



AUSTRALIAN CAPITAL TERRITORY

Security Industry Act 2003

A2003–4

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AUSTRALIAN CAPITAL TERRITORY

Security Industry Act 2003

A2003–4

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

*Notified under the Legislation Act 2001 on 3 March 2003
(see www.legislation.act.gov.au)*

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

Part 1 Preliminary

1 Name of Act

This Act is the *Security Industry Act 2003*.

2 Commencement

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

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

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

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

Part 2 Interpretation and application of Act

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.

For example, the signpost definition ‘*employee licence*—see section 13.’ means that the expression ‘employee licence’ is defined in section 13.

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, 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, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

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

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

Note 2 Penalty units

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

6 Meaning of *security business*

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

7 Carrying on *security activity*

- (1) For this Act, a person carries on a *security activity* if, as part of a business or the person's employment, the person does 1 or more of the following:
 - (a) acts as a bodyguard or crowd controller;
 - (b) patrols, protects, watches or guards property (including cash in transit);
 - (c) installs, maintains, monitors, repairs or services security equipment;
 - (d) gives advice in relation to security equipment or security;
 - (e) carries on an activity in relation to security that is prescribed under the regulations;
 - (f) trains or instructs in relation to an activity mentioned in paragraphs (a) to (e);
 - (g) employs or provides people to carry on an activity mentioned in paragraphs (a) to (f).
- (2) However, a person does not carry on a *security activity* only because the person installs a lock as part of the person's occupation as a builder.
- (3) Also, a person does not carry on a *security activity* only because the person cuts unrestricted keys or sells self-install security systems.

(4) In this section:

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

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

8 Meaning of *security equipment*

(1) For this Act:

security equipment means any of the following:

- (a) a safe or vault;
 - (b) mechanical, electronic, acoustic or other equipment designed or adapted to provide or enhance security or for the protection or watching of any property;
 - (c) a device or equipment prescribed under the regulations for this definition.
- (2) However, *security equipment* does not include a device or equipment declared not to be security equipment under the regulations.

9 Regulations may exempt people from application of Act

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

Part 3 Licences

Division 3.1 Requirement for licence

10 Offence of carrying on unauthorised security activity

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

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

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

Division 3.2 Kinds of licences

11 Classes of licences

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

Note See s 26 (Temporary licences).

12 Master licences

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

13 Employee licences

- (1) An *employee licence* is a licence that authorises the licensee to do 1 or more of the following:
 - (a) patrol, guard, watch or protect property (including cash in transit);
 - (b) act as a bodyguard;
 - (c) act as a security consultant;
 - (d) act as a crowd controller;
 - (e) sell security equipment;
 - (f) carry out surveys and inspections of security equipment;
 - (g) give advice about security equipment;
 - (h) install, maintain, monitor, repair or service security equipment.
- (2) In this section:

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

14 Trainer licences

- (1) A *trainer licence* is a licence that authorises the licensee to provide training in relation to security activities.
- (2) A *trainer licence* may relate to particular security activities, or security activities generally.

15 Temporary licences

- (1) A *temporary licence* is a licence issued under section 26 to someone who is not eligible to hold an employee licence.
- (2) A *temporary licence* authorises an activity that may be authorised by an employee licence.

16 Licences do not authorise use of firearm

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

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

Division 3.3 Licence applications

17 Application for licence

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

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

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

- (2) The application must be in writing signed by the applicant.
- (3) The application must be accompanied by any information prescribed under the regulations.
- (4) An application for an employee licence or trainer licence, or for variation of such a licence, must state the following:
 - (a) the licence applied for (including the security activities the licence is to authorise);
 - (b) the name and business address of the applicant's employer or proposed employer, unless the applicant is self-employed and holds a master licence.
- (5) The applicant must also give the commissioner for fair trading a consent signed by the applicant for a police officer to make inquiries about any criminal record of the applicant.

