



Australian Capital Territory

# Security Industry Act 2003

A2003-4

**Republication No 18**

**Effective: 28 September 2014 – 6 November 2014**

Republication date: 28 September 2014

Last amendment made by [A2012-21](#)  
(republication for expiry of provision (s 81))

Authorised by the ACT Parliamentary Counsel

## 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 28 September 2014. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 28 September 2014.

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

### Kinds of republications

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

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

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

### Editorial changes

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

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

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### 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 the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Security Industry Act 2003

## Contents

---

|                | Page   |
|----------------|--|
| <b>Part 1</b>  | <b>Preliminary</b>   |
| 1              | Name of Act 2  |
| <b>Part 2</b>  | <b>Interpretation and application of Act</b>               |
| 3              | Dictionary 3   |
| 4              | Notes 3  |
| 5              | Offences against Act—application of Criminal Code etc 3    |
| 6              | Meaning of <i>security business</i> 4                      |
| 7              | Carrying on <i>security activity</i> 4                     |
| 8              | Meaning of <i>security equipment</i> 5                     |
| 9              | Regulations may exempt people from application of Act 5    |
| <b>Part 2A</b> | <b>Criminal intelligence</b>                               |
| 9A             | Definitions—pt 2A 6  |
| 9B             | Disclosure of criminal intelligence—chief police officer 6 |

---

R18  
28/09/14

Security Industry Act 2003  
Effective: 28/09/14-06/11/14

contents 1

## Contents

---

|  | Page |
|--|------|
| 9C Disclosure of criminal intelligence—commissioner for fair trading and ACAT      | 7    |
| 9D Whether information is criminal intelligence—application and decision           | 8    |
| 9E Appeal—applicant may withdraw information                                       | 9    |
| 9F Confidentiality of criminal intelligence—commissioner for fair trading and ACAT | 9    |
| 9G Confidentiality of criminal intelligence—courts                                 | 10   |
| 9H Delegation by chief police officer  | 11   |
| <b>Part 3 Licences</b>   |      |
| <b>Division 3.1 Requirement for licence</b>  |      |
| 10 Offence of carrying on unauthorised security activity                           | 12   |
| <b>Division 3.2 Kinds of licences</b>  |      |
| 11 Classes of licences   | 12   |
| 12 Master licences   | 12   |
| 13 Employee licences   | 13   |
| 14 Trainer licences  | 14   |
| 15 Temporary licences  | 14   |
| 15A Temporary visitor licence  | 14   |
| 16 Licences do not authorise use of firearm  | 15   |
| <b>Division 3.3 Licence applications</b>   |      |
| 17 Application for licence   | 16   |
| <b>Division 3.4 Information for assessing licence applications</b>                 |      |
| 18 Request for further information   | 17   |
| 20 Further information from 3rd parties  | 18   |
| <b>Division 3.5 Suitability and prerequisites for issuing licences</b>             |      |
| 21 General suitability criteria  | 19   |
| 22 Meaning of <i>close associate</i> for s 21                                      | 22   |
| 23 Public interest   | 23   |
| 24 Eligibility for employee, trainer and employee temporary visitor licences       | 24   |
| <b>Division 3.6 Decisions on applications</b>                                      |      |
| 25 Decision on application for licence other than temporary licence                | 24   |
| 26 Temporary licences  | 25   |

|   | Page |
|---|------|
| 27 Decision on application for variation  | 26   |
| <b>Division 3.7 Form and term of licences</b>   |      |
| 28 Form of licence  | 26   |
| 29 Term of licence  | 26   |
| <b>Division 3.7A Cancellation and immediate suspension of licence by commissioner</b> |      |
| 29A Commissioner must cancel licence  | 27   |
| 29B Immediate suspension of licence   | 27   |
| <b>Division 3.8 Occupational discipline—licensees</b>                                 |      |
| 30 Grounds for occupational discipline  | 28   |
| 31 Commissioner may apply to ACAT for occupational discipline                         | 29   |
| <b>Division 3.9 Register</b>  |      |
| 34 Register of licences   | 29   |
| 35 Keeping register   | 30   |
| <b>Division 3.10 Notification and review of decisions</b>                             |      |
| 36 Meaning of <i>reviewable decision</i> —div 3.10                                    | 30   |
| 36A Reviewable decision notices   | 31   |
| 37 Applications for review  | 31   |
| <b>Part 4 Other offences</b>  |      |
| 38 Contravention of licence conditions  | 32   |
| 39 Return etc of licences varied, suspended or cancelled                              | 32   |
| 40 Advertising  | 32   |
| 41 Licence to be produced on request  | 33   |
| 42 Wearing of licences etc  | 34   |
| 42A Exemption for wearing of licences etc   | 36   |
| 43 Licensee not to dispose of licence etc   | 36   |
| 44 Prohibition on delegation etc of functions   | 36   |
| 45 Master licensee not to employ unlicensed people                                    | 37   |
| <b>Part 5 Miscellaneous provisions</b>  |      |
| 46 Directions to master licensees about insurance etc                                 | 38   |
| 47 Licensee to keep commissioner informed   | 38   |
| 48 Fees charged by unlicensed people  | 38   |

