

This Bill was formerly clauses 70 to 89 of, and the First Schedule to, the Law Reform (Miscellaneous Provisions) Bill (No. 3), as reported from the Justice and Law Reform Committee. Clause 70 has been replaced by clause 1, the Short Title clause, of this Bill. Clauses found in other Bills are indicated by points of ellipsis.

[AS REPORTED FROM THE JUSTICE AND LAW REFORM
COMMITTEE]

House of Representatives, 9 March 1995.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 21 March 1995.

Hon. D. A. M. Graham

PRIVATE INVESTIGATORS AND SECURITY GUARDS AMENDMENT

ANALYSIS

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A BILL INTITULED

**An Act to amend the Private Investigators and Security
Guards Act 1974**

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Private Investigators and Security Guards Amendment Act 1995, and shall be read together with and deemed part of the Private Investigators and Security Guards Act 1974 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1995.

71. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definitions of the terms “bank” and “chartered accountant in public practice”.

(2) Section 2 (1) of the principal Act is hereby further amended by adding the following definition:

“Specified offence’ means an offence under—

“(a) Any of sections ~~(158 to 181 or 188 to 204)~~ 104, 105B, 158 to 181, 188 to 204, and 216B to 216D of the Crimes Act 1961; or

“(b) Any of sections 3, 5, 5A, 6, 9, 10, 14, 15, 18, 19, 20, or 21 of the Summary Offences Act 1981.”

72. Inspection of registers—Section 14 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Any person may, on payment of the prescribed fee (if any), require the Registrar to provide a copy of a register, or any part of a register.”

73. Presumption against granting application in certain cases—(1) The principal Act is hereby amended by repealing section 17, and substituting the following section:

“17. (1) In any case where the applicant for a licence (or, if the applicant for a licence is a company, in any case where any officer of the company)—

“(a) Is under the age of 20 years; or

“(b) Has not had, in the period of 3 years immediately preceding the date of the application, at least 12 months’ experience as a licensee or responsible

employee in the type of business to which the application relates; or

5 “(c) Has previously held a private investigator’s or security guard’s licence, or a certificate of approval to be a responsible employee of a private investigator or security guard, that has been cancelled in accordance with this Act at any time within the period of 5 years immediately preceding the date of the application,—

10 the Registrar shall not grant the application unless, having regard to all the circumstances of the case, the Registrar is satisfied that there are special factors that would justify the granting of the application.

15 “(2) In any case where the applicant for a licence (or, if the applicant for a licence is a company, in any case where any officer of the company)—

20 “(a) Has been convicted, at any time within the period of 5 years immediately preceding the date of the application, of any crime involving dishonesty or of any specified offence; or

25 “(b) Has been detained, at any time within the period of 5 years immediately preceding the date of the application, in a penal institution pursuant to a conviction for any offence (not being a conviction in respect of which the sentence of detention has been quashed on appeal),—

the Registrar shall not grant the application unless, having regard to the nature and circumstances of the offence, the Registrar is satisfied that the application should be granted.”

30 (2) Section 32 (4) of the principal Act is hereby consequentially amended by omitting the words “subsection (4) of”.

35 **74. Approved bond by private investigator**—The principal Act is hereby amended by repealing sections 19 and 20.

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40 **75. Objections by other persons**—(1) Section 23 (2) (a) of the principal Act is hereby amended by omitting the words “, fitness, or financial position”, and substituting the words “and fitness”.

Struck Out

(2) Section 23 (2) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Where the applicant is a company, that it is not a proper person to be the holder of the licence:”.

76. Registrar to require evidence as to suitability of applicant—(1) Section 27 (1) of the principal Act is hereby amended by omitting the words “, fitness, and financial position”, and substituting the words “and fitness”.

(2) Section 27 (2) of the principal Act is hereby amended by repealing paragraphs (a) and (c).

77. Renewal of licence—Section 33 (12) of the principal Act is hereby amended by omitting the words “and a bond that complies with section 19 of this Act is for the time being in effect in respect of the licence”.

78. Presumption against granting application in certain cases—The principal Act is hereby amended by repealing section 35, and substituting the following section:

“35. (1) In any case where an application for a certificate of approval is made in respect of any person who is under the age of 18 years, the Registrar shall not grant the application unless, having regard to all the circumstances of the case, the Registrar is satisfied that there are special factors that would justify the granting of the application.

(2) In any case where an application for a certificate of approval to be a responsible employee of a private investigator or security guard is made in respect of any person whose application, if he or she were to apply in his or her own right for a private investigator’s or security guard’s licence, would be required to be considered by the Registrar—

“(a) Under **section 17 (1) (c)** of this Act, the Registrar shall not grant the application unless, having regard to all the circumstances of the case, the Registrar is satisfied that there are special factors that would justify the granting of the application:

“(b) Under **section 17 (2)** of this Act, the Registrar shall not grant the application unless, having regard to the

nature and circumstances of the offence, the Registrar is satisfied that the application should be granted.”

5 **79. Trust accounts, etc.**—The principal Act is hereby amended by repealing sections 49 and 50.

80. Private investigator to render account to principal—Section 51 (3) of the principal Act is hereby amended by omitting the words “in the trust account of the licensee or firm”.

10 **81. Complaints against licensee**—Section 53 (4) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) That the licensee has been convicted of any crime involving dishonesty or of any specified offence:”.

