

2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

## Security Industry Bill 2002

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2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## Security Industry Bill 2002

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### A Bill for

An Act to provide for the licensing and regulation of people in the security industry, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Security Industry Act 2002*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written  
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be  
10 fixed, for the commencement of different provisions (see Legislation  
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the  
13 notification day, it automatically commences on the first day after that  
14 period (see Legislation Act, s 79).

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## 1 Part 2 Interpretation and application 2 of Act

### 3 3 Dictionary

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

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

9 For example, the signpost definition '*employee licence*—see  
10 section 13.' means that the expression 'employee licence' is defined in  
11 section 13.

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

### 16 4 Notes

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

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

### 19 5 Offences against Act—application of Criminal Code etc

20 Other legislation applies in relation to offences against  
21 this Act.

22 *Note 1* *Criminal Code*

23 The Criminal Code, ch 2 applies to all offences against this Act (see  
24 Code, pt 2.1).

25 The chapter sets out the general principles of criminal responsibility  
26 (including burdens of proof and general defences), and defines terms  
27 used for offences to which the Code applies (eg *conduct*, *intention*,  
28 *recklessness* and *strict liability*).

1            *Note 2    Penalty units*

2                            The Legislation Act, s 133 deals with the meaning of offence penalties  
3                            that are expressed in penalty units.

4        **6        Meaning of *security business***

5            A *security business* is a business in which a person carries on 1 or  
6            more security activities.

7        **7        Carrying on *security activity***

8            (1) For this Act, a person carries on a *security activity* if, as part of a  
9            business or the person's employment, the person does 1 or more of  
10           the following:

11                    (a) acts as a bodyguard or crowd controller;

12                    (b) patrols, protects, watches or guards property (including cash in  
13                    transit);

14                    (c) installs, maintains, monitors, repairs or services security  
15                    equipment;

16                    (d) gives advice in relation to security equipment or security;

17                    (e) carries on an activity in relation to security that is prescribed  
18                    under the regulations;

19                    (f) trains or instructs in relation to an activity mentioned in  
20                    paragraphs (a) to (e);

21                    (g) employs or provides people to carry on an activity mentioned  
22                    in paragraphs (a) to (f).

23            (2) However, a person does not carry on a *security activity* only because  
24            the person installs a lock as part of the person's occupation as a  
25            builder.

26            (3) Also, a person does not carry on a *security activity* only because the  
27            person cuts unrestricted keys or sells self-install security systems.

1 (4) In this section:

2 *self-install security system* means a security system designed so that  
3 it can be installed by an ordinary consumer.

4 *unrestricted key* means a key other than a key marked restricted,  
5 patented or trademarked.

## 6 **8 Meaning of *security equipment***

7 (1) For this Act:

8 *security equipment* means any of the following:

9 (a) a safe or vault;

10 (b) mechanical, electronic, acoustic or other equipment designed  
11 or adapted to provide or enhance security or for the protection  
12 or watching of any property;

13 (c) a device or equipment prescribed under the regulations for this  
14 definition.

15 (2) However, *security equipment* does not include a device or  
16 equipment declared not to be security equipment under the  
17 regulations.

## 18 **9 Regulations may exempt people from application of Act**

19 The regulations may exempt people from the application of this Act.

1 **Part 3 Licences**

2 **Division 3.1 Requirement for licence**

3 **10 Offence of carrying on unauthorised security activity**

- 4 (1) A person commits an offence if the person—
- 5 (a) carries on a security activity; and
- 6 (b) does not hold a licence authorising the person to carry on the
- 7 activity.

8 Maximum penalty: 50 penalty units, imprisonment for 6 months or

9 both.

- 10 (2) An offence against this section is a strict liability offence.

11 **Division 3.2 Kinds of licences**

12 **11 Classes of licences**

- 13 (1) Under this Act, licences are divided into 4 classes: master licences,
- 14 employee licences, trainer licences and temporary licences.
- 15 (2) Employee licences are further divided into subclasses.
- 16 (3) If a person is not eligible for an employee licence, the person may
- 17 be eligible for a temporary licence.

18 *Note* See s 26 (Temporary licences).

