



Australian Capital Territory

Security Industry Act 2003

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About this republication

The republished law

This is a republication of the *Security Industry Act 2003* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 14 June 2011. It also includes any commencement, amendment, repeal or expiry affecting the republished law to 14 June 2011.

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

Kinds of republications

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

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

Editorial changes

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

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

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

Modifications

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

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Security Industry Act 2003

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Australian Capital Territory

Security Industry Act 2003

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

Part 1 Preliminary

Section 1

Part 1 Preliminary

1 Name of Act

This Act is the *Security Industry Act 2003*.

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) patrols, guards, watches or protects property (including cash in transit);
 - (b) guards with a firearm for cash in transit;
 - (c) guards with a firearm for protecting property;
 - (d) acts as a monitoring centre operator;
 - (e) guards with a dog;
 - (f) acts as a bodyguard;
 - (g) acts as a security consultant;
 - (h) acts as a crowd controller;
 - (i) sells security equipment;
 - (j) carries out surveys and inspections of security equipment;
 - (k) gives advice about security equipment;
 - (l) installs, maintains, monitors, repairs or services security equipment;
 - (m) carries on an activity in relation to security that is prescribed under the regulations;
 - (n) trains or instructs in relation to an activity mentioned in paragraphs (a) to (m);

- (o) employs or provides people to carry on an activity mentioned in paragraphs (a) to (n).
- (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 5 classes: master licences, employee licences, trainer licences, temporary licences and temporary visitor licences.
- (2) Employee licences and temporary visitor 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, a temporary licence or an employee temporary visitor 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) guard with a firearm for cash in transit;
- (c) guard with a firearm for protecting property;
- (d) act as a monitoring centre operator;
- (e) guard with a dog;
- (f) act as a bodyguard;
- (g) act as a security consultant;
- (h) act as a crowd controller;
- (i) sell security equipment;
- (j) carry out surveys and inspections of security equipment;
- (k) give advice about security equipment;
- (l) install, maintain, monitor, repair or service security equipment.

Note 1 A licence to guard with a firearm does not authorise the licensee to use a firearm (see s 16).

Note 2 A person must hold an appropriate ACT firearms licence to be eligible to be granted a licence to guard with a firearm (see s 24).

(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.

15A Temporary visitor licence

- (1) A *temporary visitor licence* is a licence that authorises the licensee—
 - (a) to employ or provide people to carry on 1 or more of the security activities mentioned in subsection (3) for a special event (a *master temporary visitor licence*); or
 - (b) to carry on 1 or more of the security activities mentioned in subsection (3) for a special event (an *employee temporary visitor licence*).

Examples—special event

a sporting event, an entertainment event

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).

- (2) However, a master temporary visitor licensee may only employ or provide a person to carry on a security activity for a special event if the person holds an employee licence, a trainer licence, a temporary licence or an employee temporary visitor licence.
- (3) The following are security activities for a temporary visitor licence:

- (a) patrol, guard, watch or protect property (including cash in transit);
- (b) guard with a firearm for cash in transit;
- (c) guard with a firearm for protecting property;
- (d) act as a monitoring centre operator;
- (e) guard with a dog;
- (f) act as a bodyguard;
- (g) act as a security consultant;
- (h) act as a crowd controller;
- (i) sell security equipment;
- (j) carry out surveys and inspections of security equipment;
- (k) give advice about security equipment;
- (l) install, maintain, monitor, repair or service security equipment.

Note 1 A licence to guard with a firearm does not authorise the licensee to use a firearm (see s 16).

Note 2 A person must hold an appropriate ACT firearms licence to be eligible to be granted a licence to guard with a firearm (see s 24).

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, unless it is for a temporary visitor licence, must be accompanied by—
- (a) a police certificate for the applicant, dated not earlier than 2 months before the day the application is made; and
 - (b) any information prescribed by regulation.
- (4) An application for an employee licence, trainer licence or temporary visitor 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 or master temporary visitor licence.
- (5) An application for a temporary visitor licence must be made no later than 5 working days before the commencement of the special event to which it relates.

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, trainer and employee temporary visitor licences is dealt with in s 24.

