING ACT

An Act to provide for the licensing of commercial and private agents

Part 1 Preliminary

1 Short title

This Act may be cited as the *Commercial and Private Agents Licensing Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

In this Act unless the contrary intention appears:

agent means a commercial agent, inquiry agent, process server or private bailiff licensed under this Act.

commercial agent means a person who, for monetary or other consideration, performs any of the following functions:

- (a) ascertaining the whereabouts of, or repossessing any goods or chattels that are the subject of a hire purchase agreement or bill of sale;
- (b) collecting, or requesting the payment of, debts;
- (c) executing any legal process for the enforcement of any judgment or order of a court;
- (d) executing any distress for the recovery of rates, taxes or moneys;
- (e) obtaining evidence for the purpose of any legal proceedings;
or

- (f) searching for missing persons,
on behalf of any other person.

Court means the Local Court.

document includes book, record, register, account, paper and card.

harassing tactics means any act or conduct that tends to intimidate, embarrass, ridicule or shame any person, and without limiting the generality of the foregoing, includes:

- (a) any act or omission (including the positioning of a vehicle) from which it might reasonably be inferred by a person visiting or passing any premises that an occupant of the premises is being visited, or is under surveillance by, an agent;
- (b) unduly frequent visiting of premises or communication with the occupants of premises; and
- (c) any suggestion made to, or intended to be communicated to, a debtor that if he fails to pay any debt action may be taken that would embarrass or shame him, or prejudice him in his employment.

inquiry agent means a person who, for monetary or other consideration, performs any of the following functions:

- (a) obtaining or providing information as to the personal character or actions of any person, or as to the business or occupation of any person;
- (b) obtaining evidence for the purpose of any legal proceedings;
or
- (c) searching for missing persons,

on behalf of any other person.

licence means a licence under this Act.

officer in relation to a corporation, means any director, manager or secretary of the corporation.

order includes decision, direction or declaration.

private bailiff means a person who holds a licence as a private bailiff under this Act.

process server means a person who, for monetary or other consideration, performs the function of serving any writ, summons or other legal process on behalf of any other person.

4 Application

(1) This Act shall not apply to:

- (a) a member of the Northern Territory or Commonwealth Police Force acting in accordance with his duties;
- (b) a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act* while acting in the performance of his functions under that Act;
- (c) an employee of the Crown or any instrumentality of the Crown while acting in the performance of his functions as such an employee;
- (d) a legal practitioner acting in the ordinary course of his profession;
- (e) a clerk of a legal practitioner while acting in the ordinary course of his employment as a clerk of the legal practitioner;
- (f) an accountant while acting in the ordinary course of his profession;
- (g) an officer of any Court while acting in the performance of his functions as an officer of that Court;
- (h) a trustee company, building society, or friendly society or a person carrying on the business of insurance, insurance broking, insurance adjustment or banking, while acting in the ordinary course of business as such or an employee of any such company, society or person while acting in the ordinary course of his employment;
- (i) a person employed under a contract of service by a person who is not an agent while acting in the ordinary course of that employment; or
- (j) a person authorised by the Power and Water Authority, established by the *Power and Water Authority Act*, to request and receive payment of money due and owing to it by members of an Aboriginal community or group while acting in the ordinary course of requesting and receiving those payments.

- (2) The Regulations under this Act may exempt to the extent prescribed any class of persons from the operation of this Act.

Part 2 Licensing of agents

5 Court may grant licences

Subject to this Part the Court may grant a licence to a person to be:

- (a) a commercial agent;
- (b) an inquiry agent;
- (c) a process server; or
- (d) a private bailiff.

6 Offence to act unless licensed

- (1) Subject to this section, a person shall not act as or hold himself out as being or perform or hold himself out as willing to perform any of the functions of:

- (a) a commercial agent;
- (b) an inquiry agent;
- (c) a process server; or
- (d) a private bailiff,

unless he is licensed under the appropriate category pursuant to this Act.

Penalty: \$500 or imprisonment for 3 months and the sum of \$10 for every day during which the offence continues.