19 **12 Master licences**

- 20 (1) A *master licence* is a licence that authorises the licensee to employ
- 21 or provide people to carry on a security activity.
- 22 (2) However, the licensee may only employ or provide a person to carry
- 23 on a security activity if the person holds an employee licence, a
- 24 trainer licence or temporary licence.

1   **13   Employee licences**

2       (1) An *employee licence* is a licence that authorises the licensee to do 1  
3       or more of the following:

4           (a) patrol, guard, watch or protect property (including cash in  
5           transit);

6           (b) act as a bodyguard;

7           (c) act as a security consultant;

8           (d) act as a crowd controller;

9           (e) sell security equipment;

10          (f) carry out surveys and inspections of security equipment;

11          (g) give advice about security equipment;

12          (h) install, maintain, monitor, repair or service security equipment.

13       (2) In this section:

14           *security consultant* means a person whose function is to identify  
15           and analyse security risks and provide solutions, management  
16           strategies or both to minimise security risks.

17   **14   Trainer licences**

18       (1) A *trainer licence* is a licence that authorises the licensee to provide  
19       training in relation to security activities.

20       (2) A *trainer licence* may relate to particular security activities, or  
21       security activities generally.

22   **15   Temporary licences**

23       (1) A *temporary licence* is a licence issued under section 26 to someone  
24       who is not eligible to hold an employee licence.

25       (2) A *temporary licence* authorises an activity that may be authorised  
26       by an employee licence.

1 **16 Licences do not authorise use of firearm**

2 A licence does not authorise the licensee to use a firearm.

3 *Note* Use of firearms is dealt with in the *Firearms Act 1996*.

4 **Division 3.3 Licence applications**

5 **17 Application for licence**

6 (1) A person may apply to the commissioner for fair trading for a  
7 licence or for variation of a licence.

8 *Note 1* A fee may be determined under s 50 (Determination of fees) for this  
9 section.

10 *Note 2* If a form is approved under s 51 (Approved forms) for an application,  
11 the form must be used.

12 (2) The application must be in writing signed by the applicant.

13 (3) The application must be accompanied by any information prescribed  
14 under the regulations.

15 (4) An application for an employee licence or trainer licence, or for  
16 variation of such a licence, must state the following:

17 (a) the licence applied for (including the security activities the  
18 licence is to authorise);

19 (b) the name and business address of the applicant's employer or  
20 proposed employer, unless the applicant is self-employed and  
21 holds a master licence.

22 (5) The applicant must also give the commissioner for fair trading a  
23 consent signed by the applicant for a police officer to make inquiries  
24 about any criminal record of the applicant.

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1 **Division 3.4** **Information for assessing licence**  
2 **applications**

3 **18 Request for further information**

4 (1) The commissioner for fair trading may, by written notice given to an  
5 applicant for a licence, or for variation of a licence, require the  
6 applicant to give the commissioner additional stated information or  
7 documents that the commissioner reasonably needs to decide the  
8 application.

9 (2) The commissioner need not decide an application unless the  
10 applicant complies with the requirement.

11 **19 Request for fingerprints**

12 (1) The commissioner for fair trading may, by written notice given to an  
13 applicant for a licence, or for variation of a licence, require the  
14 applicant to allow a police officer to take the applicant's fingerprints  
15 to confirm the applicant's identity.

16 (2) If the commissioner requires the applicant's fingerprints to be taken,  
17 the commissioner need not decide the application until the applicant  
18 complies with the requirement.

19 (3) The commissioner for fair trading may require the applicant's  
20 fingerprints to be taken only if satisfied that—

21 (a) there is reasonable doubt about the applicant's identity; and

22 (b) proof of the applicant's identity cannot be confirmed in any  
23 other way that is reasonably available.

24 (4) If an applicant allows the applicant's fingerprints to be taken  
25 because of a requirement under this section, as soon as the  
26 fingerprints are no longer needed to confirm the applicant's identity  
27 for the application, the commissioner for fair trading must—

28 (a) ensure that the fingerprints, and any copies of them, are  
29 destroyed; and

1 (b) tell the applicant in writing about the destruction.