(ii) for a licence other than a temporary visitor licence—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) for an application for an employee licence to do 1 or more of the things mentioned in section 13 (1) (a), (b), (c), (d), (e), (f) or (h)—an employee organisation has given the applicant the information prescribed by regulation in relation to workplace rights and responsibilities (*workplace information*); and

(iv) the applicant satisfies any condition prescribed under the regulations for the licence; and

(v) it is otherwise in the public interest to license the applicant; and

(vi) for a master temporary visitor licence—the applicant holds a full licence (however described) under the law of a State to employ or provide a person to carry on the activity authorised under the licence; and

- (vii) for an employee temporary visitor licence—the applicant holds a full licence (however described) under the law of a State to do the activity authorised under the licence; and
- (b) the applicant—
 - (i) if the applicant is an individual—is an adult; and
 - (ii) if competency standards are prescribed under the regulations—has satisfied the standards.
- (2) This section is subject to section 26 (Temporary licences).
- (3) In this section:

applicant—

- (a) for an application for a master licence or master temporary visitor 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.

21A Review of workplace information criterion

- (1) The Minister must review the operation of section 21 (1) (a) (iii), and present a report of the review to the Legislative Assembly, as soon as practicable after the end of its 1st year of operation.
- (2) This section expires 2 years after the day it commences.

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.

Examples—matters to be considered

- 1 a police certificate accompanying an application under s 17 (3)
- 2 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, trainer and employee temporary visitor licences

- (1) A person is eligible to hold an employee, trainer or employee temporary visitor licence only if the person is an individual who—
 - (a) is employed by someone who holds a master licence or master temporary visitor licence; or
 - (b) is self-employed and holds a master licence or master temporary visitor licence.
- (2) A person is eligible to hold an employee or employee temporary visitor licence to guard with a firearm only if the person satisfies the

commissioner that he or she holds an appropriate ACT firearms 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.

Note The ACAT may also direct the commissioner for fair trading to place a condition on a person's licence (see *ACT Civil and Administrative Tribunal Act 2008*, s 66 (2) (g) (i)).

- (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 or an employee temporary visitor 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 *Training and Tertiary Education Act 2003*, 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

- (1) A licence is issued for the period (not longer than 1 year) decided by the commissioner and stated in the licence.
- (2) A temporary visitor licence is issued for the period (stated in the licence) of the special event to which it relates.

Division 3.8 Occupational discipline—licensees

30 Grounds for occupational discipline

- (1) Each of the following is a *ground for occupational discipline* in relation to a licensee:
 - (a) the licensee gave information in relation to the application for the licence that was false or misleading in a material particular;
 - (b) the licensee is not eligible to apply for, or be issued with, a licence of the class the licensee holds;
 - (c) the licensee has contravened, or is contravening, this Act, whether or not the licensee has been convicted of an offence for the contravention;

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).

- (d) the licensee has contravened, or is contravening, a condition of the licence;
- (e) the licensee has committed a relevant offence, whether or not the licensee has been convicted of the offence;

Note **Relevant offence**—see the dictionary.

- (f) it is not otherwise in the public interest for the licensee to be licensed;
- (g) another ground prescribed by regulation.

Example—when licensee no longer eligible—par (b)

if the licensee were to apply for the licence the licensee holds, the licensee would not satisfy the competency standards prescribed by regulation 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).

- (2) A ground for occupational discipline applies to a licensee who is no longer licensed if the ground applied to the licensee while licensed.

31 Commissioner may apply to ACAT for occupational discipline

If the commissioner for fair trading believes on reasonable grounds that a ground for occupational discipline exists in relation to a licensee, the commissioner may apply to the ACAT for an occupational discipline order in relation to the licensee.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out occupational discipline orders the ACAT may make.

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 Notification and review of decisions

36 Meaning of *reviewable decision*—div 3.10

In this division:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

36A Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

37 Applications for review

The following may apply to the ACAT for a review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

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) Subsection (1) (a) (iii) does not apply to a licensee if—
 - (a) a regulation requires the licensee to wear another form of identification while carrying on the security activity; and
 - (b) the licensee wears the other form of identification while carrying on the security activity.

(4) In this section:

investigator—see the *Fair Trading (Australian Consumer Law) Act 1992*, dictionary.

42 Wearing of licences etc

(1) A person commits an offence if the person—

- (a) holds an employee licence or an employee temporary visitor licence; and
- (b) carries out any of the following security activities:
 - (i) patrol, guard, watch or protect property (including cash in transit);
 - (ii) guard with a firearm for cash in transit;
 - (iii) guard with a firearm for protecting property;
 - (iv) guard with a dog;
 - (v) act as a bodyguard;
 - (vi) act as a crowd controller; and
- (c) does not wear the licence so the licence number is clearly visible.