## Contents

---

|                   | Page   |
|-------------------|--|
| 49                | Certificates as evidence 39                              |
| 49A               | Destruction of fingerprints 39                           |
| 50                | Determination of fees 39                                 |
| 51                | Approved forms 40  |
| 52                | Regulation-making power 40                               |
| <b>Part 8</b>     | <b>Transitional—Security Industry Amendment Act 2011</b> |
| 80                | Cancellation of licence by commissioner 43               |
| 82                | Expiry—pt 8 43   |
| <b>Schedule 1</b> | <b>Reviewable decisions 44</b>                           |
| <b>Dictionary</b> | <b>46</b>  |
| <b>Endnotes</b>   |  |
| 1                 | About the endnotes 49                                    |
| 2                 | Abbreviation key 49                                      |
| 3                 | Legislation history 50                                   |
| 4                 | Amendment history 53                                     |
| 5                 | Earlier republications 58                                |
| 6                 | Expired transitional or validating provisions 59         |



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 2A Criminal intelligence

### 9A Definitions—pt 2A

In this part:

*criminal intelligence* means information relating to actual or suspected criminal activity (whether in the ACT or elsewhere) the disclosure of which could reasonably be expected to—

- (a) prejudice a criminal investigation; or
- (b) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or
- (c) endanger anyone's life or physical safety.

*maintain*—an entity *maintains* the confidentiality of information in relation to an applicant for a licence or licensee only if—

- (a) the information is not used by the entity for a purpose other than exercising a function mentioned in this part; and
- (b) the information is not disclosed to the applicant or licensee, representatives of the applicant or licensee or any member of the public; and
- (c) evidence and submissions about the information are received and heard in private in the absence of the applicant or licensee and representatives of the applicant or licensee, and are not disclosed to any member of the public; and
- (d) the information is not disclosed in any reasons for decision.

### 9B Disclosure of criminal intelligence—chief police officer

- (1) Information that is classified by the chief police officer as criminal intelligence must not be disclosed for this Act to anyone other than the commissioner for fair trading, the Minister, a court or an entity to whom the chief police officer authorises its disclosure.

- (2) The chief police officer may only disclose the information to the commissioner for fair trading if the officer believes on reasonable grounds that the information is relevant to—
  - (a) the making of a decision by the commissioner about issuing a licence to an applicant; or
  - (b) the making of a decision by the commissioner about whether to apply to the ACAT for an occupational discipline order in relation to a licensee.
- (3) Subsection (1) does not prevent the chief police officer from disclosing the information for another lawful purpose.

**9C Disclosure of criminal intelligence—commissioner for fair trading and ACAT**

- (1) This section applies—
  - (a) if—
    - (i) the commissioner for fair trading refuses to issue a licence to an applicant; or
    - (ii) the commissioner for fair trading applies to the ACAT for an occupational discipline order in relation to a licensee; or
    - (iii) the ACAT makes an occupational discipline order in relation to a licensee; and
  - (b) if a thing mentioned in paragraph (a) is done because, or partly because, of information that is classified by the chief police officer as criminal intelligence.
- (2) The commissioner or ACAT must not give any reason for doing the thing other than the following:
  - (a) for subsection (1) (a) (i)—that issuing the licence would not be in the public interest;

- (b) for subsection (1) (a) (ii)—that disclosing the reason for the application would not be in the public interest;
- (c) for subsection (1) (a) (iii)—that disclosing the reason for the order would not be in the public interest.

