

# NORTHERN TERRITORY OF AUSTRALIA

## PRIVATE SECURITY ACT

As in force at 12 April 2017

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 12 April 2017

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## PRIVATE SECURITY ACT

**An Act to provide for the regulation of the provision of security services  
and for related purposes**

### **Part 1            Preliminary**

#### **1            Short title**

This Act may be cited as the *Private Security Act*.

#### **2            Commencement**

- (1) The provisions of this Act, other than section 13, shall come into operation on the day on which the Administrator's assent to the Act is declared.
- (2) Section 13 of this Act shall come into operation on a date fixed by the Administrator by notice in the *Gazette*.

#### **3            Definitions**

In this Act, unless the contrary intention appears:

***affected person***, see section 53F.

***appropriate licence*** for carrying out the functions of a security provider is:

- (a) if carrying out the functions of a crowd controller – a crowd controller's provisional licence or a crowd controller's licence;
- (b) if carrying out the functions of a security officer – a security officer's licence or a security officer's provisional licence;
- (c) if carrying out the functions of a security firm – a security firm's licence; or

- (d) if carrying out the functions of a member of a class of persons declared in a notice under section 8 to be a category of security providers – the relevant category of licence declared in that notice, including a provisional licence in relation to that category of licence.

**approved form** means a form approved under section 61.

**criminal history** of a person means the person's criminal record within the meaning of the *Criminal Records (Spent Convictions) Act*.

**crowd controller** has the meaning given by section 5.

**decision notice**, for a decision, means a written notice setting out:

- (a) the decision and the reasons for it; and
- (b) any right the person to whom the notice is to be given has, under this Act or the *Licensing (Director-General) Act*, to apply for a review of, or to appeal, the decision.

**Director-General**, see section 3 of the *Licensing (Director-General) Act*.

**disqualifying offence**, for a category of licence, means:

- (a) an offence prescribed by regulation to be a disqualifying offence in relation to that category of licence; or
- (b) an offence against a law, or a repealed law, of the Territory or another jurisdiction (including a jurisdiction outside Australia) that substantially corresponds to an offence mentioned in paragraph (a).

**inspector** means a person appointed under section 35 as an inspector or a person who is an inspector by virtue of section 35(4).

**obstruct** includes hinder, resist and attempt to obstruct.

**provisional licence** means:

- (a) a crowd controller's provisional licence;
- (b) a security officer's provisional licence; and
- (c) a provisional licence in relation to a category of licence declared under section 8.

**public place** means:

- (a) licensed premises within the meaning of the *Liquor Act*, or
- (b) an entertainment venue to which the public are admitted, whether or not for consideration.

**reviewable decision**, see section 53E.

**security firm** has the meaning given by section 7.

**security officer** has the meaning given by section 6.

**security provider** has the meaning given by section 4.

**Tribunal** means the Civil and Administrative Tribunal.

#### 4 Security providers

- (1) In this Act, a **security provider** means:
  - (a) a crowd controller;
  - (b) a security officer;
  - (c) a security firm; or
  - (d) a person or partnership carrying out the functions of a member of a class of persons declared in a notice under section 8 to be a category of security providers.
- (2) A person employed by a security provider is not a security provider if the person's duties are wholly secretarial or clerical.
- (3) Each of the following persons is not a security provider in carrying out the functions of the person's employment:
  - (a) a member of the Police Force or a member of the police service of the Commonwealth or a State or another Territory of the Commonwealth;
  - (b) a member of the Defence Force;
  - (c) an employee as defined in the *Public Sector Employment and Management Act* or an officer or employee of the Commonwealth or a State or another Territory of the Commonwealth;
  - (d) a minister of the Territory, the Commonwealth or a State or another Territory of the Commonwealth; or

- (e) a department of the Territory, the Commonwealth or a State or another Territory of the Commonwealth.