2 **20 Further information from 3rd parties**

3 (1) This section applies in relation to a person (the *3rd party*) if the  
4 commissioner for fair trading is satisfied that the 3rd party has an  
5 association or connection with an applicant for a licence, or for  
6 variation of a licence, that is relevant to the application.

7 (2) The commissioner for fair trading may, by written notice to the 3rd  
8 party, require the 3rd party to do 1 or more of the following:

9 (a) provide, in accordance with directions in the notice, stated  
10 information, verified as required by the notice, that is relevant  
11 to the consideration of the application;

12 (b) produce, in accordance with directions in the notice, stated  
13 records relevant to the consideration of the application and  
14 allow examination of the records, the taking of extracts from  
15 them and the making of copies of them;

16 (c) authorise a person described in the notice to comply with a  
17 stated requirement of the kind mentioned in paragraph (a)  
18 or (b);

19 (d) give the commissioner for fair trading the authorities and  
20 consents the commissioner asks for to allow the commissioner  
21 to obtain information (including financial and other  
22 confidential information) from other people about the applicant  
23 and the applicant's associates or relatives.

24 (3) If the commissioner makes a requirement, the commissioner need  
25 not decide the application until the requirement is complied with.

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1 **Division 3.5** **Suitability and prerequisites for**  
2 **issuing licences**

3 **21 General suitability criteria**

4 (1) The commissioner for fair trading must not issue or vary a licence  
5 unless—

6 (a) satisfied that—

7 (i) the applicant is eligible to hold the licence; and

8 *Note* Eligibility for employee and trainer licences is dealt with in  
9 s 24.

10 (ii) the applicant has satisfactorily completed a training  
11 course, or has experience or other training that is  
12 equivalent, or substantially equivalent, to completion of a  
13 training course, prescribed under the regulations for the  
14 licence applied for; and

15 (iii) it is otherwise in the public interest to license the  
16 applicant; and

17 (b) the applicant—

18 (i) if the applicant is an individual—is an adult; and

19 (ii) has satisfied the competency standards prescribed under  
20 the regulations.

21 (2) This section is subject to section 26 (Temporary licences).

22 (3) In this section:

23 ***applicant***—

24 (a) for an application for a master licence—includes a close  
25 associate of the applicant; and

26 (b) if the applicant is a corporation—includes each executive  
27 officer of the corporation; and

28 (c) if the applicant is a partnership—includes each partner.

1 *close associate*—see section 22.

2 *executive officer*, of a corporation, means a person, by whatever  
3 name called and whether or not the person is a director of the  
4 corporation, who is concerned with, or takes part in, the  
5 corporation's management.

6 **22 Meaning of *close associate* for s 21**

7 (1) In section 21:

8 *close associate*, of a person (the *relevant person*), means—

9 (a) a person who—

10 (i) holds or will hold a financial interest, or is or will be  
11 entitled to exercise a relevant power, in the relevant  
12 person's business; and

13 (ii) the commissioner for fair trading is satisfied, is or will be  
14 able to exercise a significant influence in relation to the  
15 conduct of the business because of the interest or power;  
16 or

17 (b) a person who holds or will hold an executive office in the  
18 relevant person's business.

19 (2) In this section:

20 *executive office*, in a business, means a position (however  
21 described) in which the person is concerned with, or takes part in,  
22 the management of the business.

23 *exercise* a power includes exercise the power on behalf of someone  
24 else.

25 *financial interest*, in relation to a business, means—

26 (a) a share in the capital of the business; or

27 (b) an entitlement to receive income derived from the business,  
28 however the entitlement arises.

1        **hold** a position includes hold the position on behalf of someone else.

2        **power** means a power exercisable—

3            (a) by voting or otherwise; and

4            (b) alone or with others.

5        **relevant power**, in relation to a business, means a power—

6            (a) to take part in a directorial, managerial or executive decision  
7                for the business; or

8            (b) to elect or appoint a person to an executive office in the  
9                business.

## 10    **23    Public interest**

11        (1) In deciding whether it is in the public interest to licence an  
12        applicant, the commissioner for fair trading must consider whether  
13        the applicant has committed a relevant offence.