**9D Whether information is criminal intelligence—application and decision**

- (1) This section applies if the commissioner for fair trading—
  - (a) refuses to issue a licence to an applicant because, or partly because, of information that is classified by the chief police officer as criminal intelligence, and the applicant applies to the ACAT for review of the decision (*the proceeding*); or
  - (b) applies to the ACAT for an occupational discipline order in relation to a licensee because, or partly because, of information that is classified by the chief police officer as criminal intelligence (also *the proceeding*).
- (2) The commissioner or chief police officer must apply to the ACAT for a decision about whether the information is criminal intelligence.
- (3) The application need not be served on anyone unless the ACAT otherwise orders on its own initiative.
- (4) The ACAT may decide that the information is, or is not, criminal intelligence.
- (5) If the ACAT proposes to decide that the information is not criminal intelligence, the applicant must be told about the proposal and given the opportunity to withdraw the information from the proceeding.

**9E Appeal—applicant may withdraw information**

- (1) This section applies to the following proceedings:
  - (a) if—
    - (i) the ACAT has made a decision that information is not criminal intelligence, and there is an appeal to the Supreme Court from that decision; and
    - (ii) the court proposes to find that the information is not criminal intelligence;
  - (b) if—
    - (i) the applicant mentioned in section 9D (1) (a) appeals the ACAT's decision to the Supreme Court; and
    - (ii) the court proposes to find that the information is not criminal intelligence;
  - (c) if—
    - (i) the licensee mentioned in section 9D (1) (b) appeals the ACAT's decision to the Supreme Court; and
    - (ii) the court proposes to find that the information is not criminal intelligence.
- (2) The applicant mentioned in section 9D (2) must be told about the court's proposal and given the opportunity to withdraw the information from the proceeding.

**9F Confidentiality of criminal intelligence—commissioner for fair trading and ACAT**

- (1) The commissioner for fair trading must maintain the confidentiality of information classified by the chief police officer as criminal intelligence when deciding whether to—
  - (a) issue a licence to an applicant; or

- (b) apply to the ACAT for an occupational discipline order in relation to a licensee.
- (2) The commissioner for fair trading and ACAT must maintain the confidentiality of information that is the subject of an application mentioned in section 9D (2)—
  - (a) until the tribunal makes a decision about whether the information is criminal intelligence; or
  - (b) that the tribunal—
    - (i) decides is criminal intelligence; or
    - (ii) decides is not criminal intelligence, if there is an appeal from that decision and the appeal is upheld.
- (3) The commissioner for fair trading and ACAT must maintain the confidentiality of information that is the subject of an application mentioned in section 9D (2) if the information is withdrawn.
- (4) The commissioner for fair trading or ACAT may take any steps the commissioner or tribunal considers appropriate to maintain the confidentiality of the information.
- (5) However, if the Supreme Court finds that the information is not criminal intelligence, and the information is not withdrawn, the commissioner for fair trading or ACAT need not maintain the confidentiality of the information.

**9G Confidentiality of criminal intelligence—courts**

- (1) This section applies if a court deals (on appeal or otherwise) with—
  - (a) a decision by the ACAT about whether information is criminal intelligence; or
  - (b) the question of whether information classified by the chief police officer as criminal intelligence is criminal intelligence.
- (2) The court must maintain the confidentiality of the information.



- (3) The court may take any steps it considers appropriate to maintain the confidentiality of the information.
- (4) The court must not give any reason for making a finding in relation to the information, other than the public interest.
- (5) However, if the Supreme Court finds that information is not criminal intelligence, and the information is not withdrawn—
  - (a) the court need not maintain the confidentiality of the information and may give reasons for the finding; and
  - (b) any other court need not maintain the confidentiality of the information and may give reasons for making a finding in relation to the information.

#### **9H Delegation by chief police officer**

- (1) The chief police officer may delegate a function under this part to a senior police officer.

*Note* For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

- (2) In this section:

***senior police officer*** means a police officer of or above the rank of superintendent.

## 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

*Note* See s 49A (Destruction of fingerprints).

- (b) evidence of the applicant's identity in accordance with the requirements under the *Financial Transaction Reports Act 1988* (Cwlth) that apply in relation to the opening of a bank account; and

- (c) any information prescribed by regulation.

- (4) For subsection (3) (a), the police certificate must be verified by the applicant's fingerprints if the applicant has not previously given the commissioner for fair trading a fingerprint-verified police certificate.