## **5 Crowd controllers**

In this Act, a crowd controller is a person who, in respect of licensed premises within the meaning of the *Liquor Act*, a place of entertainment, a place to which the public has access or a public or private event or function, as part of his or her duties, performs the function of:

- (a) controlling or monitoring the behaviour of persons;
  - (b) screening persons seeking entry; or
  - (c) removing persons because of their behaviour,
- or any other prescribed function.

## **6 Security officers**

In this Act, a security officer is a person who, for reward, patrols or guards another person's property.

## **7 Security firms**

In this Act, a security firm is a person who, or partnership that, engages in the business of supplying, for reward, the services of:

- (a) crowd controllers or security officers; or
- (b) where this section is specified in a notice under section 8 to apply to members of a class of persons declared in that notice to be a category of security providers – members of that class of persons,

to other persons.

## **8 Act may be declared to apply to certain persons**

- (1) Where the Minister is of the opinion that it may be desirable to declare a class of persons who perform particular functions (including, but not limited to, the functions performed by a locksmith or an installer of security systems) to be a category of security provider for the purpose of this Act, the Minister may request the Director-General to conduct a review of the suitability of making such a declaration.



(2) The Minister shall provide a copy of a report of a review conducted under subsection (1) to:

- (a) the industry organisation, if any:
  - (i) representing the interests of owners of businesses conducted by members of the class of persons in relation to which the review was conducted; and
  - (ii) approved by the Minister for the purposes of this section;
- (b) the members of the Legislative Assembly; and
- (c) such other persons or organisations as the Minister thinks fit,

and request their opinion, within 28 days from the date of the request or such longer period as the Minister thinks fit, as to the Minister's proposal.

(3) Where:

- (a) a report provided under subsection (1) declares that, in the opinion of the Director-General, regulation of the class of persons the subject of the review is justifiable; and
- (b) the Minister has considered all opinions provided under subsection (2),

the Minister may, by notice in the *Gazette*, declare:

- (c) the class of persons in relation to which the review was conducted to be for the purposes of this Act a category of security providers named in the notice;
- (d) the name of the relevant category of licence, including a provisional licence, in relation to that class of persons; and
- (e) that all of the provisions of this Act, or the provisions of the Act specified in the notice, shall apply to and in relation to a member of that category of security providers.

## **9 Act only to apply to security firms and officers if declared to so apply**

This Act does not apply to, or in relation to, security firms or security officers unless the Minister has declared, by notice in the *Gazette*, that the Act applies to security firms or security officers, as the case may be.

## **Part 2 Use of information**

### **11 Director-General to keep register**

- (1) The Director-General shall keep, in such manner and form as the Director-General thinks fit, registers of persons holding licences under this Act or disqualified from holding licences under this Act.
- (2) The Director-General shall make the register, other than a part of the register to which the public is not to have access in accordance with subsection (3), available for inspection by members of the public during normal business hours, on days other than public holidays or weekends.
- (3) The Director-General shall ensure that spent convictions within the meaning of the *Criminal Records (Spent Convictions) Act* are not recorded on a part of the register to which the public has access.
- (4) Notwithstanding any provision of the *Criminal Records (Spent Convictions) Act*, the Director-General:
  - (a) may keep such records of a person's criminal history as are required to be kept for the purposes of this Act, notwithstanding that part of the criminal history is a spent conviction within the meaning of the *Criminal Records (Spent Convictions) Act*; and
  - (b) may, only insofar as required for the purposes of a review under this Act or the *Licensing (Director-General) Act* or as is otherwise required for the performance by an employee as defined in the *Public Sector Employment and Management Act* of his or her functions under that Act or this Act, make available to any person a record of a spent conviction within the meaning of the *Criminal Records (Spent Convictions) Act*.
- (5) The Director-General may authorise the release of information, including a spent conviction within the meaning of the *Criminal Records (Spent Convictions) Act*, to a person or body responsible for the issue of licences under an Act of the Territory, the Commonwealth or a State or another Territory of the Commonwealth.