Division 3.4 Information for assessing licence applications

18 Request for further information

- (1) The commissioner for fair trading may, by written notice given to an applicant for a licence, or for variation of a licence, require the applicant to give the commissioner additional stated information or documents that the commissioner reasonably needs to decide the application.
- (2) The commissioner need not decide an application unless the applicant complies with the requirement.

19 Request for fingerprints

- (1) The commissioner for fair trading may, by written notice given to an applicant for a licence, or for variation of a licence, require the applicant to allow a police officer to take the applicant's fingerprints to confirm the applicant's identity.
- (2) If the commissioner requires the applicant's fingerprints to be taken, the commissioner need not decide the application until the applicant complies with the requirement.
- (3) The commissioner for fair trading may require the applicant's fingerprints to be taken only if satisfied that—
 - (a) there is reasonable doubt about the applicant's identity; and
 - (b) proof of the applicant's identity cannot be confirmed in any other way that is reasonably available.
- (4) If an applicant allows the applicant's fingerprints to be taken because of a requirement under this section, as soon as the fingerprints are no longer needed to confirm the applicant's identity for the application, the commissioner for fair trading must—
 - (a) ensure that the fingerprints, and any copies of them, are destroyed; and

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

20 Further information from 3rd parties

- (1) This section applies in relation to a person (the *3rd party*) if the commissioner for fair trading is satisfied that the 3rd party has an association or connection with an applicant for a licence, or for variation of a licence, that is relevant to the application.
- (2) The commissioner for fair trading may, by written notice to the 3rd party, require the 3rd party to do 1 or more of the following:
 - (a) provide, in accordance with directions in the notice, stated information, verified as required by the notice, that is relevant to the consideration of the application;
 - (b) produce, in accordance with directions in the notice, stated records relevant to the consideration of the application and allow examination of the records, the taking of extracts from them and the making of copies of them;
 - (c) authorise a person described in the notice to comply with a stated requirement of the kind mentioned in paragraph (a) or (b);
 - (d) give the commissioner for fair trading the authorities and consents the commissioner asks for to allow the commissioner to obtain information (including financial and other confidential information) from other people about the applicant and the applicant's associates or relatives.
- (3) If the commissioner makes a requirement, the commissioner need not decide the application until the requirement is complied with.

Division 3.5 Suitability and prerequisites for issuing licences

21 General suitability criteria

- (1) The commissioner for fair trading must not issue or vary a licence unless—
 - (a) satisfied that—
 - (i) the applicant is eligible to hold the licence; and
Note Eligibility for employee and trainer licences is dealt with in s 24.
 - (ii) the applicant has satisfactorily completed a training course, or has experience or other training that is equivalent, or substantially equivalent, to completion of a training course, prescribed under the regulations for the licence applied for; and
 - (iii) it is otherwise in the public interest to license the applicant; and
 - (b) the applicant—
 - (i) if the applicant is an individual—is an adult; and
 - (ii) has satisfied the competency standards prescribed under the regulations.
- (2) This section is subject to section 26 (Temporary licences).
- (3) In this section:
applicant—
 - (a) for an application for a master licence—includes a close associate of the applicant; and
 - (b) if the applicant is a corporation—includes each executive officer of the corporation; and
 - (c) if the applicant is a partnership—includes each partner.

close associate—see section 22.

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

22 Meaning of *close associate* for s 21

(1) In section 21:

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

- (a) a person who—
 - (i) holds or will hold a financial interest, or is or will be entitled to exercise a relevant power, in the relevant person's business; and
 - (ii) the commissioner for fair trading is satisfied, is or will be able to exercise a significant influence in relation to the conduct of the business because of the interest or power; or
- (b) a person who holds or will hold an executive office in the relevant person's business.

(2) In this section:

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

exercise a power includes exercise the power on behalf of someone else.

financial interest, in relation to a business, means—

- (a) a share in the capital of the business; or
- (b) an entitlement to receive income derived from the business, however the entitlement arises.