14        *Note*     **Relevant offence** is defined in the dictionary.

15        (2) The commissioner for fair trading may consider any other relevant  
16        matter to decide whether it is in the public interest to license an  
17        applicant.

### 18        **Example of another relevant matter**

19        information collected under s 20

20        *Note*     An example is part of the Act, is not exhaustive and may extend, but  
21        does not limit, the meaning of the provision in which it appears (see  
22        Legislation Act, s 126 and s 132).

## 23    **24    Eligibility for employee and trainer licences**

24        A person is eligible to hold an employee or trainer licence only if  
25        the person is an individual who—

26            (a) is employed by someone who holds a master licence; or

27            (b) is self-employed and holds a master licence.

1 **Division 3.6 Decisions on applications**

2 **25 Decision on application for licence other than temporary**  
3 **licence**

4 (1) On application for a licence other than a temporary licence, the  
5 commissioner for fair trading must—

- 6 (a) issue the licence; or  
7 (b) refuse to issue the licence.

8 (2) The commissioner for fair trading may issue the licence subject to  
9 conditions.

10 (3) The commissioner for fair trading must not issue a licence unless—

- 11 (a) 1 or more classes are endorsed on the licence; and  
12 (b) if the licence is an employee licence—1 or more subclasses are  
13 endorsed on the licence.

14 **26 Temporary licences**

15 (1) This section applies to an applicant if the applicant—

- 16 (a) is a trainee; and  
17 (b) is not eligible for a licence only because either or both of the  
18 following apply:  
19 (i) the applicant is not an adult;  
20 (ii) the commissioner is not satisfied under  
21 section 21 (1) (a) (ii) (which deals with approved training  
22 courses or equivalent) in relation to the applicant.

- 1 (2) The commissioner for fair trading may issue a temporary licence to  
2 the applicant if satisfied that the applicant will be under the direct  
3 supervision of a licensee authorised to carry on the security  
4 activities the temporary licensee is authorised to carry on.

5 *Note* A fee may be determined under s 50 (Determination of fees) for this  
6 section.

- 7 (3) The commissioner for fair trading may issue the licence subject to  
8 conditions.

- 9 (4) A temporary licence may be issued for up to 1 year.

- 10 (5) In this section:

11 *trainee*—see the *Vocational Education and Training Act 1995*,  
12 section 4 (1).

### 13 **27 Decision on application for variation**

14 On application for a variation to a licence, the commissioner for fair  
15 trading must—

- 16 (a) vary the licence; or  
17 (b) refuse to vary the licence.

## 18 **Division 3.7 Form and term of licences**

### 19 **28 Form of licence**

20 A licence must—

- 21 (a) be signed by the licensee; and  
22 (b) state the licence class or, if the licence authorises the licensee  
23 to carry on an activity in more than 1 subclass, each subclass,  
24 of licence; and  
25 (c) have a unique identifying number (the *licence number*); and  
26 (d) contain anything else prescribed under the regulations.

1 **29 Term of licence**

2 A licence is issued for the period (not longer than 1 year) decided by  
3 the commissioner and stated in the licence.

4 **Division 3.8 Suspension and cancellation of**  
5 **licences**

6 **30 Grounds for disciplinary action**

7 Each of the following are *grounds for disciplinary action* in relation  
8 to a licence:

- 9 (a) the licensee is not eligible to apply for, or be issued with, a  
10 licence of the class the licensee holds;

11 **Example of when licensee no longer eligible**

12 if the licensee were to apply for the licence the licensee holds, the licensee would  
13 not satisfy the competency standards prescribed under the regulations for the  
14 licence

15 *Note* An example is part of the Act, is not exhaustive and may extend, but  
16 does not limit, the meaning of the provision in which it appears (see  
17 Legislation Act, s 126 and s 132).

- 18 (b) the licensee—

19 (i) supplied information that was false or misleading in a  
20 material particular in, or in relation to, the application for  
21 the licence; or

22 (ii) contravenes this Act, whether or not the licensee has been  
23 convicted of an offence for the contravention; or

24 *Note* A reference to an Act includes a reference to the statutory instruments  
25 made or in force under the Act, including regulations (see Legislation  
26 Act, s 104).