Maximum penalty: 10 penalty units.

(2) A person commits an offence if the person—

- (a) holds an employee licence or an employee temporary visitor licence; and
- (b) carries out any of the following security activities:
 - (i) act as a monitoring centre operator;
 - (ii) act as a security consultant;
 - (iii) sell security equipment;

- (iv) carry out surveys and inspections of security equipment;
 - (v) give advice about security equipment;
 - (vi) install, maintain, monitor, repair or service security equipment; and
- (c) either—
- (i) does not carry the licence; or
 - (ii) fails to produce it for inspection on demand by a person in relation to whom the person is carrying out the activities.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply to—
- (a) a person carrying on a security activity if—
 - (i) a regulation requires the person to wear another form of identification while carrying on the security activity; and
 - (ii) the person wears the other form of identification while carrying on the security activity; or
 - (b) a licensee if the commissioner for fair trading has exempted the licensee under section 42A.
- (5) In this section:
security consultant—see section 13 (2).

42A Exemption for wearing of licences etc

- (1) On application by a licensee, the commissioner for fair trading may, in writing, exempt a licensee from a provision of section 42 if satisfied that it is appropriate to exempt the licensee because of the special nature of the licensee's functions.
- (2) An exemption under subsection (1) may be subject to conditions.

- (3) A licensee commits an offence if the licensee contravenes a condition of the exemption.

Maximum penalty: 10 penalty units.

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

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 or master temporary visitor 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 or master temporary visitor 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 Regulation-making power

- (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;

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).

- (e) the procedure relating to applications for licences;

- (f) anything relating to licences, including—
 - (i) qualifications and conditions for licences; and

Example

membership of a trade or industry association

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).

- (ii) the giving of workplace information;
 - (iii) details to be included on licences; and
 - (iv) notification by licensees of any change in the details;
 - (g) requiring holders of master licences or master temporary visitor 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.

Part 7 **Transitional—Justice and
Community Safety Legislation
Amendment Act 2010 (No 4)**

70 **Transitional—training**

- (1) This section applies to a person who—
 - (a) immediately before the commencement of this section, held an employee licence; and
 - (b) did one or more of the following activities under the licence:
 - (i) guard with a firearm for cash in transit;
 - (ii) guard with a firearm for protecting property;
 - (iii) act as a monitoring centre operator;
 - (iv) guard with a dog; and
 - (c) within 2 years after the commencement of this section, applies to the commissioner to vary the licence to have the subclass to which the activity relates endorsed on the licence.
- (2) For the application, the licensee may be taken to have experience that is equivalent to satisfactory completion of a training course prescribed by regulation for the subclass.

71 **Expiry—pt 7**

This part expires 3 years after the day it commences.

Schedule 1 Reviewable decisions

(see div 3.10)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	25	issue licence other than temporary licence subject to condition	applicant for licence
2	25	refuse to issue licence other than temporary licence	applicant for licence
3	26	issue temporary licence subject to condition	applicant for licence
4	26	refuse to issue temporary licence	applicant for licence
5	27	refuse to vary licence	licensee
6	42A	refuse to exempt licensee from a provision of s 42	licensee

column 1 item	column 2 section	column 3 decision	column 4 entity
7	42A	exempt licensee from a provision of s 42 subject to condition	licensee

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:

- ACAT
- ACT
- commissioner for fair trading
- contravene
- exercise
- found guilty
- function
- occupational discipline order
- police officer
- reviewable decision notice
- working day.

close associate—see section 22.

employee licence—see section 13.

employee organisation means an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009* (Cwlth).

Note A reference to a law (including a Cwlth Act) includes a reference to the Act as originally made and as amended (see Legislation Act, s 102).

employee temporary visitor licence—see section 15A.

ground for occupational discipline—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.

master temporary visitor licence—see section 15A.

police certificate, for a person, means a written statement by the Australian Federal Police indicating—

- (a) whether, according to the records held by the Australian Federal Police, the person has been charged with, or convicted of, an offence against a law of—
 - (i) the Territory; or
 - (ii) the Commonwealth; or
 - (iii) a State; or
 - (iv) another country; and
- (b) if so—particulars of each offence.

Note A conviction does not include a spent conviction (see *Spent Convictions Act 2000*, s 16 (c) (i)).