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

power means a power exercisable—

- (a) by voting or otherwise; and
- (b) alone or with others.

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

- (a) to take part in a directorial, managerial or executive decision for the business; or
- (b) to elect or appoint a person to an executive office in the business.

23 Public interest

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

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

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

Example of another relevant matter

information collected under s 20

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

24 Eligibility for employee and trainer licences

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

- (a) is employed by someone who holds a master licence; or
- (b) is self-employed and holds a master licence.

Division 3.6 Decisions on applications

25 Decision on application for licence other than temporary licence

- (1) On application for a licence other than a temporary licence, the commissioner for fair trading must—
 - (a) issue the licence; or
 - (b) refuse to issue the licence.
- (2) The commissioner for fair trading may issue the licence subject to conditions.
- (3) The commissioner for fair trading must not issue a licence unless—
 - (a) 1 or more classes are endorsed on the licence; and
 - (b) if the licence is an employee licence—1 or more subclasses are endorsed on the licence.

26 Temporary licences

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

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

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

- (3) The commissioner for fair trading may issue the licence subject to conditions.
- (4) A temporary licence may be issued for up to 1 year.
- (5) In this section:

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

27 Decision on application for variation

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

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

Division 3.7 Form and term of licences

28 Form of licence

A licence must—

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

29 Term of licence

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

Division 3.8 Suspension and cancellation of licences

30 Grounds for disciplinary action

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

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

Example of when licensee no longer eligible

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

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

- (b) the licensee—
 - (i) supplied information that was false or misleading in a material particular in, or in relation to, the application for the licence; or
 - (ii) contravenes this Act, whether or not the licensee has been convicted of an offence for the contravention; or

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

- (iii) contravenes a condition of the licence;
- (c) the licensee has committed a relevant offence, whether or not the licensee has been convicted of the offence;

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

- (d) it is not otherwise in the public interest for the licensee to be licensed;
- (e) another ground prescribed under the regulations.

31 Action commissioner may take

- (1) This section applies if the commissioner for fair trading considers that grounds for disciplinary action exist, or are likely to exist, in relation to a licence.
- (2) The commissioner for fair trading may apply to the consumer and trader tribunal for the cancellation or suspension of the licence, or for other disciplinary action to be taken against the licensee.

32 Action tribunal may take

- (1) On application by the commissioner for fair trading, the consumer and trader tribunal may cancel or suspend a person's licence, or take other disciplinary action against the person.
- (2) However, the consumer and trader tribunal must not cancel or suspend a person's licence, or take other disciplinary action against the person, unless satisfied that there are grounds for disciplinary action in relation to the licence.
- (3) A suspension must be for a period less than the remaining period of the licence.
- (4) In this section:

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

33 Effect of suspension

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

Division 3.9 Register

34 Register of licences

- (1) The commissioner for fair trading must keep a register of licences under this Act.
- (2) The register must be available for public inspection at reasonable times.

35 Keeping register

- (1) The register may include information about licences given to the commissioner for fair trading under this Act and any other information the commissioner considers appropriate.
- (2) The register may be kept in the form of, or as part of, 1 or more computer databases or in any form the commissioner for fair trading considers appropriate.
- (3) The commissioner for fair trading may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.
- (4) The commissioner may change a detail included in the register to keep the register up-to-date.
- (5) This section does not limit the functions of the commissioner for fair trading in relation to the register.

Division 3.10 Review of decisions

36 Reviewable decisions

Each of the following is a *reviewable decision*:

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

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

37 Consumer and trader tribunal to review

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

Part 4 Other offences

38 Contravention of licence conditions

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

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

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

39 Return etc of licences varied, suspended or cancelled

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

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

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) If a licence is varied, the commissioner for fair trading must give the person a varied licence, showing the variation, for the remainder of the period of the licence to which the variation relates.