27 (iii) contravenes a condition of the licence;

- 28 (c) the licensee has committed a relevant offence, whether or not  
29 the licensee has been convicted of the offence;

30 *Note* **Relevant offence** is defined in the dictionary.

1 (d) it is not otherwise in the public interest for the licensee to be  
2 licensed;

3 (e) another ground prescribed under the regulations.

### 4 **31 Action commissioner may take**

5 (1) This section applies if the commissioner for fair trading considers  
6 that grounds for disciplinary action exist, or are likely to exist, in  
7 relation to a licence.

8 (2) The commissioner for fair trading may apply to the consumer and  
9 trader tribunal for the cancellation or suspension of the licence, or  
10 for other disciplinary action to be taken against the licensee.

### 11 **32 Action tribunal may take**

12 (1) On application by the commissioner for fair trading, the consumer  
13 and trader tribunal may cancel or suspend a person's licence, or take  
14 other disciplinary action against the person.

15 (2) However, the consumer and trader tribunal must not cancel or  
16 suspend a person's licence, or take other disciplinary action against  
17 the person, unless satisfied that there are grounds for disciplinary  
18 action in relation to the licence.

19 (3) A suspension must be for a period less than the remaining period of  
20 the licence.

21 (4) In this section:

22 *other disciplinary action* means disciplinary action, other than  
23 cancellation or suspension, that the consumer and trader tribunal  
24 may take under the *Consumer and Trader Tribunal Act 2003*.

### 25 **33 Effect of suspension**

26 A suspended licence does not authorise the licensee to carry on a  
27 security activity during the suspension.

1 **Division 3.9 Register**

2 **34 Register of licences**

3 (1) The commissioner for fair trading must keep a register of licences  
4 under this Act.

5 (2) The register must be available for public inspection at reasonable  
6 times.

7 **35 Keeping register**

8 (1) The register may include information about licences given to the  
9 commissioner for fair trading under this Act and any other  
10 information the commissioner considers appropriate.

11 (2) The register may be kept in the form of, or as part of, 1 or more  
12 computer databases or in any form the commissioner for fair trading  
13 considers appropriate.

14 (3) The commissioner for fair trading may correct any mistake, error or  
15 omission in the register subject to the requirements (if any) of the  
16 regulations.

17 (4) The commissioner may change a detail included in the register to  
18 keep the register up-to-date.

19 (5) This section does not limit the functions of the commissioner for fair  
20 trading in relation to the register.

21 **Division 3.10 Review of decisions**

22 **36 Reviewable decisions**

23 Each of the following is a *reviewable decision*:

24 (a) a decision under section 25 to issue a licence other than a  
25 temporary licence subject to conditions;

26 (b) a decision under section 25 to refuse to issue a licence other  
27 than a temporary licence;

- 1 (c) a decision under section 26 to issue a temporary licence subject  
2 to conditions;
- 3 (d) a decision under section 26 to refuse to issue a temporary  
4 licence;
- 5 (e) a decision under section 27 to refuse to vary a licence.

6 **37 Consumer and trader tribunal to review**

7 The consumer and trader tribunal must review a reviewable decision  
8 on application by the person who made the application the decision  
9 relates to.

1 **Part 4 Other offences**

2 **38 Contravention of licence conditions**

3 (1) A licensee commits an offence if the licensee contravenes a  
4 condition of the licence.

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

7 (2) An offence against this section is a strict liability offence.

8 **39 Return etc of licences varied, suspended or cancelled**

9 (1) This section applies to a person whose licence is varied, suspended  
10 or cancelled under this Act.

11 (2) The person commits an offence if the person fails to return the  
12 licence to the commissioner for fair trading as soon as practicable  
13 (but within 5 business days) after the variation, suspension or  
14 cancellation takes effect.

15 Maximum penalty: 20 penalty units.

16 (3) An offence against this section is a strict liability offence.

17 (4) If a licence is varied, the commissioner for fair trading must give the  
18 person a varied licence, showing the variation, for the remainder of  
19 the period of the licence to which the variation relates.