## **Part 3 Licences**

### **13 Requirement to be licensed**

- (1) A person shall not:
  - (a) carry out the functions of a security provider; or

- (b) advertise, or in any way hold out, that the person carries out or is willing to carry out, the functions of a security provider,

unless the person holds the appropriate licence.

Penalty: In the case of a natural person – 100 penalty units.

In the case of a body corporate – 500 penalty units.

(1A) An offence against subsection (1) is a regulatory offence.

- (2) A person shall not, directly or indirectly, engage another person to carry out the functions of a security provider unless the other person holds the appropriate licence.

Penalty: In the case of a natural person – 100 penalty units.

In the case of a body corporate – 500 penalty units.

(2A) An offence against subsection (2) is a regulatory offence.

- (3) A person is not entitled to a reward for carrying out the functions of a security provider unless the person holds the appropriate licence.

- (4) Subsection (3) has effect notwithstanding an arrangement to the contrary.

#### **14 Application for licence**

- (1) An application to the Director-General for a licence under this Act may be made in the approved form accompanied by the prescribed fee, if any, by:

(a) a natural person; or

(b) in the case of a security firm's licence – a person or a partnership.

- (2) A licence other than a security firm's licence shall only be granted in respect of a natural person.

- (3) The Director-General may, in writing, request the applicant for a licence to give further information or documents relevant to the application.

- (4) The Director-General may reject the application for a licence if the applicant fails, without reasonable excuse, to comply with the request.

- (5) Where:
- (a) a natural person has applied for a licence – he or she;
  - (b) a partnership has applied for a security firm's licence – each partner in the partnership; or
  - (c) a corporation has applied for a security firm's licence – each officer, within the meaning of section 17(1), of the corporation,
- shall attend at a police station and provide to a member of the Police Force the prescribed information together with a signed authority, on the approved form, permitting the Commissioner to release to the Director-General details of the person's criminal history:
- (d) for the determination of the application; and
  - (e) at any time during any period for which the licence is granted or renewed if the person is charged with a disqualifying offence.

## **15 Entitlement to licences – natural persons**

- (1) This section applies if an application is made for the grant of a licence to a natural person.
- (3) Subject to subsection (8), a person is entitled to be granted a provisional licence if:
  - (a) the Minister has approved a code of practice under section 48, and competency standards and training under section 53, in relation to that category of licence; and
  - (b) the Director-General is satisfied that the person is an appropriate person to hold the licence.
- (4) Subject to subsection (8), a person is entitled to be granted a crowd controller's licence, a security officer's licence, or a category of licence (other than a provisional licence) declared under section 8, if:
  - (a) the Minister has approved a code of practice under section 48, and competency standards and training under section 53, in relation to that category of licence;
  - (b) the Director-General is satisfied that the person has successfully completed the course in training approved under section 53 in relation to that category of licence; and

- (c) the Director-General is satisfied that the person is an appropriate person to hold the licence.
- (5) In deciding whether a person is an appropriate person to hold a licence, the Director-General is limited to considering the matters specified in subsections (6) and (7).
- (6) In deciding whether a person is an appropriate person to hold a licence, the Director-General may consider the following matters as indicating that the person may not be an appropriate person:
  - (a) that in dealings in which the person has been involved, the person has:
    - (i) shown dishonesty or lack of integrity; or
    - (ii) used harassing tactics;
  - (b) that the person habitually consorts with reputed criminals;
  - (c) that the person has taken advantage, as a debtor, of the laws of bankruptcy;
  - (d) that the person is suffering from an illness that makes them unfit to work in the security industry;
  - (e) that the person has been found guilty of an offence;
  - (f) information provided by a person or body responsible for the issue of licences under an Act of the Territory, the Commonwealth or a State or another Territory of the Commonwealth;
  - (g) evidence given in a court of the Territory, the Commonwealth or a State or another Territory of the Commonwealth or a commission of inquiry.
- (7) A person is not an appropriate person to hold a licence if the person, within 10 years of applying for a licence, has been convicted of:
  - (a) a disqualifying offence in relation to such a licence; or
  - (b) an offence that would be a disqualifying offence in relation to such a licence if committed in the Territory.
- (7A) However, if the Tribunal has previously granted a licence to the person under section 53H despite the person having been convicted of a disqualifying offence, that conviction is to be disregarded for the purposes of subsection (7).