- (5) 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.
- (6) 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) Without limiting subsection (1), if the applicant has lived in a foreign country as an adult for a continuous period of 1 year or more in the 5 years before the day the application is made, the commissioner may require the applicant to give the commissioner a certified copy of the applicant's criminal history record from that country.
- (3) The commissioner need not decide an application unless the applicant complies with the requirement.
- (4) In this section:

*criminal history record*, of an applicant, means a written report about the applicant's criminal history from an entity in a foreign country that has access to records about the criminal history of people in that country.

## 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—

(i) about the applicant's identity; and

(ii) that 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.

(iii) for a licence other than a temporary visitor licence—that 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 by regulation for the licence applied for; and

(iv) 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)—that an employee organisation has given the applicant the information prescribed by regulation in relation to workplace rights and responsibilities (*workplace information*); and

(v) that the applicant satisfies any condition prescribed by regulation for the licence; and

(vi) that it is otherwise in the public interest to issue a licence to the applicant; and

- (vii) for a master temporary visitor licence—that 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
- (viii) for an employee temporary visitor licence—that 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) Also, the commissioner for fair trading must not issue or vary a licence if—
  - (a) within the 10 years before the day the application is made, the applicant has been convicted of 1 or more of the offences mentioned in subsection (3), in the ACT or elsewhere; or
  - (b) within the 5 years before the day the application is made, the applicant has been found guilty (but not convicted) of 1 or more of the offences mentioned in subsection (3), in the ACT or elsewhere.
- (3) The offences are as follows:
  - (a) if the stated circumstances apply—an offence involving assault, violence against a person, dishonesty or theft;
  - (b) if the stated circumstances apply—an offence relating to the possession, storage or use of a firearm or other weapon;
  - (c) if the stated circumstances apply—an offence, other than for possession, involving a controlled drug, controlled plant or controlled precursor within the meaning of the *Criminal Code 2002*;

- (d) an offence involving robbery;
  - (e) an offence against the *Criminal Code Act 1995* (Cwlth), schedule, part 5.3 (Terrorism);
  - (f) an offence committed outside the ACT involving terrorism that is an offence against a law of the place where the offence is committed.
- (4) This section is subject to section 26 (Temporary licences).
- (5) 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.

***stated circumstances***, for an offence for which an applicant has been convicted, means that—

- (a) a penalty is imposed on the applicant for the offence; and
- (b) the penalty is imprisonment, a fine of \$500 or more, or both.

## 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 issue a licence to an applicant, the commissioner for fair trading must consider whether the applicant has—
  - (a) committed a relevant offence, whether or not the applicant has been convicted of the offence; or
  - (b) been convicted or found guilty of any other offence (other than an offence mentioned in section 21 (3)) that the commissioner believes on reasonable grounds affects the person's suitability to hold a licence.

**Example—par (b)**

an offence involving violence against an animal

*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) The commissioner for fair trading may consider any other relevant matter to decide whether it is in the public interest to issue a licence to an applicant.

**Examples—matters to be considered**

- 1 a police certificate accompanying an application under s 17 (3)
- 2 information collected under s 20
- 3 if an applicant mentioned in s 18 (2) failed to give the commissioner a certified copy of the applicant's criminal history record from a foreign country as requested by the commissioner, and the applicant has not given the commissioner any other information or documents about the applicant's probity

- 4 if the applicant has been subject to a final order under the *Domestic Violence and Protection Orders Act 2008*

## 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) (iii) (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 3 years) 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 3.7A      Cancellation and immediate suspension of licence by commissioner

### 29A      Commissioner must cancel licence

- (1) This section applies if a licensee is convicted or found guilty of an offence mentioned in section 21 (3) (General suitability criteria) during the term of the licence.
- (2) The commissioner for fair trading must cancel the licence.

*Note*      The commissioner must give notice of the decision to the licensee (see s 36A).

### 29B      Immediate suspension of licence

- (1) This section applies if—
  - (a) the commissioner for fair trading applies, or intends to apply, to the ACAT for an occupational discipline order in relation to a licensee; and
  - (b) having regard to the reasons for the application, the commissioner believes on reasonable grounds that the licence should be suspended immediately in the interests of public safety.
- (2) The commissioner for fair trading must give the licensee a written notice (the *immediate suspension notice*) suspending the licence.

*Note*      See also s 36A (Reviewable decision notices).

- (3) The suspension of a licence under this section takes effect when the immediate suspension notice is given to the licensee.