- (2) A person who, before the commencement of this Act, acted as a commercial agent, an inquiry agent, or a process server and who applies for a licence under this Act within one month of the date of commencement of this Act may continue to act as or hold himself out as being or perform or hold himself out as willing to perform that function until the determination of the application by him for that licence.
- (3) For the purposes of this section, a person acts as or holds himself out as being or performs or holds himself out as willing to perform any of the functions of an agent whether he does so personally or through the agency or instrumentality of other persons.

- (4) Where a person holds a licence under a law in force in a State or Territory which licence permits the person, either on his own behalf or as an employee of another person, to act as an agent, that person may after producing his licence to the Clerk of the Court, act as an agent in the capacity for which he is licensed as an employee of an agent licensed in the Territory for a period of one month from the date of production of his licence to the Clerk of the Court.

7 Application for licence

- (1) A person may apply for a licence in writing in the prescribed manner and form.
- (2) An application under subsection (1) shall contain the prescribed information verified by a statutory declaration made by the applicant or where the applicant is a corporation by the nominee of the corporation.
- (3) The applicant shall furnish the Court with such further information verified, if the Court so requires, by statutory declaration, as the Court may require.
- (4) Subject to section 18(2), an application for a commercial agent's licence or a private bailiff's licence shall be accompanied by a bond and security as required by Part 5.

8 Grant of licence

- (1) Subject to this Act, a person not being a corporation, is entitled to the grant of and to hold a licence of a particular category if he has satisfied the Court that:
 - (a) he is over the age of 18 years;
 - (b) he is a resident of the Territory;
 - (c) he is a fit and proper person to hold a licence;
 - (d) he is not bankrupt; and
 - (e) he has not been found guilty of an offence which warrants the refusal of the licence.
- (2) Subject to this Act, a corporation is entitled to the grant of and to hold a licence of a particular category if it has satisfied the Court that:
 - (a) the officers of the corporation; and

- (b) any other person who in the opinion of the Court substantially controls or could substantially control the affairs of the corporation,

comply with the requirements of subsection (1)(a), (c), (d) and (e) and are fit and proper persons to manage, direct or control the affairs of a corporation holding a licence of that category.

9 Application

- (1) An applicant for a licence shall lodge an application referred to in section 7 with the Clerk of the Court having jurisdiction in the area where the applicant has his place of business or, where the applicant carries on business at more than one place, with the Clerk of the Court having jurisdiction at the principal place of his business in the Territory.
- (2) The applicant shall serve a copy of the application, signed by the Clerk of the Court, on the Commissioner of Police at least 28 days before the date set for the hearing of the application.
- (3) The applicant shall serve a copy of the application, signed by the Clerk of the Court, on the Solicitor for the Northern Territory at least 28 days before the date set for the hearing of the application.
- (4) The Clerk of the Court shall cause notice of an original application for a licence together with the date of hearing of that application to be published in the *Gazette* at least 28 days before the date listed for hearing.

10 Appointment of nominee

- (1) Where the applicant is a corporation it shall appoint a nominee.
- (2) The nominee referred to in subsection (1) shall be an officer of the company residing in the Territory who is in bona fide control of the business in the Territory.
- (4) All applications or documents required to be furnished by a corporation shall be signed by the nominee.

11 Objections

- (1) The Commissioner of Police, the Solicitor for the Northern Territory or any other person who wishes to object to an application shall:
 - (a) lodge with the Clerk of the Court a notice of his intention to object and the grounds of his objection at least 7 days prior to the hearing date; and

- (b) cause a copy of the notice to be served personally or by post upon the applicant at least 7 days before the hearing date.
- (2) The Court shall consider any objection made under this section when hearing the application for a licence.
- (3) Any person who lodges an objection under this section may, after giving notice to the Court at least 3 days prior to the date set for the hearing of the application that he intends to appear at the hearing, appear at the hearing and give evidence and make sub-missions in relation to the grant of the licence.
- (4) Objection may be made on any reasonable grounds including grounds that the applicant, or in the case of a corporation, the nominee or any officer:
 - (a) is not of good character;
 - (b) is not over the age of 18 years;
 - (c) is bankrupt;
 - (d) has been engaging in harassing tactics;
 - (e) has been guilty of conduct which renders him unfit to hold a licence of the category for which he has applied;
 - (f) has contravened or failed to comply with a provision of this Act and the contravention or failure warrants a refusal of a licence;
 - (g) has been found guilty of an offence which warrants the refusal of a licence; or
 - (h) is not capable of carrying out the duties of a licence holder.

