

2000

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Court Security Bill 2000

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2000

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(As presented)

(Attorney-General)

Court Security Bill 2000

A BILL

FOR

An Act about court security

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Court Security Act 2000*.

5 **2 Commencement**

This Act commences on the day it is notified in the Gazette.

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.

5 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 *Interpretation Act 1967*, s 11F and s 11G).

10 4 Notes

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

Note See *Interpretation Act 1967*, ss 12 (1), (4) and (5) for the legal status of notes.

5 Right of entry etc to court premises

15 (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 requirements made by a security officer under this Act; and
- 20 (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—

- 25 (a) the *Children and Young People Act 1999*, section 61 (Proceedings not open to public); and
- (b) the *Consumer Credit (Administration) Act 1996*, subsection 85 (2) (Hearings); and
- (c) the *Discrimination Act 1991*, subsection 92 (2) (Procedure); and
- (d) the *Evidence Act 1971*, section 76D (Proceedings in camera); and
- 30 (e) the *Evidence (Miscellaneous Provisions) Act 1991*, section 7 (Consequential orders); and
- (f) the *Inquiries Act 1991*, subsection 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
- 5 (h) the *Mental Health (Treatment and Care) Act 1994*, section 95 (Proceedings to be in private); and
- (i) the *Royal Commissions Act 1991*, subsection 28 (3) (Power to hold); and
- 10 (j) the *Tenancy Tribunal Act 1994*, section 26 (Closed hearing) and subsection 38 (2) (Public hearings); and
- (k) the inherent jurisdiction of a court to regulate its proceedings; and
- (l) 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

- 15 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

- 20 (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.
- 25 (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
 - 30 (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 and address etc

5 (1) A security officer may require a person entering or on court premises—

(a) to tell the officer the person's name and address; and

(b) to tell the officer the person's reason for entering or being on the premises; and

10 (c) to give evidence of the person's identity to the officer.

(2) A security officer may make a requirement under subsection (1) only if the officer believes on reasonable grounds that it is necessary to make the requirement in the interests of court security.

(3) A person must not—

15 (a) without reasonable excuse, fail to tell a security officer the person's name and address, or the person's reason for entering or being on the court premises, when required to do so under subsection (1); or

20 (b) without reasonable excuse, fail to give a security officer any evidence of identity the person is carrying when required to give evidence of the person's identity under subsection (1).

Maximum penalty: 5 penalty units.

(4) A person must not—

25 (a) give a name or address, or other information, that is false or misleading in a material particular in purported compliance with a requirement under subsection (1); or

(b) give evidence of identity that is false or misleading in a material particular in purported compliance with a requirement under subsection (1).

30 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 or a frisk search;
- 5 (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.
- 10

(2) A frisk search may only be conducted by—

- (a) a security officer of the same sex as the person being searched; or
- 15 (b) if a security officer of the same sex as the person being searched is not available to conduct the search—by someone else of the same sex who agrees to conduct the frisk search when asked by a security officer.

(3) 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.

20

(4) 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.

25 Maximum penalty: 50 penalty units.

(5) 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.

(6) A person who conducts a frisk search under paragraph (2) (b) is not civilly liable for an act or omission done honestly in conducting the search.

30

(7) A liability that would, apart from subsection (6), attach to a person attaches instead to the Territory.

10 Firearms, explosives and offensive weapons on court premises

(1) A person must not carry, or otherwise have in his or her possession, on court premises a firearm, explosive or offensive weapon.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

5 (2) This section does not apply to—

- (a) a police officer acting in the course of his or her duty as a police officer; or
- (b) a security officer who is not a police officer acting in the course of his or her duty as a security officer; or
- 10 (c) a custodial officer acting in the course of his or her duty as a custodial officer; or
- (d) a person who has a firearm, explosive or offensive weapon that is to be, or has been, presented in evidence in a court if—
 - 15 (i) the person has the firearm, explosive or weapon with the court's permission; or
 - (ii) the weapon is under the control of a member of the court staff or a police officer.

11 Seizure and forfeiture of firearms etc

20 (1) A security officer may seize a firearm, explosive or offensive weapon that a person entering or on court premises has in contravention of section 10.

(2) If a person is convicted or found guilty of an offence against section 10, the firearm, explosive or offensive weapon to which the offence relates is forfeited to the Territory.

25 **12 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,
30 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.

5 (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.

13 Unlawful, disorderly conduct etc

10 (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.

15 (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
- 20 (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.

(4) A person must not contravene a requirement under this section.

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

25 14 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 and address etc), 9 (Searches) or 12 (Security officer may require thing that may hide firearms etc to be left), a security officer may require the person—

- 30 (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.

5 (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

10 (c) the person is required to attend the court by a summons, subpoena or other court process or order.

(4) A person must not contravene a requirement under this section.

Maximum penalty: 50 penalty units.

15 (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 13.

(6) If a person on court premises contravenes a requirement under this section or section 13, 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.

20

15 **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.

25 **16 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—

30 (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.

5 (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.

10 (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.

17 Security officers

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

Note Each police officer and sheriff's officer is a security officer. .

(2) The chief executive may appoint a person as a security officer only if the chief executive is satisfied the person—

- 20 (a) is registered as an employee under the industry code; 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
- 25 (c) is capable of competently exercising the functions of a security officer under this Act.

(3) The chief executive may, in writing, revoke the appointment of a person as a security officer if—

- (a) the person ceases to be registered as an employee under the industry code; or
- 30 (b) the person ceases to be employed by a person registered as a principal under the industry code; 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 chief executive and the person agree to the revocation.

5 (4) In this section:

industry code means the Guard and Patrol Services Industry Code of Practice prescribed by regulations made under the *Fair Trading Act 1992*, and includes that code of practice as amended and in force from time to time.

10 **18 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—

15 (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

20 (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—

25 (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.

5 **19 Delegation of chief executive's functions**

The chief executive may, in writing, delegate to a public servant all or any of the chief executive's functions under this Act.

20 Regulation-making power

The Executive may make regulations for this Act.

DICTIONARY

(See s 3)

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

court means—

- 5 (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
- 10 (f) the credit tribunal; or
- (g) the discrimination tribunal; or
- (h) the guardianship tribunal; or
- (i) the mental health tribunal; or
- (j) the residential tenancies tribunal; or
- 15 (k) the tenancy tribunal established under the *Tenancy Tribunal Act 1994*; or
- (l) a board of inquiry established under the *Inquiries Act 1991*;
or
- 20 (m) a royal commission established under the *Royal Commissions Act 1991*; or
- (n) a judicial commission established under the *Judicial Commissions Act 1994*; or
- (o) a court prescribed under the regulations; or
- 25 (p) 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—

- 30 (a) a forecourt, courtyard, yard or area used with court premises; and

DICTIONARY—continued

- (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*.

5 **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 Goods Act 1975*, section 4.

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

10 **frisk search** means—

- (a) a search of a person conducted by quickly running the hands over the person's outer garments; and
(b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

15 **function** includes power.

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.

20 **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;

25 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

DICTIONARY—continued

- (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—

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- (a) a police officer; or
(b) a sheriff's officer; or
(c) a person who is appointed as a security officer under section 17 (Security officers).

10

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.

Endnote

Penalty units

Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.