- (4) The suspension of a licence under this section ends—
- (a) if the ACAT makes an occupational discipline order in relation to the licensee—when the order takes effect, or 30 days after the day the immediate suspension notice is given to the licensee, whichever is the earlier; or
  - (b) if the ACAT does not make an occupational discipline order in relation to the licensee—when the licensee is given written notice of the tribunal’s decision not to make an order, or 30 days after the day the immediate suspension notice is given to the licensee, whichever is the earlier.

## 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 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.

**49A Destruction of fingerprints**

- (1) If an image of a person's fingerprints is taken by a public servant for section 17 (3) (a), the commissioner for fair trading must—
  - (a) ensure that a copy of the image is given to the person; and
  - (b) ensure that the image, and any copy not given to the person, is destroyed; and
  - (c) tell the person in writing about the destruction.
- (2) If an image of a person's fingerprints is taken by a police officer for section 17 (3) (a), the chief police officer must—
  - (a) ensure that a copy of the image is given to the person; and
  - (b) ensure that the image, and any copy not given to the person, is destroyed; and
  - (c) tell the person in writing about the destruction.

**50 Determination of fees**

- (1) The Minister may 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 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 8**                      **Transitional—Security Industry Amendment Act 2011**

### **80**                      **Cancellation of licence by commissioner**

- (1) This section applies to a person who held a licence immediately before the commencement of this section.
- (2) Section 29A (Commissioner must cancel licence) applies in relation to the person as if a reference to the term of the licence were a reference to the term of the licence that remains on and after the commencement of this section.

### **82**                      **Expiry—pt 8**

This part (other than section 81) expires 3 years after the day it commences.

## Schedule 1 Reviewable decisions

(see div 3.10)

| column 1<br>item | column 2<br>section | column 3<br>decision  | column 4<br>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                | 29A                 | cancel licence  | licensee              |
| 7                | 29B                 | suspend licence immediately                                     | licensee              |

---

| column 1<br>item | column 2<br>section | column 3<br>decision  | column 4<br>entity |
|------------------|---------------------|---|--------------------|
| 8                | 42A                 | refuse to<br>exempt<br>licensee from<br>a provision of<br>s 42            | licensee           |
| 9                | 42A                 | exempt<br>licensee from<br>a provision of<br>s 42 subject to<br>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
- CrimTrac
- exercise
- foreign country
- found guilty
- function
- occupational discipline order
- police officer
- public servant
- reviewable decision notice
- working day.

*close associate*—see section 22.

*criminal intelligence*, for part 2A (Criminal intelligence)—see section 9A.

*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.

**maintain**, confidentiality of information, for part 2A (Criminal intelligence)—see section 9A.

**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 or a police force of a State or Territory indicating—

- (a) whether, according to the records held by that entity or another entity (for example, CrimTrac), 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* 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).

**property** includes money and other valuables.

**relevant offence** means an offence (other than an offence mentioned in section 21 (3)) 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) (iv).

## 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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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))

**Security Industry Amendment Act 2011 A2011-37 pt 2**

notified LR 27 September 2011  
s 1, s 2 commenced 27 September 2011 (LA s 75 (1))  
pt 2 commenced 27 September 2012 (s 2 (2))

## Endnotes

3 Legislation history

---

**[Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.44](#)**

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

amdt 3.177, amdt 3.178 commenced 27 September 2012 (s 2 and see [Security Industry Amendment Act 2011 A2011-37 s 2 \(2\)](#))

sch 3 pt 3.44 remainder commenced 5 June 2012 (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

### Criminal intelligence

pt 2A hdg ins [A2011-37](#) s 4

### Definitions—pt 2A

s 9A ins [A2011-37](#) s 4  
 def *criminal intelligence* ins [A2011-37](#) s 4  
 def *maintain* ins [A2011-37](#) s 4