15 **82. Grounds for cancellation of licence**—(1) Section 58 (1) of the principal Act is hereby amended by repealing

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20 paragraph (aa) (as inserted by section 11 of the Private Investigators and Security Guards Amendment Act 1978), and substituting the following paragraph:

New

paragraphs (a) and (aa) (as inserted by section 11 of the Private Investigators and Security Guards Amendment Act 1978), and substituting the following paragraphs:

25 “(a) Where any person specified in subsection (2) of this section has been convicted of—

“(i) An offence under any of the provisions specified in the Third Schedule to this Act; or

30 “(ii) Any drug-dealing offence within the meaning of section 10 (1) of the Misuse of Drugs Amendment Act 1978:

“(aa) Where any person specified in subsection (2) of this section has been convicted of any crime involving dishonesty or of any specified offence, and the

Registrar is satisfied that the licensee is not a proper person to hold the licence:”.

(2) Section 11 of the Private Investigators and Security Guards Amendment Act 1978 is hereby consequentially repealed. 5

83. Disciplinary powers of Registrar in respect of responsible employees—Section 59 (4) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) That the holder of the certificate of approval has been convicted of any crime involving dishonesty or of any specified offence:” 10

84. Registrar to cancel licences and certificates of approval in certain cases, unless special factors present—Section 60 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections: 15

“(2) Where the holder of a licence, or of a certificate of approval is convicted of any crime involving dishonesty or of any specified offence, the Registrar shall cancel the licence or certificate of approval unless, having regard to the nature and circumstances of the offence, he or she is satisfied that the interests of the public do not require the cancellation of the licence or certificate of approval. 20

“(3) Where the holder of a licence, or of a certificate of approval, is detained in a penal institution pursuant to a conviction of any offence, and the time allowed for an appeal against the sentence of detention has expired, or, if an appeal against that sentence has been brought, it has been finally determined without that sentence having been quashed, the Registrar shall cancel the licence or certificate of approval unless, having regard to the nature and circumstances of the offence, he or she is satisfied that the interests of the public do not require the cancellation of the licence or certificate of approval.” 25 30 35

85. Appeals—(1) The principal Act is hereby amended by repealing Part VI (as amended by section 3 (4) of the Judicature Amendment Act 1991), and substituting the following Part:

“PART VI

“APPEALS

5 “64. **Appeals to District Court**—(1) The following persons shall have a right of appeal to a District Court against a decision of the Registrar under this Act:

“(a) Where an application is refused (whether in whole or in part), the applicant; and

“(b) Where a licence is suspended or cancelled, the licensee; and

10 “(c) Where a certificate of approval is suspended or cancelled, the person whose certificate of approval is suspended or cancelled; and

“(d) Where the employment of an officer of a company that is a licensee is terminated, the officer; and

15 “(e) Where a licensee or person holding a certificate of approval is fined, the licensee or person.

“(2) An appeal under this section shall be brought within 28 days after the date on which the appellant was notified in writing by the Registrar of the decision appealed against, or
20 within such further period as the Court may allow.

“(3) The appeal shall be made by way of originating application in accordance with the District Courts Rules 1992, and shall be filed in the office of the Court nearest to the registered office of the licensee or to the place of employment
25 of the holder of the certificate of approval, as the case may require.

“(4) On hearing the appeal, the Court may—

“(a) Confirm, vary, or reverse the decision appealed against; or

30 “(b) In the case of an order suspending a licence or certificate of approval, vary the period of the suspension; or

“(c) Refer the matter back to the Registrar with directions to him or her to reconsider the whole or any specified
35 part of the matter.

“(5) The decision of the Court on the appeal shall be final.”

(2) The Judicature Amendment Act 1991 is hereby consequentially amended by repealing so much of this Schedule as relates to the principal Act.

40 **86. Voluntary surrender of licence or certificate of approval**—Section 68 (3) of the principal Act is hereby amended by repealing paragraph (b).

87. Regulations—Section 71 (1) of the principal Act is hereby amended by repealing paragraphs (c) to (g).

88. Penalties—The principal Act is hereby amended in the manner indicated in the **First Schedule** to this Act.

89. First Schedule repealed—The principal Act is hereby 5
amended by repealing the **First Schedule**.

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SCHEDULES

FIRST SCHEDULE

Section 88

AMENDMENTS TO PRINCIPAL ACT RELATING TO PENALTIES

Provision	Amendment
Section 16	By repealing subsection (3), and substituting the following subsection: “(3) Every person who contravenes subsection (1) or subsection (2) of this section commits an offence against this Act.”
Section 32	By adding to subsection (5), and to subsection (6), the words “against this Act”.
Section 34 (3)	By repealing subsection (7). By omitting the words “and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of \$500 or to both”, and substituting the words “against this Act”.
Section 52	By omitting from subsection (1) the words “and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$500 or to both”, and substituting the words “against this Act”.
Section 57 (1)	By omitting from paragraph (c) the figure “\$50”, and substituting the figure “\$500”.
Section 59 (8)	By omitting from paragraph (c) the figure “\$20”, and substituting the figure “\$200”.
Section 66	By repealing subsection (3), and substituting the following subsection: “(3) Every person who contravenes subsection (2) of this section commits an offence against this Act.”
Section 70	By repealing subsection (2), and substituting the following subsection: “(2) Every person who commits an offence against this Act, or against any regulations made under this Act, for which no penalty is otherwise provided by this Act or by such regulations, shall be liable on summary conviction to a fine not exceeding \$2,000.”