12 Application to be heard in open Court

An application shall be heard in open court unless the Magistrate hearing the application otherwise directs.

13 Court may grant a licence

Where the application is for a renewal of a licence, the Court may:

- (a) grant; or
- (b) refuse to grant,

a licence of the category applied for to the applicant.

14 Adjournment

The court may adjourn the hearing of an application from time to time as it sees fit.

15 Issue of licence

Subject to this Act, the Clerk of the Court shall issue a licence to an applicant to whom the Court has granted that licence upon payment of the prescribed fee.

Part 3 Disciplinary proceedings**16 Court may summon to show cause**

- (1) The Court may summons an agent upon the complaint of the Commissioner of Police or the Solicitor for the Northern Territory to show cause why his licence should not be cancelled or suspended and why he should not be disqualified either permanently or temporarily from holding a licence on the ground that:
 - (a) the licence was improperly obtained;
 - (b) the agent has been found guilty of an offence against this Act or an offence against a law in force in any part of Australia, including the Territory, which finding of guilt justifies the cancellation or suspension of his licence;
 - (c) the agent has been engaging in harassing tactics;
 - (d) the agent failed, without reasonable excuse, to obey an order of the Court or the Supreme Court;
 - (e) the agent wilfully failed to comply with a provision of this Act or of the *Local Courts Act*; or
 - (f) the agent failed to comply with a direction given under section 33(5) by the Clerk of the Court.
- (2) A copy of the summons showing the date set for the hearing of a complaint under subsection (1) shall be served on the agent at least 7 days before the date set for hearing.
- (3) The Court shall hear and determine a complaint referred to in subsection (1) and may:
 - (a) dismiss the complaint with or without a reprimand;
 - (b) cancel the licence;

- (c) disqualify the agent from applying for a licence for such period as it thinks fit;
 - (d) suspend the licence for such period as it thinks fit; or
 - (e) make such other or further orders as it thinks fit.
- (4) The Court may make orders under subsection (3) notwithstanding the failure of the agent to appear in person or by representation by a legal practitioner.
- (5) The Court may adjourn the hearing of a complaint under this section from time to time as it thinks fit.
- (6) Upon the cancellation or suspension of a licence under this section the former agent shall deliver the licence to the Clerk of the Court within 7 days of the order of cancellation or suspension.

Penalty: \$200.

Part 4 Appeals

17 Appeals

- (1) Where the Court:
 - (a) refuses to grant a licence; or
 - (b) suspends or cancels a licence,it shall state in writing the reason for the refusal, suspension or cancellation.
- (2) A person who has a right of hearing at an application and who appeared at an application may appeal to the Supreme Court of the Northern Territory against a decision made under subsection (1).
- (3) An appeal under this section shall be in the nature of a rehearing.
- (4) Where an appeal has been made to the Supreme Court, the Supreme Court may, if it thinks fit, upon the application of any party, defer the operation of an order pending the outcome of the appeal.

Part 5 Bonds for certain agents

18 Lodgement of bond

- (1) A commercial agent or a private bailiff shall ensure that at all times during the currency of his licence there is lodged with the Clerk of the Court a bond in full force and effect in the prescribed form, accompanied by the prescribed security.
- (2) Notwithstanding subsection (1), an employee of a commercial agent or of a private bailiff or, where the commercial agent or the private bailiff is a corporation, a manager referred to in section 36(1), shall not be required to lodge a bond or security with the Clerk of the Court in accordance with subsection (1).
- (3) An agent who ceases to be an employee or a manager shall not act as a commercial agent or a private bailiff unless he complies with subsection (1).
- (4) Where a commercial agent or private bailiff has not lodged with the Clerk of the Court a bond in the prescribed form accompanied by the prescribed security or, a bond lodged by the commercial agent or private bailiff is not in full force and effect, he shall, for the purposes of this Act, be deemed not to be licensed for such period as a bond or security is not lodged or the bond is not in full force and effect.

19 Amount of bond

The amount of a bond under this Part shall be:

- (a) where the agent is a corporation – \$2,000;
- (b) where the agent is not a corporation and the agent proposes to carry on or carries on business as an agent in partnership with another person – \$1,500; and
- (c) in all other cases – \$1,000.