### Disclosure of criminal intelligence—chief police officer

s 9B ins [A2011-37](#) s 4

### Disclosure of criminal intelligence—commissioner for fair trading and ACAT

s 9C ins [A2011-37](#) s 4

### Whether information is criminal intelligence—application and decision

s 9D ins [A2011-37](#) s 4

### Appeal—applicant may withdraw information

s 9E ins [A2011-37](#) s 4

### Confidentiality of criminal intelligence—commissioner for fair trading and ACAT

s 9F ins [A2011-37](#) s 4

### Confidentiality of criminal intelligence—courts

s 9G ins [A2011-37](#) s 4

### Delegation by chief police officer

s 9H ins [A2011-37](#) s 4

### 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; [A2011-37](#) s 5; ss renum R15 LA

## Endnotes

4 Amendment history

---

### **Request for further information**

s 18 am [A2011-37](#) s 6, s 7; ss renum R15 LA

### **Request for fingerprints**

s 19 om [A2011-37](#) s 8

### **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; [A2011-37](#) ss 9-11; ss renum R15  
LA

### **Review of workplace information criterion**

s 21A ins [A2010-33](#) s 5  
am [A2011-37](#) s 12  
exp 1 January 2013 (s 21A (2))

### **Public interest**

s 23 am [A2008-5](#) s 60  
sub [A2011-37](#) s 13

### **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; [A2011-37](#) s 14

### **Term of licence**

s 29 am [A2010-50](#) amdt 1.34; [A2011-37](#) s 15

### **Cancellation and immediate suspension of licence by commissioner**

div 3.7A hdg ins [A2011-37](#) s 16

### **Commissioner must cancel licence**

s 29A ins [A2011-37](#) s 16

### **Immediate suspension of licence**

s 29B ins [A2011-37](#) s 16

### **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; [A2012-21](#) amdt 3.175

**Destruction of fingerprints**

s 49A ins [A2011-37](#) s 17

**Determination of fees**

s 50 am [A2012-21](#) amdt 3.176

**Approved forms**

s 51 am [A2012-21](#) amdt 3.176

**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)

## Endnotes

### 4 Amendment history

---

#### **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)

#### **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)

#### **Transitional—Security Industry Amendment Act 2011**

pt 8 hdg ins [A2011-37](#) s 18  
exp 27 September 2015 (s 82)

#### **Cancellation of licence by commissioner**

s 80 ins [A2011-37](#) s 18  
exp 27 September 2015 (s 82)

#### **Transitional regulations**

s 81 ins [A2011-37](#) s 18  
exp 27 September 2014 (s 81 (4))

**Expiry—pt 8**

s 82 ins [A2011-37](#) s 18  
 exp 27 September 2015 (s 82)

**Reviewable decisions**

sch 1 om LA s 89 (3)  
 ins [A2008-36](#) amdt 1.613  
 am [A2011-37](#) s 19; items renum R15 LA

**Dictionary**

dict am [A2008-36](#) amdt 1.614; [A2010-33](#) s 7; [A2010-50](#) amdt 1.43;  
[A2011-37](#) s 20; [A2012-21](#) amdt 3.177  
 def **criminal intelligence** ins [A2011-37](#) s 21  
 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 **maintain** ins [A2011-37](#) s 21  
 def **master temporary visitor licence** ins [A2010-50](#)  
 amdt 1.44  
 def **police certificate** ins [A2008-5](#) s 61  
 sub [A2011-37](#) s 22  
 am [A2012-21](#) amdt 3.178  
 def **relevant offence** am [A2011-37](#) s 23  
 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  
 am [A2011-37](#) s 24

## Endnotes

5 Earlier republications

---

### 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                | <a href="#">A2004-18</a> | 20 April 2004      |
| 3                | <a href="#">A2004-32</a> | 13 July 2004       |
| 4                | <a href="#">A2004-32</a> | 4 September 2004   |
| 5                | <a href="#">A2005-5</a>  | 24 February 2005   |
| 6                | <a href="#">A2005-5</a>  | 4 September 2006   |
| 7                | <a href="#">A2006-40</a> | 19 October 2006    |
| 8                | <a href="#">A2007-3</a>  | 12 April 2007      |
| 9                | <a href="#">A2007-12</a> | 1 July 2007        |
| 10               | <a href="#">A2008-5</a>  | 1 July 2008        |
| 11*              | <a href="#">A2008-36</a> | 2 February 2009    |
| 12               | <a href="#">A2010-54</a> | 1 January 2011     |
| 13               | <a href="#">A2010-54</a> | 14 June 2011       |
| 14               | <a href="#">A2012-21</a> | 5 June 2012        |
| 15               | <a href="#">A2012-21</a> | 27 September 2012  |
| 16               | <a href="#">A2012-21</a> | 2 January 2013     |
| 17               | <a href="#">A2012-21</a> | 15 June 2014       |



**6 Expired transitional or validating provisions**

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

© Australian Capital Territory 2014