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, for division 3.10 (Notification and review of decisions)—see section 36.

security activity—see section 7.

security business—see section 6.

security equipment—see section 8.

temporary licence—see section 15.

temporary visitor licence—see section 15A.

trainer licence—see section 14.

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

workplace information—see section 21 (1) (a) (iii).

Endnotes

1 About the endnotes

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

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

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

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

The endnotes also include a table of earlier republications.

2 Abbreviation key

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

Endnotes

3 Legislation history

3 Legislation history

Security Industry Act 2003 A2003-4

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

as amended by

Justice and Community Safety Legislation Amendment Act 2004 A2004-18 pt 11

notified LR 6 April 2004
s 1, s 2 commenced 6 April 2004 (LA s 75 (1))
pt 11 commenced 20 April 2004 (s 2)

Justice and Community Safety Legislation Amendment Act 2004 (No 2) A2004-32 pt 15

notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
pt 15 commenced 13 July 2004 (s 2 (3))

Justice and Community Safety Legislation Amendment Act 2005 A2005-5 pt 11

notified LR 23 February 2005
s 1, s 2 commenced 23 February 2005 (LA s 75 (1))
pt 11 commenced 24 February 2005 (s 2 (2))

Justice and Community Safety Legislation Amendment Act 2006 A2006-40 sch 1 pt 1.14

notified LR 28 September 2006
s 1, s 2 commenced 28 September 2006 (LA s 75 (1))
sch 1 pt 1.14 commenced 19 October 2006 (s 2 (3))

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.94

notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 3 pt 3.94 commenced 12 April 2007 (s 2 (1))

**Training and Tertiary Education Legislation Amendment Act 2007
A2007-12 sch 1 pt 1.11**

notified LR 13 June 2007
s 1, s 2 commenced 13 June 2007 (LA s 75 (1))
sch 1 pt 1.11 commenced 1 July 2007 (s 2 and CN2007-3)

Regulatory Services Legislation Amendment Act 2008 A2008-5 pt 8

notified LR 15 April 2008
s 1, s 2 commenced 15 April 2008 (LA s 75 (1))
pt 8 commenced 1 July 2008 (s 2 and CN2008-7)

**ACT Civil and Administrative Tribunal Legislation Amendment
Act 2008 A2008-36 sch 1 pt 1.47**

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.47 commenced 2 February 2009 (s 2 (1) and see ACT Civil
and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Security Industry Amendment Act 2010 A2010-33 pt 2

notified LR 2 September 2010
s 1, s 2 commenced 2 September 2010 (LA s 75 (1))
pt 2 commenced 1 January 2011 (s 2 and CN2010-17)

**Justice and Community Safety Legislation Amendment Act 2010
(No 4) A2010-50 sch 1 pt 1.9**

notified LR 14 December 2010
s 1, s 2 commenced 14 December 2010 (LA s 75 (1))
sch 1 pt 1.9 commenced 14 June 2011 (s 2 (2) and LA s 79)

**Fair Trading (Australian Consumer Law) Amendment Act 2010
A2010-54 sch 3 pt 3.24**

notified LR 16 December 2010
s 1, s 2 commenced 16 December 2010 (LA s 75 (1))
sch 3 pt 3.24 commenced 1 January 2011 (s 2 (1))

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Carrying on *security activity*

s 7 am A2010-50 amdt 1.17; pars renum R13 LA

Endnotes

4 Amendment history

Classes of licences

s 11 am A2010-50 amdt 1.18

Master licences

s 12 am A2010-50 amdt 1.19

Employee licences

s 13 am A2010-50 amdt 1.20, amdt 1.21; pars renum R13 LA

Temporary visitor licence

s 15A ins A2010-50 amdt 1.22

Application for licence

s 17 am A2010-50 amdts 1.23-1.26

General suitability criteria

s 21 am A2004-32 s 95, s 96; A2010-33 s 4; pars renum R12 LA;
A2010-50 amdts 1.27-1.31

Review of workplace information criterion

s 21A ins A2010-33 s 5
exp 1 January 2013 (s 21A (2))

