



Australian Capital Territory

# **Court Security Act 2001**

**A2001-47**

**Republication No 5**

**Effective: 5 April 2004 – 8 April 2004**

Republication date: 5 April 2004

Last amendment made by A2004-7

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Court Security Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 5 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 5 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Court Security Act 2001

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Australian Capital Territory

# Court Security Act 2001

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An Act about court security

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**1 Name of Act**

This Act is the *Court Security Act 2001*.

**3 Dictionary**

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*firearm*—see the *Firearms Act 1996*, section 4.' means that the expression 'firearm' is defined in section 4 of that Act and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

**4 Notes**

A note included in this Act is explanatory and is not part of this Act.

*Note* See *Legislation Act 2001*, s 127 (1), (4) and (5), for the legal status of notes.

**U 5 Right of entry etc to court premises**

- (1) A person has a right to enter and remain in an area of court premises that is open to the public if—
- (a) the person complies with all orders made by a judge or magistrate, whether under this Act or otherwise; and
  - (b) the person complies with all the requirements made under this Act by a security officer; and

- (c) if the person wishes to enter or remain in a courtroom where a court is sitting or about to sit—there is seating for the person in the courtroom.
- (2) This section is subject to—
- (a) the *Children and Young People Act 1999*, section 61 (Proceedings not open to public); and
  - (b) the *Consumer Credit (Administration) Act 1996*, section 85 (2) (Hearings); and
  - (c) the *Discrimination Act 1991*, section 92 (2) (Procedure); and
  - (d) the *Evidence Act 1971*, section 76D (Proceedings in camera); and
  - (e) the *Evidence (Miscellaneous Provisions) Act 1991*, section 7 (Consequential orders); and
  - (f) the *Inquiries Act 1991*, section 21 (3) (Power to hold); and
  - (g) the *Magistrates Court (Civil Jurisdiction) Act 1982*, sections 181 (Hearings to be in public except in special circumstances), 423 (Persons entitled to be present) and 435 (Public nature of inquiries); and
  - (h) the *Mental Health (Treatment and Care) Act 1994*, section 95 (Proceedings to be in private); and
  - (i) the *Royal Commissions Act 1991*, section 28 (3) (Power to hold); and
  - (j) the inherent jurisdiction of a court to regulate its proceedings; and
  - (k) any other law in force in the Territory about the people who may be present in a court or on court premises.

**6 Powers under Act additional to other powers**

The powers under this Act are additional to any other powers that a court, judge, magistrate, police officer, sheriff's officer or anyone else has apart from this Act.

**7 Security officer to be identified before exercising powers**

- (1) A security officer who is not a police officer or sheriff's officer may exercise a power under this Act in relation to a person only if—
  - (a) the officer first identifies himself or herself as a security officer if it is practicable to do so; and
  - (b) the officer produces his or her identity card for inspection by the person if the person asks the officer to do so.
- (2) A security officer who is a police officer or sheriff's officer and is not in uniform may exercise a power under this Act in relation to a person only if—
  - (a) the officer first identifies himself or herself as a police officer or sheriff's officer if it is practicable to do so; and
  - (b) the officer produces evidence that he or she is a police officer or sheriff's officer if the person asks the officer to do so.
- (3) If a security officer fails to comply with this section in relation to a person, the person is not obliged to comply with a requirement made by the officer.

**8 Person may be required to state name etc**

- (1) If a security officer believes on reasonable grounds that a person entering or on court premises is behaving unlawfully, is behaving in a disorderly or menacing way or is a threat to court security, the security officer may require the person to tell the officer—
  - (a) the person's name; and
  - (b) the person's reason for entering or being on the premises.



- (2) A person must not, without reasonable excuse, fail to tell a security officer the person's name, or the person's reason for entering or being on the court premises, when required to do so under subsection (1).

Maximum penalty: 5 penalty units.

- (3) A person must not give a name, or other information, that is false or misleading in a material particular in purported compliance with a requirement under subsection (1).

Maximum penalty: 20 penalty units.