20 Court may order additional security

- (1) If at any time during the currency of a commercial agent's licence or a private bailiff's licence the Court determines that the bond required by this Act is not adequately secured, the holder of the licence shall furnish such security as the Court may direct.
- (2) Where the Court makes a determination under sub-section (1) that the bond is not adequately secured the person who would otherwise be the holder of the licence shall not be licensed for the

purpose of this Act until such time as security in accordance with the Court's order is provided.

21 Cessation of partnership

- (1) Where an agent who has entered into a bond in order to carry on business under a partnership ceases to carry on business in partnership with another person, he shall, before commencing to carry on business in his own right, enter into a bond in the prescribed form in the sum of \$1,000.
- (2) If an agent fails to enter into a bond in the prescribed form in the sum of \$1,000 within one month of ceasing to carry on business in partnership with another person, the licence for which he is required to enter into a bond shall lapse.

22 Return of security

- (1) Where an agent ceases to carry on business, he, or any person who lodged security in support of his bond, may apply to the Court for the return of the security.
- (2) The Court may refuse to order the return of the security where it is satisfied that the security is still or may be in the future required.

Part 6 Trust accounts and prescribed records

23 Moneys held on trust

- (1) Subject to this Act, all moneys received for or on behalf of a person by an agent shall be held by the agent exclusively for that person.
- (2) All moneys received by an agent on behalf of any person shall be paid into and held in a trust account in a bank in the Northern Territory in the name of the agent.
- (3) An agent shall pay into his trust account any moneys required to be paid into that trust account within 2 working days of receipt of those moneys.
- (4) Where an agent receives money from a person upon whom he has served a summons or against whom he has executed a warrant, the agent shall immediately notify the Clerk of the Court of the receipt of that money.

- (5) No moneys shall be paid out of an agent's trust account otherwise than to or as directed by the person on whose behalf the agent holds those moneys.

Penalty: \$2,000 or imprisonment for 12 months.

24 Moneys not liable for attachment

- (1) Moneys held in an agent's trust account shall not be liable to be attached or taken in execution under an order or process of any court at the instance of any creditor other than a creditor of the person on whose behalf the moneys were received by the agent.
- (2) This section shall not be construed as preventing the removal of moneys from the trust account to satisfy a lawful claim or lien that the agent has upon those moneys.

25 Prescribed records

- (1) An agent shall keep or cause to be kept fully and correctly prescribed records and other prescribed documents in relation to the functions performed by him in his capacity as an agent.
- (2) An agent shall not destroy, falsify or mutilate any record or other document kept in pursuance of sub- section (1) or cause or permit any such record or other document to be destroyed, falsified or mutilated within the period of 5 years after it was made or to be removed from his possession during that period.

Penalty: \$500 or imprisonment for 6 months.

26 Inspection of prescribed records

- (1) All prescribed records and other prescribed documents of an agent or a person who has ceased to be an agent shall at all reasonable times be open to inspection by the Minister or a member of the Northern Territory Police Force or by a person duly authorized in writing by the Minister to inspect those records or those other documents.
- (2) The Minister, a member of the Police Force or a person so authorized by the Minister may require an agent or, where the agent is a corporation, the person who manages the business of the corporation conducted in pursuance of the licence, or in the absence of that person, any person having apparent control of the business:
- (a) to produce for inspection all or any prescribed records and other prescribed documents; and

- (b) to furnish such other documents in his custody or control as may be reasonably required for the purpose of ascertaining whether there has been any contravention of, or failure to comply with, this Act or any other Act or law in connection with trust moneys.
- (3) The Minister, a member of the Police Force, or a person authorized to do so may take any copies or extracts from or make any notes concerning any records or other documents subject to inspection.
- (4) A person shall not:
 - (a) wilfully delay or obstruct any inspection under this section;
 - (b) wilfully mutilate or destroy, or in any way alter any record or other document to delay or obstruct any inspection under this section; or
 - (c) on demand refuse or fail to comply with a requirement duly made of him under this section.

Penalty: \$500 or imprisonment for 6 months.