Public interest

s 23 am A2008-5 s 60

Eligibility for employee, trainer and employee temporary visitor licences

s 24 sub A2010-50 amdt 1.32

Decision on application for licence other than temporary licence

s 25 am A2008-36 amdt 1.610; A2010-50 amdt 1.33

Temporary licences

s 26 am A2007-12 amdt 1.17

Term of licence

s 29 am A2010-50 amdt 1.34

Occupational discipline—licensees

div 3.8 hdg sub A2008-36 amdt 1.611

Grounds for occupational discipline

s 30 sub A2008-36 amdt 1.611

Commissioner may apply to ACAT for occupational discipline

s 31 sub A2008-36 amdt 1.611

Action tribunal may take

s 32 om A2008-36 amdt 1.611

Effect of suspension

s 33 om A2008-36 amdt 1.611

Notification and review of decisions

div 3.10 hdg sub A2008-36 amdt 1.612

Meaning of *reviewable decision*—div 3.10

s 36 am A2006-40 amdt 1.38
sub A2008-36 amdt 1.612

Reviewable decision notices

s 36A ins A2008-36 amdt 1.612

Applications for review

s 37 sub A2004-18 s 33
am A2006-40 amdt 1.39
sub A2008-36 amdt 1.612

Licence to be produced on request

s 41 sub A2005-5 s 40
am A2007-3 amdt 3.476; A2010-54 amdt 3.57

Wearing of licences etc

s 42 sub A2005-5 s 40; A2006-40 amdt 1.40
am A2010-50 amdts 1.35-1.38; pars renum R13 LA

Exemption for wearing of licences etc

s 42A ins A2006-40 amdt 1.40

Master licensee not to employ unlicensed people

s 45 am A2010-50 amdt 1.39

Directions to master licensees about insurance etc

s 46 am A2010-50 amdt 1.40

Regulation-making power

s 52 hdg sub A2004-32 s 97
s 52 am A2004-32 s 98; A2010-33 s 6; pars renum R12 LA; A2010-50 amdt 1.41

Consequential amendments—sch 1

s 53 om LA s 89 (3)

Transitional provisions

pt 6 hdg exp 3 September 2006 (s 62)

Definitions for pt 6

s 54 exp 3 September 2006 (s 62)

All codes—principal

s 55 exp 3 September 2006 (s 62)

ACI code—employee

s 56 exp 3 September 2006 (s 62)

BI code—employee

s 57 exp 3 September 2006 (s 62)

CMI code—employee

s 58 exp 3 September 2006 (s 62)

Endnotes

4 Amendment history

CTI code, GPSI code—employee

s 59 exp 3 September 2006 (s 62)

People taken to be licensed under pt 6

s 60 exp 3 September 2006 (s 62)

Modification of pt 6's operation

s 61 exp 3 September 2004 (s 61 (2))

Expiry of pt 6

s 62 exp 3 September 2006 (s 62)

Transitional—Justice and Community Safety Legislation Amendment Act 2010 (No 4)

pt 7 hdg ins A2010-50 amdt 1.42
exp 14 June 2014 (s 71)

Transitional—training

s 70 ins A2010-50 amdt 1.42
exp 14 June 2014 (s 71)

Expiry—pt 7

s 71 ins A2010-50 amdt 1.42
exp 14 June 2014 (s 71)

Reviewable decisions

sch 1 om LA s 89 (3)
ins A2008-36 amdt 1.613

Dictionary

dict am A2008-36 amdt 1.614; A2010-33 s 7; A2010-50 amdt 1.43
def **employee organisation** ins A2010-33 s 8
def **employee temporary visitor licence** ins A2010-50
amdt 1.44
def **ground for occupational discipline** ins A2008-36
amdt 1.615
def **grounds for disciplinary action** om A2008-36
amdt 1.615
def **master temporary visitor licence** ins A2010-50
amdt 1.44
def **police certificate** ins A2008-5 s 61
def **reviewable decision** ins A2008-36 amdt 1.615

def *temporary visitor licence* ins A2010-50 amdt 1.44
 def *workplace information* ins A2010-33 s 9

5 Earlier republications

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

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

Republication No	Amendments to	Republication date
1	not amended	3 September 2003
2	A2004-18	20 April 2004
3	A2004-32	13 July 2004
4	A2004-32	4 September 2004
5	A2005-5	24 February 2005
6	A2005-5	4 September 2006
7	A2006-40	19 October 2006
8	A2007-3	12 April 2007
9	A2007-12	1 July 2007
10	A2008-5	1 July 2008
R11*	A2008-36	2 February 2009
R12	A2010-54	1 January 2011

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