## **9 Searches**

- (1) A security officer may require a person entering or on court premises to do any of the following:
- (a) to undergo a screening search;
  - (b) to allow anything in the person's possession to be subjected to a screening search;
  - (c) to open and empty out the person's pockets;
  - (d) to open or empty a briefcase, bag or container (for example, a box or carton) the person is carrying or is otherwise in the person's possession or allow the security officer to search anything the person is carrying or is otherwise in the person's possession.
- (2) A security officer may make a requirement under this section only if the officer believes on reasonable grounds that it is necessary to make the requirement in the interests of court security for the purpose of detecting firearms, explosives or offensive weapons.

- (3) If a security officer makes a requirement of a person under this section, the person must immediately comply with the requirement or leave the court premises.

Maximum penalty: 50 penalty units.

- (4) A security officer who conducts a search under this section must not use more force, or subject a person to greater indignity, than is necessary to conduct the search.

## **10 Seizure and forfeiture of firearms etc**

A security officer may seize a firearm, explosive or offensive weapon that a person entering or on court premises is carrying or otherwise has in his or her possession.

## **11 Security officer may require thing that may hide firearms etc to be left**

- (1) A security officer may require a person entering or on court premises with anything to leave the thing with the officer if the officer believes on reasonable grounds that the thing may contain a firearm, explosive or offensive weapon or be used as an offensive weapon.
- (2) If a security officer makes a requirement of a person under this section, the person must immediately comply with the requirement or leave the court premises.

Maximum penalty: 50 penalty units, 6 months imprisonment or both.

- (3) If a person leaves something with a security officer under this section, the person is entitled, on request to a security officer, to the return of the thing when the person leaves the court premises.

## **12 Unlawful, disorderly conduct etc**

- (1) If a security officer believes on reasonable grounds that a person entering or on court premises is behaving unlawfully or in a

disorderly or menacing way, the officer may require the person not to enter, or to leave, the court premises.

- (2) However, if the person tells the security officer that the person is required to attend the court, the officer may only make the requirement with the court's leave or if the officer is satisfied on reasonable grounds that the person is not required to attend the court.
- (3) For this section, a person is required to attend a court if—
  - (a) the person is a lawyer who is to appear before the court; or
  - (b) the person is a party to a proceeding being heard, or about to be heard, by the court; or
  - (c) the person is required to attend the court by a summons, subpoena or other court process or order; or
  - (d) the person is accompanying a person mentioned in paragraph (a) to (c).
- (4) A person must not contravene a requirement under this section.

Maximum penalty: 50 penalty units, 6 months imprisonment or both.

### **13        Contravention of requirement of security officer**

- (1) If a person contravenes a requirement of a security officer under section 8 (Person may be required to state name etc), 9 (Searches) or 11 (Security officer may require thing that may hide firearms etc to be left), a security officer may require the person—
  - (a) not to enter the court premises or a part of the court premises; or
  - (b) to immediately leave the court premises or a part of the court premises.

- (2) However, if the person tells the security officer that the person is required to attend the court, the officer may only make the requirement with the court's leave or if the officer is satisfied on reasonable grounds that the person is not required to attend the court.
- (3) For this section, a person is required to attend a court if—
  - (a) the person is a lawyer who is to appear before the court; or
  - (b) the person is a party to a proceeding being heard, or about to be heard, by the court; or
  - (c) the person is required to attend the court by a summons, subpoena or other court process or order; or
  - (d) the person is accompanying a person mentioned in paragraph (a) to (c).
- (4) A person must not contravene a requirement under this section.  
Maximum penalty: 50 penalty units.
- (5) A security officer may prevent a person from entering court premises or a part of court premises in contravention of a requirement under this section or section 12.
- (6) If a person on court premises contravenes a requirement under this section or section 12, a security officer may require the person to leave the court premises and, if the person does not immediately leave the court premises, remove the person from the court premises using reasonable force.

**14      Obstruction etc of security officer**

A person must not, without reasonable excuse, hinder or obstruct a security officer in the exercise of a function under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**15      Judge or magistrate may close court premises**

- (1) If a judge or magistrate considers it necessary for securing order and safety in court premises or a part of court premises, the judge or magistrate may—
  - (a) order members of the public generally, or stated members of the public, to leave the court premises or a part of the court premises; or
  - (b) order members of the public generally, or stated members of the public, not to be admitted to the court premises or a part of the court premises.
- (2) A person must not contravene an order of a judge or magistrate under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A security officer may prevent a person from entering court premises or a part of court premises in contravention of an order under this section.
- (4) If a person on court premises contravenes an order under this section, a security officer may require the person to leave the court premises and, if the person does not immediately leave the court premises, remove the person from the court premises using reasonable force.