20 **40 Advertising**

21 (1) A person commits an offence if—

22 (a) the person advertises that the person carries on, or is willing to  
23 carry on, a security activity; and

24 (b) either—

1 (i) the person is not the holder of a licence that authorises  
2 the person to carry on the security activity mentioned in  
3 the advertisement; or

4 (ii) the advertisement does not include the person's licence  
5 number.

6 Maximum penalty: 30 penalty units.

7 (2) An offence against this section is a strict liability offence.

8 (3) In this section:

9 *advertisement* includes a business card, brochure, newsletter or  
10 form.

#### 11 **41 Licence to be produced on request**

12 (1) A licensee commits an offence if—

13 (a) the licensee is asked to produce the licensee's licence for  
14 inspection by—

15 (i) a police officer; or

16 (ii) an investigator; or

17 (iii) anyone with whom the licensee has dealings when  
18 carrying on a security activity; and

19 (b) the licensee does not produce the licence for inspection.

20 Maximum penalty: 10 penalty units.

21 (2) An offence against this section is a strict liability offence.

22 (3) In this section:

23 *investigator*—see the *Fair Trading (Consumer Affairs) Act 1973*,  
24 section 2 (Definitions for Act).

1 **42 Licence to be worn by licensee**

2 (1) A person who holds an employee licence commits an offence if the  
3 person—

4 (a) carries on a security activity; and

5 (b) does not wear the licence so the licence number is clearly  
6 visible.

7 Maximum penalty: 10 penalty units.

8 (2) An offence against this section is a strict liability offence.

9 (3) On application, the commissioner for fair trading may, in writing,  
10 exempt a licensee from subsection (1) if satisfied that it is  
11 appropriate to do so because of the special nature of the licensee's  
12 functions.

13 **43 Licensee not to dispose of licence etc**

14 (1) A licensee commits an offence if the licensee—

15 (a) gives the licence, temporarily or permanently, to anyone; or

16 (b) allows anyone else to use the licence.

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

19 (2) An offence against this section is a strict liability offence.

20 (3) This section does not apply if the licensee gives the licence to the  
21 commissioner for fair trading.

22 **44 Prohibition on delegation etc of functions**

23 (1) A licensee commits an offence if the licensee—

24 (a) either—

25 (i) delegates the carrying on of a security activity to a  
26 person; or

1 (ii) purports to authorise a person to carry on a security  
2 activity; and

3 (b) the delegate or person authorised is not licensed to carry on the  
4 security activity.

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

7 (2) An offence against this section is a strict liability offence.

8 **45 Master licensee not to employ unlicensed people**

9 (1) A person who holds a master licence commits an offence if—

10 (a) the person employs a person to carry on a security activity; and

11 (b) the employee is not licensed to carry on the security activity.

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

14 (2) An offence against this section is a strict liability offence.

1 **Part 5** **Miscellaneous provisions**

2 **46 Directions to master licensees about insurance etc**

3 (1) The Minister may give written directions to master licensees about  
4 the taking out of insurance, or the adoption of risk management  
5 plans.

6 (2) A direction is a disallowable instrument.

7 *Note* A disallowable instrument must be notified, and presented to the  
8 Legislative Assembly, under the Legislation Act.

9 **47 Licensee to keep commissioner informed**

10 (1) A licensee commits an offence if—

11 (a) a detail included in the licence, or in the application for the  
12 licence, changes; and

13 (b) the licensee does not tell the commissioner for fair trading  
14 about the change as soon as practicable after the licensee  
15 becomes aware of the change.

16 Maximum penalty: 5 penalty units.

17 (2) An offence against this section is a strict liability offence.

18 **48 Fees charged by unlicensed people**

19 (1) A person is not entitled to charge a fee in relation to a security  
20 activity unless the person is, or was, authorised to carry on the  
21 activity by a licence.

22 (2) If a person charges a fee in contravention of this section, the fee  
23 cannot be sued for, recovered or kept by the person.