- (8) The Director-General may, in the Director-General's absolute discretion, refuse to grant a licence to an applicant if the Director-General has grounds for believing that the applicant is likely to be of bad character, having regard to the public interest in ensuring that persons of bad character are not employed as security providers.

## **16 Inquiries about person's appropriateness to hold licence**

- (1) The Director-General shall notify the Commissioner of Police of each inquiry of the Director-General under this section.
- (2) The Director-General may make inquiries about a person to assist in deciding whether the person:
- (a) is an appropriate person within the meaning of section 15 for the grant of the licence, or is a person of bad character; or
  - (b) continues to be an appropriate person within the meaning of section 15 to hold a licence or have a licence renewed, or is a person of bad character.
- (3) As soon as reasonably practicable after receiving a signed authority under section 14(5) in relation to an application for a licence under this Act or an inquiry by the Director-General under this section, the Commissioner of Police shall give the Director-General:
- (a) a written report of the criminal history of the person who signed the authority or person in relation to whom the inquiry is being held, notwithstanding that part of the criminal history is a spent conviction within the meaning of the *Criminal Records (Spent Convictions) Act*; and
  - (b) such evidence as may assist the Director-General to determine if the person who signed the authority is of bad character.
- (4) Subsection (3)(a) applies to the criminal history:
- (a) that is in the Commissioner of Police's possession; or
  - (b) to which the Commissioner of Police ordinarily has access through arrangements with the police service of the Commonwealth or a State or another Territory of the Commonwealth.

**17 Entitlement to licences – corporations or firms**

- (1) In this section **officer** of a corporation means:
  - (a) a director, secretary or executive officer of the corporation; or
  - (b) a person who can control or substantially influence the conduct of the corporation's affairs including, for example, a person on whose directions, advice or instructions the corporation's directors usually act.
- (2) This section applies if a corporation or partnership applies for a security firm licence.
- (3) The applicant is entitled to the licence if the Director-General is satisfied that:
  - (a) each person who is an officer of the corporation, or partner in the partnership, is an appropriate person to be an officer or partner if the corporation or partnership were granted the licence; and
  - (b) if the applicant is a corporation – the corporation has not been convicted of a disqualifying offence.
- (4) The conditions of the licence shall specify which of the functions of a crowd controller or security officer may be supplied under the licence.
- (5) Sections 15(5) to (8) and 16 apply to a decision about whether a person specified in subsection (3)(a) is an appropriate person, as if the person were the applicant for the licence.

**18 Decision on application**

- (2) The Director-General shall consider an application for a provisional licence and, if satisfied that:
  - (a) the person is entitled to the licence under section 15(3); and
  - (b) there are no grounds for believing that the applicant is likely to be of bad character, having regard to the public interest in ensuring that persons of bad character are not employed as security providers,

the Director-General shall, on payment of the prescribed fee, grant the licence.

- (3) The Director-General shall consider an application for a crowd controller's licence, a security officer's licence or a licence (other than a provisional licence) in relation to a category of licence declared under section 8 and, if satisfied that:

- (a) the person is entitled to the licence under section 15(4); and
- (b) there are no grounds for believing that the applicant is likely to be of bad character, having regard to the public interest in ensuring that persons of bad character are not employed as security providers,

the Director-General shall, on payment of the prescribed fee, grant the licence.

- (5) Where the Director-General grants a provisional licence to a person and the Director-General is satisfied that the person:

- (a) is entitled under section 15(4) to a licence to perform the same functions under the Act as those in relation to which the provisional licence was issued; and
- (b) is not likely to be of bad character, having regard to the public interest in ensuring that persons of bad character are not employed as security providers,

the Director-General shall grant the licence to the person without requiring a further application to be made under this Act.