## **16 Security officers**

- (1) The chief executive may appoint a person (other than a police officer or sheriff's officer) to be a security officer.

*Note 1* For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Each police officer and sheriff's officer is a security officer (see the dict, def of **security officer**).

- (2) The chief executive may appoint a person as a security officer only if the chief executive is satisfied the person—
- (a) holds a security licence; and
  - (b) has not committed an offence against this Act or has not been convicted or found guilty of an offence involving fraud, dishonesty, violence, drugs or weapons; and
  - (c) is capable of competently exercising the functions of a security officer under this Act.
- (3) The chief executive may end the appointment of a person as a security officer if—
- (a) the person ceases to hold a security licence; or
  - (b) the person is not employed by a person holding a master licence under the *Security Industry Act 2003*; or
  - (c) the person commits an offence against this Act or has been convicted or found guilty of an offence involving fraud, dishonesty, violence, drugs or weapons; or
  - (d) the person is not capable of competently exercising the functions of a security officer under this Act; or

- (e) the chief executive and the person agree to the revocation.

*Note* A security officer's appointment also ends if the officer resigns (see *Legislation Act 2001*, s 210).

- (4) In this section:

***security licence*** means a licence under the *Security Industry Act 2003* that authorises the licensee to patrol, protect, watch or guard property (including cash in transit), whether or not it authorises the licensee to do anything else.

## **17 Identity cards for security officers**

- (1) The chief executive must issue an identity card to each security officer who is not a police officer or sheriff's officer.
- (2) The identity card must—
- (a) state that the person to whom the card is issued is a security officer for this Act; and
  - (b) show—
    - (i) a recent photograph of the person; and
    - (ii) the name of the person; and
    - (iii) the date of issue of the card; and
    - (iv) a date of expiry of the card; and
    - (v) anything else prescribed under the regulations.
- (3) A security officer who is not a police officer or sheriff's officer must—
- (a) at all times while on duty at court premises wear his or her identity card so it is clearly visible; and

- (b) produce it for inspection by a person if the person asks the security officer to do so.

Maximum penalty: 1 penalty unit.

- (4) A person appointed as a security officer who ceases to be a security officer must return his or her identity card to the chief executive as soon as practicable, but within 21 days after ceasing to be a security officer.

Maximum penalty: 1 penalty unit.

## **18 Delegation of chief executive's functions**

The chief executive may delegate the chief executive's functions under this Act to a public servant.

*Note* For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

## **19 Regulation-making power**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.



## Dictionary

(see s 3)

*Note 1* The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief executive
- contravene
- Executive
- function
- power
- public servant.

***assistant sheriff*** means a person who is appointed under the *Supreme Court Act 1933*, section 53 (Sheriff's assistants).

***court*** means—

- (a) the Supreme Court; or
- (b) the Magistrates Court; or
- (c) the Childrens Court; or
- (d) the Coroner's Court; or
- (e) the administrative appeals tribunal; or
- (f) the consumer and trader tribunal; or
- (g) the credit tribunal; or
- (h) the discrimination tribunal; or
- (i) the guardianship tribunal; or
- (j) the mental health tribunal; or
- (k) the residential tenancies tribunal; or

- (l) the tenancy tribunal established under the *Tenancy Tribunal Act 1994*; or
- (m) a board of inquiry established under the *Inquiries Act 1991*; or
- (n) a royal commission established under the *Royal Commissions Act 1991*; or
- (o) a judicial commission established under the *Judicial Commissions Act 1994*; or
- (p) a court prescribed under the regulations; or
- (q) any other tribunal or entity that is authorised to hear, receive and examine evidence and is prescribed under the regulations.

***court premises*** means the premises or place where a court is held or that is used in relation to the operations of a court, and includes—

- (a) a forecourt, courtyard, yard or area used with court premises; and
- (b) a part of premises or a place used as an entrance to or exit from court premises.

