

2002

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Security Industry Bill 2002

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(Attorney-General)

Security Industry Bill 2002

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

4 **2 Commencement**

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

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

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

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

1 **Part 2** **Interpretation and application**
2 **of Act**

3 **3 Dictionary**

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

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

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

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

16 **4 Notes**

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

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

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

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

22 *Note 1* *Criminal Code*

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

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

1 *Note 2 Penalty units*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (4) In this section:

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

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

6 **8 Meaning of security equipment**

7 (1) For this Act:

8 *security equipment* means any of the following:

9 (a) a safe or vault;

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

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

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

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

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

1 **Part 3 Licences**

2 **Division 3.1 Requirement for licence**

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

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

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

9 both.

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

11 **Division 3.2 Kinds of licences**

12 **11 Classes of licences**

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

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

19 **12 Master licences**

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

1 **13 Employee licences**

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

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

6 (b) act as a bodyguard;

7 (c) act as a security consultant;

8 (d) act as a crowd controller;

9 (e) sell security equipment;

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

11 (g) give advice about security equipment;

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

13 (2) In this section:

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

17 **14 Trainer licences**

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

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

22 **15 Temporary licences**

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

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

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

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

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

4 **Division 3.3 Licence applications**

5 **17 Application for licence**

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

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

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

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

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

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

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

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

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

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

3 **18 Request for further information**

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

11 **19 Request for fingerprints**

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

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

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

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

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

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

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

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

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

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

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

3 **21** **General suitability criteria**

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

6 (a) satisfied that—

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

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

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

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

17 (b) the applicant—

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

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

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

22 (3) In this section:

23 *applicant*—

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

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

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

1 *close associate*—see section 22.

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

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

7 (1) In section 21:

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

9 (a) a person who—

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

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

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

19 (2) In this section:

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

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

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

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

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

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

2 **power** means a power exercisable—

3 (a) by voting or otherwise; and

4 (b) alone or with others.

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

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

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

10 **23 Public interest**

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

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

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

18 **Example of another relevant matter**

19 information collected under s 20

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

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

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

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

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

1 **Division 3.6 Decisions on applications**

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

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

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

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

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

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

14 **26 Temporary licences**

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

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

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

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

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

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

- 10 (5) In this section:

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

13 **27 Decision on application for variation**

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

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

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

19 **28 Form of licence**

20 A licence must—

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

1 **29 Term of licence**

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

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

6 **30 Grounds for disciplinary action**

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

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

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

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

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

- 18 (b) the licensee—

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

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

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

27 (iii) contravenes a condition of the licence;

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

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

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

3 (e) another ground prescribed under the regulations.

4 **31 Action commissioner may take**

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

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

11 **32 Action tribunal may take**

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

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

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

21 (4) In this section:

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

25 **33 Effect of suspension**

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

1 **Division 3.9 Register**

2 **34 Register of licences**

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

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

7 **35 Keeping register**

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

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

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

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

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

21 **Division 3.10 Review of decisions**

22 **36 Reviewable decisions**

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

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

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

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

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

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

1 **Part 4 Other offences**

2 **38 Contravention of licence conditions**

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

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

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

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

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

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

15 Maximum penalty: 20 penalty units.

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

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

20 **40 Advertising**

21 (1) A person commits an offence if—

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

24 (b) either—

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

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

6 Maximum penalty: 30 penalty units.

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

8 (3) In this section:

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

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

12 (1) A licensee commits an offence if—

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

15 (i) a police officer; or

16 (ii) an investigator; or

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

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

20 Maximum penalty: 10 penalty units.

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

22 (3) In this section:

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

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

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

4 (a) carries on a security activity; and

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

7 Maximum penalty: 10 penalty units.

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

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

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

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

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

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

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

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

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

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

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

24 (a) either—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (2) A direction is a disallowable instrument.

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

9 **47 Licensee to keep commissioner informed**

10 (1) A licensee commits an offence if—

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

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

16 Maximum penalty: 5 penalty units.

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

18 **48 Fees charged by unlicensed people**

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

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

1 **49 Certificates as evidence**

2 (1) This section applies to a certificate signed by the commissioner for
3 fair trading (or by a person holding an office prescribed by the
4 regulations) certifying any of the following:

5 (a) that a stated person was or was not, on a stated day or during a
6 stated period, the holder of a licence;

7 (b) that a licence was or was not, on a stated day or during a stated
8 period, subject to stated conditions.

9 (2) The certificate is admissible in any proceeding under this Act and is
10 evidence of the matters stated in it.

11 **50 Determination of fees**

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

13 *Note* The Legislation Act contains provisions about the making of
14 determinations and regulations relating to fees (see pt 6.3).

15 (2) A determination is a disallowable instrument.

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

18 **51 Approved forms**

19 (1) The commissioner for fair trading may, in writing, approve forms
20 for this Act.

21 (2) If the commissioner for fair trading approves a form for a particular
22 purpose, the approved form must be used for that purpose.

23 *Note* For other provisions about forms, see Legislation Act, s 255.

24 (3) An approved form is a notifiable instrument.

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

52 Regulations

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

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

(2) The regulations may make provision in relation to the following:

(a) the keeping by the commissioner for fair trading of a register of licences and the particulars to be included in the register;

(b) the accreditation of trainers and instructors to conduct training courses prescribed under the regulations;

(c) security equipment;

(d) methods and practices in relation to the security industry, including, for example, the following:

(i) the carrying or display, by licensees, of means of identification and the production or surrender of that identification; and

(ii) the wearing by licensees of uniforms, and the kinds of uniforms; and

(iii) the markings that may be made on, and the design of any features of, a vehicle used by any person in or in relation to the carrying on of a security activity; and

(iv) the preparation, keeping and maintenance, by licensees, of records and accounts, and the audit of accounts, in relation to the carrying on by the licensee of any business requiring a licence and the production and inspection of the records and accounts;

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;

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

19 **53 Consequential amendments—sch 1**

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

1 **55 All codes—principal**

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

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

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

9 (4) In this section:

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

12 **56 ACI code—employee**

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

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

18 (a) act as a security consultant;

19 (b) sell security equipment;

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

21 (d) give advice about security equipment;

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

1 **57 BI code—employee**

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

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

7 **58 CMI code—employee**

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **62 Expiry of pt 6**

15 This part expires 3 years after it commences.

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

Schedule 1 Consequential amendments

(see s 53)

Part 1.1 Court Security Act 2001

[1.1] Section 16 (2) (a)

substitute

- (a) holds a security licence; and

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

substitute

- (a) the person ceases to hold a security licence; or
(b) the person is not employed by a person holding a master licence under the *Security Industry Act 2002*; or

[1.3] Section 16 (4)

substitute

- (4) In this section:

security licence means a licence under the *Security Industry Act 2002* that authorises the licensee to patrol, protect, watch or guard property (including cash in transit), whether or not it authorises the licensee to do anything else.

Part 1.2 Fair Trading (Consumer Affairs) Act 1973

[1.4] New section 7 (3)

insert

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

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

substitute

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

Part 1.3 Fair Trading Regulations 1995

[1.6] Regulation 4 (1)

substitute

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

[1.7] Regulation 5

substitute

5 Approved codes of practice—amendments

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

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

Dictionary

(see s 3)

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

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

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

close associate—see section 22.

employee licence—see section 13.

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

licence means a licence under this Act.

licence number—see section 28 (c).

licensee means the holder of a licence.

master licence—see section 12.

property includes money and other valuables.

relevant offence means an offence against—

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

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

Republications of amended laws

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