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1    **49    Certificates as evidence**

- 2       (1) This section applies to a certificate signed by the commissioner for  
3       fair trading (or by a person holding an office prescribed by the  
4       regulations) certifying any of the following:
- 5           (a) that a stated person was or was not, on a stated day or during a  
6           stated period, the holder of a licence;
- 7           (b) that a licence was or was not, on a stated day or during a stated  
8           period, subject to stated conditions.
- 9       (2) The certificate is admissible in any proceeding under this Act and is  
10       evidence of the matters stated in it.

11    **50    Determination of fees**

- 12       (1) The Minister may, in writing, determine fees for this Act.
- 13       *Note*     The Legislation Act contains provisions about the making of  
14       determinations and regulations relating to fees (see pt 6.3).
- 15       (2) A determination is a disallowable instrument.
- 16       *Note*     A disallowable instrument must be notified, and presented to the  
17       Legislative Assembly, under the Legislation Act.

18    **51    Approved forms**

- 19       (1) The commissioner for fair trading may, in writing, approve forms  
20       for this Act.
- 21       (2) If the commissioner for fair trading approves a form for a particular  
22       purpose, the approved form must be used for that purpose.
- 23       *Note*     For other provisions about forms, see Legislation Act, s 255.
- 24       (3) An approved form is a notifiable instrument.
- 25       *Note*     A notifiable instrument must be notified under the Legislation Act.



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- 1 (f) any matter relating to licences, including the details to be  
2 included on licences and notification by licensee of any change  
3 in the details;
- 4 (g) requiring holders of master licences to obtain stated insurance  
5 in relation to their security business.
- 6 (3) The regulations may prescribe standards, or adopt or incorporate  
7 standards as in force from time to time, in relation to the security  
8 industry, including in relation to the following:
- 9 (a) agreements for service in the security industry;
- 10 (b) service quality;
- 11 (c) confidentiality of personal information;
- 12 (d) equipment standards;
- 13 (e) advertising;
- 14 (f) marketing practices;
- 15 (g) reports about security incidents in relation to licensees.
- 16 (4) The regulations may prescribe offences for contraventions of the  
17 regulations and prescribe maximum penalties of not more than  
18 20 penalty units for offences against the regulations.

### 19 **53 Consequential amendments—sch 1**

20 Schedule 1 amends the Act and regulations mentioned in it.



1   **55    All codes—principal**

2   (1) This section applies to a principal if, immediately before  
3   commencement day, the principal was registered under a code,  
4   clause 5 (Principal's obligations).

5   (2) The principal is taken to hold a master licence under this Act.

6   (3) The licence ends, unless it is renewed, when the principal's  
7   registration under the relevant code would have ended if the code  
8   had not been repealed.

9   (4) In this section:

10       *principal* means the principal under the relevant code, clause 2  
11       (Interpretation).

12   **56    ACI code—employee**

13   (1) This section applies to a person if immediately before  
14   commencement day, the person was registered under the ACI code,  
15   clause 10 (Staff).

16   (2) The person is taken to hold an employee licence that authorises the  
17   person to do the following:

18       (a) act as a security consultant;

19       (b) sell security equipment;

20       (c) carry out surveys and inspections of security equipment;

21       (d) give advice about security equipment;

22       (e) install, maintain, monitor, repair and service security  
23       equipment.

1    **57    BI code—employee**

2       (1) This section applies to a person if, immediately before  
3       commencement day, the person was registered under the BI code,  
4       clause 10 (Staff).

5       (2) The person is taken to hold an employee licence that authorises the  
6       person to act as a bodyguard.

7    **58    CMI code—employee**

8       (1) This section applies to a person if immediately before  
9       commencement day, the person was registered under the CMI code,  
10       clause 10 (Staff).

11       (2) The person is taken to hold an employee licence that authorises the  
12       person to act as a crowd controller.

13   **59    CTI code, GPSI code—employee**

14       (1) This section applies to a person if immediately before  
15       commencement day, the person was registered under the CTI code,  
16       clause 10 (Staff) or the GPSI code, clause 10 (Staff).

17       (2) The person is taken to hold an employee licence that authorises the  
18       person to patrol, guard, watch or protect property (including cash in  
19       transit).

20   **60    People taken to be licensed under pt 6**

21       (1) This section applies to a licence (the *registration licence*) if a person  
22       is taken to be licensed under this part.