40 Advertising

- (1) A person commits an offence if—
 - (a) the person advertises that the person carries on, or is willing to carry on, a security activity; and
 - (b) either—

- (i) the person is not the holder of a licence that authorises the person to carry on the security activity mentioned in the advertisement; or
- (ii) the advertisement does not include the person's licence number.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

advertisement includes a business card, brochure, newsletter or form.

41 Licence to be produced on request

- (1) A licensee commits an offence if—
 - (a) the licensee is asked to produce the licensee's licence for inspection by—
 - (i) a police officer; or
 - (ii) an investigator; or
 - (iii) anyone with whom the licensee has dealings when carrying on a security activity; and
 - (b) the licensee does not produce the licence for inspection.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

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

42 Licence to be worn by licensee

- (1) A person who holds an employee licence commits an offence if the person—
 - (a) carries on a security activity; and
 - (b) does not wear the licence so the licence number is clearly visible.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) On application, the commissioner for fair trading may, in writing, exempt a licensee from subsection (1) if satisfied that it is appropriate to do so because of the special nature of the licensee's functions.

43 Licensee not to dispose of licence etc

- (1) A licensee commits an offence if the licensee—
 - (a) gives the licence, temporarily or permanently, to anyone; or
 - (b) allows anyone else to use the licence.

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

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply if the licensee gives the licence to the commissioner for fair trading.

44 Prohibition on delegation etc of functions

- (1) A licensee commits an offence if the licensee—
 - (a) either—
 - (i) delegates the carrying on of a security activity to a person; or

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

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

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

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

45 Master licensee not to employ unlicensed people

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

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

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

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

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

Part 5 Miscellaneous provisions

46 Directions to master licensees about insurance etc

- (1) The Minister may give written directions to master licensees about the taking out of insurance, or the adoption of risk management plans.
- (2) A direction is a disallowable instrument.

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

47 Licensee to keep commissioner informed

- (1) A licensee commits an offence if—
 - (a) a detail included in the licence, or in the application for the licence, changes; and
 - (b) the licensee does not tell the commissioner for fair trading about the change as soon as practicable after the licensee becomes aware of the change.

Maximum penalty: 5 penalty units.

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

48 Fees charged by unlicensed people

- (1) A person is not entitled to charge a fee in relation to a security activity unless the person is, or was, authorised to carry on the activity by a licence.
- (2) If a person charges a fee in contravention of this section, the fee cannot be sued for, recovered or kept by the person.

49 Certificates as evidence

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

50 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).
- (2) A determination is a disallowable instrument.

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

51 Approved forms

- (1) The commissioner for fair trading may, in writing, approve forms for this Act.
- (2) If the commissioner for fair trading approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see Legislation Act, s 255.
- (3) An approved form is a notifiable instrument.

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

52 Regulations

- (1) The Executive may make regulations for this Act.

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

- (2) The regulations may make provision in relation to the following:
- (a) the keeping by the commissioner for fair trading of a register of licences and the particulars to be included in the register;
 - (b) the accreditation of trainers and instructors to conduct training courses prescribed under the regulations;
 - (c) security equipment;
 - (d) methods and practices in relation to the security industry, including, for example, the following:
 - (i) the carrying or display, by licensees, of means of identification and the production or surrender of that identification; and
 - (ii) the wearing by licensees of uniforms, and the kinds of uniforms; and
 - (iii) the markings that may be made on, and the design of any features of, a vehicle used by any person in or in relation to the carrying on of a security activity; and
 - (iv) the preparation, keeping and maintenance, by licensees, of records and accounts, and the audit of accounts, in relation to the carrying on by the licensee of any business requiring a licence and the production and inspection of the records and accounts;
 - (e) the procedure relating to applications for licences;

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

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

53 Consequential amendments—sch 1

Schedule 1 amends the Act and regulations mentioned in it.

