

Security Industry Amendment (Private Investigators) Act 2016 No 40

[2016-40]



New South Wales

Status Information

Currency of version

Current version for 2 July 2022 to date (accessed 14 May 2024 at 8:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Note**
Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.
- **Editorial note**
The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

This version has been updated.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 2 July 2022

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Security Industry Amendment (Private Investigators) Act 2016 No 40



New South Wales

An Act to amend the [Security Industry Act 1997](#) to provide for private investigators to be licensed under that Act and to make consequential amendments to the [Commercial Agents and Private Inquiry Agents Act 2004](#) and other Acts.

1 Name of Act

This Act is the [Security Industry Amendment \(Private Investigators\) Act 2016](#).

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of [Security Industry Act 1997 No 157](#)

[1]-[4] (Repealed)

[5] Schedule 2 Savings and transitional provisions

Insert after clause 35—

Part 9 Provisions consequent on enactment of [Security Industry Amendment \(Private Investigators\) Act 2016](#)

36 Definitions

In this Part—

commencement day means the day on which this clause commences.

existing licence means the following licences under the [Commercial Agents and Private Inquiry Agents Act 2004](#)—

- (a) master licence for surveillance of persons,
- (b) master licence for investigation of persons,

- (c) operator licence for surveillance of persons,
- (d) operator licence for investigation of persons.

37 Saving of existing licences

- (1) Subject to the regulations, an existing licence that is in force immediately before the commencement day—
 - (a) is taken to be a licence of the corresponding kind (as prescribed by the regulations) granted under this Act, and
 - (b) continues, unless it is sooner surrendered by the holder or suspended or revoked under this Act, in force for the unexpired portion of its term, and
 - (c) cannot be renewed.
- (2) The conditions to which an existing licence is subject are, subject to the regulations, taken to be conditions imposed by the Commissioner under this Act and any such condition may be varied or revoked in accordance with this Act.

38 Pending applications

- (1) An application for an existing licence that was made under the *Commercial Agents and Private Inquiry Agents Act 2004* and that was not determined before the commencement day is taken to be an application for a licence of the corresponding kind (as determined under clause 37) under this Act and is to be dealt with accordingly subject to the other provisions of this clause.
- (2) The Commissioner may, in determining an application under this clause, treat the application as an application under section 27 of this Act for a variation to a licence if the Commissioner considers it appropriate to do so.
- (3) An application for an existing licence that would, because of this clause, become an application for a licence under this Act that is already held by the applicant is taken to be withdrawn by the applicant and any application fee paid is to be refunded.
- (4) Any fee paid under the *Commercial Agents and Private Inquiry Agents Act 2004* in relation to the application for the existing licence is taken to have been paid towards the application that is taken to have been made under this Act and any difference between the fee paid and the appropriate fee required to be paid under this Act is to be addressed by requiring the applicant to pay the balance of any underpayment or refunding to the applicant the balance of any overpayment.

39 Appeals and reviews

Any appeal made, or review commenced, in relation to an existing licence (or an application for an existing licence) that has not been determined before the commencement day is to be determined as if the amendments made to the *Commercial Agents and Private Inquiry Agents Act 2004* by Schedule 2 to the *Security Industry Amendment (Private Investigators) Act 2016* had not been made.

40 Records including fingerprints and photographs

Any records (including photographs and fingerprints) taken or kept by the Commissioner under, or for the purposes of, the *Commercial Agents and Private Inquiry Agents Act 2004* may be kept and used by the Commissioner for the purposes of this Act or for any other purpose as the Commissioner sees fit.

Schedules 2, 3 (Repealed)