27 Restriction on disposition of moneys

- (1) The Minister may by order in writing served upon a banker or other person having the custody or control of trust moneys affected by the provisions of this Part, restrict or prohibit any dealing in or disposition of those moneys.
- (2) A person who acts in contravention of an order under subsection (1) shall be guilty of an offence and liable to a penalty on being found guilty not exceeding \$1,000 or imprisonment for 6 months.

28 Investigation of trust accounts

- (1) The Minister may after consideration of a report of an investigation into the trust account of an agent and on being satisfied that the agent has received moneys for or on behalf of a person and has not properly accounted for those moneys in his trust account may:
 - (a) by notice in writing to the manager or other principal officer of a bank with which the agent has deposited any money in a trust account in his capacity as an agent direct that no moneys be drawn from the trust account without the consent of the Minister until further notice;

- (b) notify the Clerk of the Court having jurisdiction in the area where the agent has his principal place of business that he intends to apply to the Court to have the agent's licence suspended; and
 - (c) cause a copy of the application together with a notification of the date set by the Clerk of the Court for the hearing of the application to be served on the agent.
- (2) The manager or other principal officer of a bank receiving a notice referred to in subsection (1)(a) shall give effect to the direction of the Minister.

29 Suspension of licences

- (1) The Court shall hear and determine the application by the Minister to suspend the licence of the agent and shall make such orders as it thinks fit.
- (2) Where the Court orders suspension of a licence of an agent under this section the Clerk of the Court shall cause a notice to be published in a newspaper circulating in the area where the agent carried on business in the Northern Territory fixing a date by which time any person having a claim against the trust account of the agent whose licence has been suspended shall lodge a claim form with the Clerk of the Court.
- (3) Any person who fails to claim within the time specified in the advertisement published under subsection (2) shall not be entitled to share in the distribution of moneys payable from the trust account unless the Court otherwise directs.
- (4) The Clerk of the Court or some other person appointed by the Minister shall admit or reject proof of claims made against moneys in the trust account and no action shall lie against the Clerk of the Court or a person so appointed for any decision made in good faith in relation to such claims.
- (5) If the moneys standing to the credit of the trust account are insufficient to satisfy the amount of all admitted claims the Clerk of the Court shall make pro rata payments forthwith to the claimants and shall by notice in writing demand from the agent payment of the balance required to meet admitted claims.
- (6) Where the agent is unable to meet payment of those claims within 28 days of service of a notice under subsection (5) the Minister may call up the bond and any security lodged in support of the bond.

- (7) The cost of administering the trust account in accordance with this section shall be a debt due by the agent and shall be recoverable in a court of competent jurisdiction.

Part 7 Employment, powers and duties of private bailiffs

30 Employment of private bailiff

- (1) A private bailiff may be employed by a person or a legal practitioner acting for a person who is entitled to the issue of a warrant under the *Local Courts Act* to execute that warrant.
- (2) Where a private bailiff is employed under subsection (1) the person employing him shall inform the Clerk of the Court having jurisdiction in the area where the warrant was issued.
- (3) The Clerk of the Court who is notified in accordance with subsection (2) shall issue the warrant to the private bailiff so nominated.

31 Nomination of private bailiff

- (1) Where a person is entitled to the issue of a warrant of execution or arrest under the *Local Courts Act* and has not nominated a private bailiff, the Clerk of the Court may require the person to nominate a private bailiff to execute that warrant.
- (2) In the event that the Clerk of the Court requires a person to nominate a private bailiff under subsection (1), the Clerk of the Court shall issue the warrant to the private bailiff.
- (3) Where a person fails to nominate a private bailiff after the Clerk of the Court has required the person to do so, the Clerk of the Court may appoint a private bailiff to execute the warrant.

32 Private bailiff to accept warrant

A private bailiff shall not without reasonable excuse refuse to accept a warrant of execution or arrest issued by a Clerk of the Court to him.

Penalty: \$200.

33 Rights and powers of private bailiff

- (1) Where a private bailiff is employed under section 30, the fees and charges for service or execution payable as provided for by rule 37.01 of the *Local Court Rules* shall not be payable to the Clerk

of the Court by the person entitled to the issue of the warrant, and the private bailiff shall be entitled only to such amount as is agreed between the private bailiff and the person employing him.