Part 6 Transitional provisions

54 Definitions for pt 6

In this part:

ACI code means the *Access Control Industry Code of Practice* under the *Fair Trading Act 1992*, as in force immediately before commencement day.

BI code means the *Bodyguard Industry Code of Practice* under the *Fair Trading Act 1992*, as in force immediately before commencement day.

CMI code means the *Crowd Marshals Industry Code of Practice* under the *Fair Trading Act 1992*, as in force immediately before commencement day.

code means any of the following codes:

- the ACI code;
- the BI code;
- the CMI code;
- the CTI code;
- the GPSI code.

CTI code means the *Cash Transit Industry Code of Practice* under the *Fair Trading Act 1992*, as in force immediately before commencement day.

commencement day means the day section 7 (Carrying on *security activity*) commences.

GPSI code means the *Guard and Patrol Services Industry Code of Practice* under the *Fair Trading Act 1992*, as in force immediately before commencement day.

55 All codes—principal

- (1) This section applies to a principal if, immediately before commencement day, the principal was registered under a code, clause 5 (Principal's obligations).
- (2) The principal is taken to hold a master licence under this Act.
- (3) The licence ends, unless it is renewed, when the principal's registration under the relevant code would have ended if the code had not been repealed.
- (4) In this section:

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

56 ACI code—employee

- (1) This section applies to a person if immediately before commencement day, the person was registered under the ACI code, clause 10 (Staff).
- (2) The person is taken to hold an employee licence that authorises the person to do the following:
 - (a) act as a security consultant;
 - (b) sell security equipment;
 - (c) carry out surveys and inspections of security equipment;
 - (d) give advice about security equipment;
 - (e) install, maintain, monitor, repair and service security equipment.

57 BI code—employee

- (1) This section applies to a person if, immediately before commencement day, the person was registered under the BI code, clause 10 (Staff).
- (2) The person is taken to hold an employee licence that authorises the person to act as a bodyguard.

58 CMI code—employee

- (1) This section applies to a person if immediately before commencement day, the person was registered under the CMI code, clause 10 (Staff).
- (2) The person is taken to hold an employee licence that authorises the person to act as a crowd controller.

59 CTI code, GPSI code—employee

- (1) This section applies to a person if immediately before commencement day, the person was registered under the CTI code, clause 10 (Staff) or the GPSI code, clause 10 (Staff).
- (2) The person is taken to hold an employee licence that authorises the person to patrol, guard, watch or protect property (including cash in transit).

60 People taken to be licensed under pt 6

- (1) This section applies to a licence (the *registration licence*) if a person is taken to be licensed under this part.
- (2) The registration licence ends when the person's registration under the relevant code would have ended if the code had not been repealed.

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

61 Modification of pt 6's operation

- (1) The regulations may modify the operation of this part to make provision in relation to any matter that is not already, or is not (in the Executive's opinion) adequately, dealt with in this part.
- (2) This section expires 1 year after it commences.

62 Expiry of pt 6

This part expires 3 years after it commences.

Note Transitional provisions are usually of transitional effect. They are kept with the original provisions for a limited time to ensure people are aware of them. However, the expiry of transitional provisions does not 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 2003*; or

[1.3] Section 16 (4)

substitute

- (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.

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 2003* 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 2003*.

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*;

- (iv) the *Crimes Act 1914* (Cwlth); or
- (c) a law of the Commonwealth or a State corresponding, or substantially corresponding, to this Act or an Act mentioned in paragraph (b).

reviewable decision—see section 36.

security activity—see section 7.

security business—see section 6.

security equipment—see section 8.

temporary licence—see section 15.

trainer licence—see section 14.

variation, of a licence, means variation of the kind of security activity authorised by the licence.

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

[Presentation speech made in Assembly on 12 December 2002]

I certify that the above is a true copy of the Security Industry Bill 2003 which originated in the Assembly as the Security Industry Bill 2002 and was passed by the Legislative Assembly on 20 February 2003.

Clerk of the Legislative Assembly

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