23       (2) The registration licence ends when the person's registration under  
24       the relevant code would have ended if the code had not been  
25       repealed.

1 (3) However, if the person applies for a licence of the same class and, if  
2 applicable, subclass as the registration licence not later than 1 month  
3 after the registration licence ends, the person is taken to have  
4 satisfied the requirement under section 21 (1) (a) (ii) (which is about  
5 the completion of a training course prescribed under the regulations  
6 or the equivalent).

7 (4) Subsection (3) only applies to the issue to the person of the 1st  
8 licence under this Act after the registration licence.

9 **61 Modification of pt 6's operation**

10 (1) The regulations may modify the operation of this part to make  
11 provision in relation to any matter that is not already, or is not (in  
12 the Executive's opinion) adequately, dealt with in this part.

13 (2) This section expires 1 year after it commences.

14 **62 Expiry of pt 6**

15 This part expires 3 years after it commences.

16 *Note* Transitional provisions are usually of transitional effect. They are kept  
17 with the original provisions for a limited time to ensure people are  
18 aware of them. However, the expiry of transitional provisions does not  
19 end their effect (see Legislation Act, s 88).

## **Schedule 1 Consequential amendments**

(see s 53)

### **Part 1.1 Court Security Act 2001**

#### **[1.1] Section 16 (2) (a)**

*substitute*

- (a) holds a security licence; and

#### **[1.2] Section 16 (3) (a) and (b)**

*substitute*

- (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 2002*; or

#### **[1.3] Section 16 (4)**

*substitute*

- (4) In this section:

***security licence*** means a licence under the *Security Industry Act 2002* 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.

## Part 1.2 Fair Trading (Consumer Affairs) Act 1973

### [1.4] New section 7 (3)

*insert*

- (3) A complaint mentioned in subsection (1) (a) may, but need not, relate to goods or services to which the *Security Industry Act 2002* applies.

### [1.5] Section 8A, definition of *fair trading legislation*, paragraph (b)

*substitute*

- (b) the *Fair Trading (Consumer Affairs) Act 1973*; or  
(c) the *Security Industry Act 2002*.

## Part 1.3 Fair Trading Regulations 1995

### [1.6] Regulation 4 (1)

*substitute*

- (1) For the Act, section 34 (Regulations—codes of practice), the following approved codes of practice are prescribed:
- (a) the Fitness Industry Code of Practice;
  - (b) the Motor Vehicle Service and Repair Industry Code of Practice;
  - (c) the Retirement Villages Industry Code of Practice.

## **[1.7] Regulation 5**

*substitute*

### **5 Approved codes of practice—amendments**

- (1) For the Act, section 35 (Codes of practice—amendment), the Fitness Industry Code of Practice is amended in accordance with the approved Fitness Industry Code of Practice Amendment (No. 1 of 1999).
- (2) The amendment is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

# Dictionary

(see s 3)

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

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

- ACT
- contravene
- exercise
- found guilty
- function
- police officer.

*close associate*—see section 22.

*employee licence*—see section 13.

*grounds for disciplinary action*, in relation to a licence—see section 30.

*licence* means a licence under this Act.

*licence number*—see section 28 (c).

*licensee* means the holder of a licence.

*master licence*—see section 12.

*property* includes money and other valuables.

*relevant offence* means an offence against—

- (a) this Act; or
- (b) any of the following Acts:
  - (i) the Criminal Code;
  - (ii) the *Crimes Act 1900*;
  - (iii) the *Firearms Act 1996*;

- 1                   (iv) the *Crimes Act 1914* (Cwlth); or
- 2                   (c) a law of the Commonwealth or a State corresponding, or
- 3                   substantially corresponding, to this Act or an Act mentioned in
- 4                   paragraph (b).
- 5                   *reviewable decision*—see section 36.
- 6                   *security activity*—see section 7.
- 7                   *security business*—see section 6.
- 8                   *security equipment*—see section 8.
- 9                   *temporary licence*—see section 15.
- 10                  *trainer licence*—see section 14.
- 11                  *variation*, of a licence, means variation of the kind of security
- 12                  activity authorised by the licence.

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## Endnote

### Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).