- (1A) Where a private bailiff is employed under section 31, the fees payable under section 272 of the *Local Courts Act* shall be paid to the Clerk of the Court by the person entitled to the issue of the warrant, and the private bailiff shall, subject to the approval of the Clerk of the Court, be entitled to those fees.
- (4) A private bailiff is not an employee of the Northern Territory within the meaning of section 7A of the *Compensation (Australian Government Employees) Act 1971* of the Commonwealth.
- (5) A private bailiff is, in the execution of a warrant issued to him under this Act and in respect of any money recovered under such a warrant, subject to the direction of the Clerk of the Court.

33A Recovery of costs on execution of warrant

- (1) Subject to subsection (2) but notwithstanding section 33(1), a person employing a private bailiff may recover the fees and charges for service or execution payable as provided for by rule 37.01 of the *Local Court Rules* from the person against whom a warrant is executed.
- (2) When a person employing a private bailiff pays the private bailiff an amount exceeding the fees and charges for service or execution payable as provided for by rule 37.01 of the *Local Court Rules*, the person against whom a warrant is executed shall not be liable for the excess so paid.

Part 8 General

34 Costs

In any proceedings under this Act the Court may make such orders as to costs as it thinks fit.

35 Copy of licence

Where a licence is lost or destroyed a copy of the licence may be issued by the Clerk of the Court upon an application in the prescribed form and upon payment of the prescribed fee by the applicant to the Clerk of the Court.

36 Manager to be licensed

- (1) Where a corporation holds a licence of a particular category, the corporation shall employ a natural person who is a resident in the Territory and who holds a licence of the same category as that of the corporation to manage the business of the corporation.
- (2) Where the business of a corporation is not managed as required by subsection (1), the corporation shall, within 14 days or such longer period to be allowed by the Court, appoint a manager resident within the Territory to manage the business of the corporation conducted in pursuance of the licence.
- (3) A corporation shall not carry on business as an agent during any period for which the corporation is in default under subsection (2).

Penalty: \$500 and \$10 for every day during which the offence continues.

37 Licence not transferable

A licence issued under this Act is not transferable.

38 Multiple licences

A person may hold a number of licences of different categories simultaneously.

39 Employee to be licensed

An agent shall not employ a person to act as a commercial agent, an inquiry agent, a process server or a private bailiff unless the person so employed holds a licence of the category which applies to the work for which he is employed.

Penalty: \$500.

40 Fees for agents

No person shall be entitled to sue for, recover or retain any commission, fee, gain or reward for any service performed by him as an agent unless at the time of performing that service he was a holder of a licence of the category under which he performed the service.

41 Rights not affected by licence

A licence does not confer upon any person any power or authority to act in contravention of, or in disregard of any law or rights or privileges guaranteed or arising under or protected by any law.

42 Offence to exceed power

An agent shall not:

- (a) suggest or imply that by virtue of his licence he may exercise any power or authority which in fact he could not exercise if this Act had not been passed; or
- (b) use or attempt to use his licence to exercise any power or authority which he could not exercise if this Act had not been passed.

Penalty: \$500.

43 Commercial agent to report on motor vehicles

A commercial agent who takes possession of a motor vehicle that is subject to a hire purchase agreement, chattel mortgage or bill of sale:

- (a) shall as soon as practicable after taking possession of the motor vehicle inform a member of the Police Force on duty at the Police Station nearest to the place where he took possession of the vehicle; and
- (b) within 24 hours after taking possession of the motor vehicle, deliver or send by post to the officer in charge of the Police Station nearest to the commercial agent's registered address, written particulars in duplicate of the motor vehicle including particulars of the registered number of the motor vehicle.

Penalty: \$500.

44 Change of address

- (1) An agent shall notify the Clerk of the Court within 7 days of commencing business at an address details of that address.
- (2) An agent shall notify the Clerk of the Court of:
 - (a) his principal place of business;
 - (b) an address to which all communications, letters, notices or other documents may be addressed; and
 - (c) details of the change of any address at which he carries on business.

Penalty: \$200.

45 Civil remedies not affected

Nothing in this Act shall affect any civil remedy that a person may have against an agent in respect of any matter.