- (6) The Director-General shall consider an application for a security firm's licence and, if satisfied that:

- (a) the applicant is entitled to the licence under section 17(3); and
- (b) there are no grounds for believing that any officer of the corporation or partner in a partnership is likely to be of bad character, having regard to the public interest in ensuring that persons of bad character are not employed as security providers,

the Director-General shall, on payment of the prescribed fee, grant the licence.

- (7) If the Director-General grants a licence, the Director-General shall as soon as practicable give the applicant:

- (a) a licence containing, in the case of a licensee who is a natural person, the photograph of the licensee or, in the case of an application for a security firm's licence by a partnership or corporation, a photograph of one of the partners in the



partnership or of the principal of the corporation; and

- (b) if a condition is stated on the licence – a decision notice for the decision to impose the condition.
- (8) If the Director-General refuses to grant the licence, the Director-General must, as soon as practicable, give a decision notice to the applicant.

## **19 Conditions of licence**

- (1) The Director-General may grant a licence on such conditions as the Director-General thinks fit and specifies in writing to the licensee.
- (2) A licence is subject to:
  - (a) such conditions, if any, as are prescribed in relation to such a licence;
  - (b) the conditions, if any, specified in accordance with subsection (1) and amended, if at all, in accordance with section 20; and
  - (c) where a code of practice has been approved under section 48 in relation to such a licence, the condition that the code shall be complied with and not contravened.
- (3) The licensee shall comply with the conditions of the licence.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

## **20 Amendment of conditions**

- (1) If the Director-General considers that the conditions on a licence (other than a condition that applies to a licence because the condition is prescribed) should be amended, the Director-General shall give the licensee a written notice (the **show cause notice**) that:
  - (a) states the reasons for the amendment;
  - (b) outlines the facts and circumstances that form the basis of the reasons; and
  - (c) invites the licensee to show cause within a specified time, of not less than 28 days, why the conditions should not be amended.

(2) The Director-General may amend the conditions if, after considering all representations made under subsection (1)(c), the Director-General still believes that the conditions should be amended:

- (a) in the way specified in the show cause notice; or
- (b) in another way, having regard to the representations.

(2A) A licensee may apply to the Director-General to amend the conditions of the licensee's licence as set out in the application.

(2B) An application under subsection (2A) is to:

- (a) state the reasons for the amendment; and
- (b) outline the facts and circumstances that form the basis of the reasons.

(2C) After considering the application under subsection (2A), the Director-General may, if satisfied that the conditions should be amended as set out in the application, amend the conditions accordingly.

(3) If the Director-General decides to amend the conditions under subsection (2) or refuse to amend the conditions under subsection (2C), as soon as practicable after doing so, the Director-General must give a decision notice to the licensee.

(4) Subsections (1) to (3) (inclusive) do not apply if the conditions of a licence are to be amended only:

- (a) by omitting a condition;
- (b) for a formal or clerical reason; or
- (c) in another way that does not adversely affect the licensee's interests.

(5) The Director-General may make an amendment of a type specified in subsection (4) by written notice to the licensee.

## **21 Notice to return licence for alteration**

(1) The Director-General may, by written notice, require the licensee to return the licence to the Director-General within a specified time, of not less than 14 days, to enable the Director-General to amend the conditions stated on the licence.

(2) After amending the conditions stated on the licence, the Director-General shall return the licence to the licensee.

(3) A licensee shall not, without reasonable excuse, fail to comply with a notice under subsection (1).

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 100 penalty units

(4) The amendment of the conditions of a licence under section 20 does not depend on the conditions being altered under this section.