***custodial escort*** means a person who is appointed as an escort under the *Custodial Escorts Act 1998*.

***deputy sheriff*** means a person who is appointed as a deputy sheriff of the Territory under the *Supreme Court Act 1933*, section 46 (Appointment).

***explosive***—see the *Dangerous Substances Act 2004*, section 73.

***firearm***—see the *Firearms Act 1996*, section 4.

***judge*** means a judge, or the master, of the Supreme Court, and includes a person prescribed under the regulations for this definition.

***magistrate*** includes a person prescribed under the regulations for this definition.

***offensive weapon*** means—

- (a) anything made or adapted for use, or capable of being used, for causing injury to or incapacitating a person; or
- (b) anything intended for that use by the person who is carrying it or otherwise has it in his or her possession;

and includes an imitation or replica of an offensive weapon.

***screening search*** means—

- (a) for a search of a person—a search by equipment designed to conduct the search without touching the person; and
- (b) for a search of a thing—a search by equipment designed to conduct the search without touching the thing or requiring it to be opened.

***security officer*** means—

- (a) a police officer; or
- (b) a sheriff's officer; or
- (c) a person who is appointed as a security officer under section 16 (Security officers).

***sheriff*** means the person appointed as the sheriff of the Territory under the *Supreme Court Act 1933*, section 46 (Appointment).

***sheriff's officer*** means the sheriff, an assistant sheriff or a deputy sheriff.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

#### **Court Security Act 2001 No 47**

notified 12 July 2001 (Gaz 2001 No 28)  
commenced 12 July 2001 (s 2)

as amended by

#### **Statute Law Amendment Act 2002 No 30 pt 3.11**

notified LR 16 September 2002  
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))  
pt 3.11 commenced 17 September 2002

#### **Security Industry Act 2003 A2003-4 sch 1 pt 1.1**

notified LR 3 March 2003  
s 1, s 2 commenced 3 March 2003 (LA s 75 (1))  
sch 1 pt 1.1 commenced 3 September 2003 (s 2 and LA s 79)

#### **Consumer and Trader Tribunal Act 2003 A2003-16 s 68, s 69**

notified LR 9 April 2003  
s 1, s 2 commenced 9 April 2003 (LA s 75 (1))  
s 68, s 69 commenced 9 October 2003 (s 2 and LA s 79))

#### **Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48 sch 2 pt 2.4**

notified LR 31 October 2003  
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))  
[sch 2 pt 2.4 awaiting commencement \(s 2\)](#)  
*Note* default commencement under LA s 79: 30 April 2004

#### **Dangerous Substances Act 2004 A2004-7 sch 1 pt 1.1**

notified LR 19 March 2004  
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))  
sch 1 pt 1.1 commenced 5 April 2004 (s 2 and CN2004-6)

### 4 Amendment history

#### **Commencement**

s 2 om R1 (LA s 89 (4))

#### **Right of entry etc to court premises**

s 5 [am A2003-48 amdt 2.4](#)

## Endnotes

### 5 Earlier republications

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#### **Security officers**

s 16 am 2002 No 30 amdts 3.128-3.131; A2003-4 amdts 1.1-1.3

#### **Delegation of chief executive's functions**

s 18 sub 2002 No 30 amdt 3.132

#### **Dictionary**

dict am 2002 No 30 amdt 3.133  
def **court** am A2003-16 s 68; pars renum R4 LA (see  
A2003-16 s 69)  
def **explosive** sub A2004-7 amdt 1.1  
def **function** om R1 (LA)

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	12 September 2001
2	A2002-30	19 September 2002
3	<u>A2003-16</u>	3 September 2003
4	A2003-16	9 October 2003

## 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<b>Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48 sch 2 pt 2.4</b>
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## Part 2.4 Court Security Act 2001

### [2.4] Section 5 (2) (d) and (e)

*substitute*

(d) the following sections of the *Evidence (Miscellaneous Provisions) Act 1991*:

- section 9 (Consequential orders);
- section 39 (Evidence given in closed court);
- section 44 (Consequential orders under div 4.3);
- section 52 (c) (Application for leave under s 51);
- section 61 (5) (Preliminary examination of protected confidence evidence);
- section 63 (2) (a) (Ancillary orders for protection of person who made protected confidence); and

### [2.5] Section 5 (2)

*renumber paragraphs when Act next republished under Legislation Act*

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