46 Offence by corporation

- (1) Subject to this section, where an offence against a provision of this Act relating to an agent is committed by a corporation, then, in addition to any penalty to which the corporation is liable for that offence, the officers of the corporation shall be liable to the penalty provided by this Act in respect of the commission of that offence by an individual.
- (2) It is a defence for an officer subject to a prosecution under subsection (1) to establish that the offence was committed without his knowledge and that he used all due diligence to prevent the commission of the offence.

46AA Regulatory offences

An offence of contravening or failing to comply with section 16(6), 25(1), 39 or 44 is a regulatory offence.

46A Effect of suspension of licence

Where the licence of an agent is suspended under this Act, the agent shall, during the period of the suspension, be deemed not to be licensed in respect of the category of licence to which the suspension relates.

46B Service of notice, &c., on corporation

Where, under this Act, a summons, notice, order or other document is required to be served on or delivered to a corporation, the summons, notice, order or document may be served on or delivered to the nominee appointed under section 10(1).

47 Regulations

The Administrator may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
bl = by-law	om = omitted
ch = Chapter	pt = Part
div = Division	r = regulation/rule
exp = expires/expired	renum = renumbered
f = forms	rep = repealed
Gaz = <i>Gazette</i>	s = section
hdg = heading	sch = Schedule
ins = inserted	sdiv = Subdivision
lt = long title	SL = Subordinate Legislation
N/C = not commenced	sub = substituted

2 LIST OF LEGISLATION

Commercial and Private Agents Licensing Act 1979 (Act No. 41, 1979)

Assent date	27 April 1979
Commenced	12 September 1980 (<i>Gaz</i> G37, 12 September 1980, p 2)

Statute Law Revision (No. 3) 1979 (Act No. 37, 1980)

Assent date	24 April 1980
Commenced	24 April 1980

Commercial and Private Agents Licensing Amendment Act 1981 (Act No. 21, 1981)

Assent date	25 March 1981
Commenced	25 March 1981

Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)

Assent date	28 November 1983
Commenced	1 January 1984 (s 2, s 2 <i>Criminal Code Act 1983</i> (Act No. 47, 1983), <i>Gaz</i> G46, 18 November 1983, p 11 and <i>Gaz</i> G8, 26 February 1986, p 5)

Law Officers Amendment Act (No. 2) 1986 (Act No. 48, 1986)

Assent date	10 December 1986
Commenced	19 December 1986 (<i>Gaz</i> S87, dated 17 December 1986)

Statute Law Revision Act 1993 (Act No. 6, 1993)

Assent date	18 March 1993
Commenced	18 March 1993

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz</i> S53, 29 June 1993)

Statute Law Revision Act (No. 2) 1993 (Act No. 70, 1993)

Assent date	9 November 1993
Commenced	9 November 1993

Statute Law Revision Act 1994 (Act No. 50, 1994)

Assent date 20 September 1994
Commenced 20 September 1994

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* and *Gaz S15*,
13 June 1996)

3 LIST OF AMENDMENTS

s 1	amd No. 58, 1978, s. 4
s 3	amd No. 21, 1981, s 3
s 4	amd No. 21, 1981, s 4; No. 28, 1993, s 3; No. 50, 1994, s 3
s 7	amd No. 21, 1981, s 5
s 8	amd No. 21, 1981, s 6; No. 17, 1996, s 6
s 9	amd No. 48, 1986, s 9
s 10	amd No. 21, 1981, s 7
s 11	amd No. 21, 1981, s 8; No. 48, 1986, s 9; No. 17, 1996, s 6
s 16	amd No. 21, 1981, s 9; No. 48, 1986, s 9; No. 17, 1996, s 6
s 17	amd No. 21, 1981, s 10
ss 18 – 19	sub No. 21, 1981, s 11
s 23	amd No. 21, 1981, s 12
s 27	amd No. 17, 1996, s 6
s 30	amd No. 21, 1981, s 13
s 33	amd No. 37, 1980, s 5; No. 21, 1981, s 14; No. 6, 1993, s 8
s 33A	ins No. 21, 1981, s 15
	amd No. 6, 1993, s 8
s 36	amd No. 21, 1981, s 16
s 46AA	ins No. 68, 1983, s 105
	amd No. 70, 1993, s 8
ss 46A – 46B	ins No. 21, 1981, s 17