## **22 Production of licence**

(1) A licensee shall, on the request of:

(a) an inspector; or

(b) a member of the Police Force,

produce the licensee's licence for inspection.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 100 penalty units

(2) If a licensee is not wearing the prescribed identification, the licensee shall, on the request of the person with whom the licensee is dealing in carrying out the licensee's functions, produce the licensee's licence for inspection.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 100 penalty units

## **23 Period of validity of licence**

(1) Subject to this Act, a licence, other than a provisional licence, is valid for the period of 1, 2 or 3 years from the date of issue, requested by the applicant and specified on the licence.

(3) Subject to this Act, a provisional licence is valid until the conclusion of the next available training course, at a date specified in the licence, in respect of the category of licence, which may be attended by the holder of the licence.

(4) Where the holder of a provisional licence is unable to attend a training course specified in the licence for reasons acceptable to the Director-General, the Director-General may extend the period of the licence until the conclusion of the next available training course,

at a date specified in the licence, in respect of the category of licence, which may be attended by the holder of the licence.

- (5) A provisional licence shall not be extended under subsection (3) more than once, and in any case such a licence ceases to be valid after 12 months after the date of issue.

## **24 Renewal of licence**

- (1) The holder of a licence, other than a provisional licence, may apply to the Director-General to renew the licence.
- (2) An application under subsection (1) is to be:
- (a) in the approved form;
  - (b) accompanied by the prescribed fee (if any); and
  - (c) made within 3 months before the expiry of the licence or any other period determined by the Director-General.
- (3) The Director-General may refuse to renew the licence under section 26.
- (4) Despite subsection (3), if the application is to renew a crowd controller's licence or a security officer's licence, the Director-General must not renew the licence unless the licensee holds a current first aid certificate, being a certificate approved by the Minister.

## **25 Replacement licence**

- (1) A licensee may apply to the Director-General for the replacement of a lost, stolen or destroyed licence.
- (1A) An application under subsection (1) is to be accompanied by the prescribed fee (if any).
- (2) The Director-General shall consider each application and either:
- (a) replace the licence; or
  - (b) refuse to replace the licence.
- (3) If the Director-General is satisfied that the licence has been lost, stolen or destroyed, the Director-General shall replace the licence.
- (4) If the Director-General decides to refuse to replace the licence, as soon as practicable after doing so, the Director-General must give a decision notice to the applicant.

**25A Licence not transferable**

A licence granted under this Act is not transferable by the licensee.

**Part 4 Cancellation, suspension &c., of licences****26 Grounds for suspension, cancellation or refusal to renew**

- (1) Each of the following is a ground for the suspension or cancellation of a licence or the refusal to renew a licence:
  - (a) the licence was obtained on the basis of incorrect or misleading information;
  - (b) the licensee has contravened a condition of the licence;
  - (c) the licensee has committed an offence against this Act;
  - (d) the licensee, or another person required to be an appropriate person for the grant of the licence, is not, or is no longer, an appropriate person.
- (2) The question whether a person is, or continues to be, an appropriate person is decided in the same way as the question whether the person would be an appropriate person for the grant of the licence.
- (3) The charging of a licensee, or another person required to be an appropriate person for the grant of the licence, with a disqualifying offence is a ground for suspending, or refusing to renew, the licence concerned until the end of the proceeding for the charge.
- (4) The power of the court to impose conditions of bail under the *Bail Act* includes the power to impose a condition that the licensee not act as a security provider as stated in the condition.

**27 Procedure for suspension, cancellation or refusal to renew**

- (1) If the Director-General believes that reasonable grounds exist to suspend, cancel or refuse to renew a licence (the **action**), the Director-General shall give the licensee a written notice (a **show cause notice**) that:
  - (a) states the action proposed;
  - (b) states the grounds for proposing to take the action;
  - (c) outlines the facts and circumstances that form the basis for the Director-General's belief;

- (d) if the Director-General proposes to suspend the licence – states the suspension period the Director-General proposes to impose; and
  - (e) invites the licensee to show cause within a specified time, of not less than 28 days, why the action proposed should not be taken, and the licensee may make submissions to the Director-General accordingly.
- (2) If, after considering all submissions, if any, made by the licensee, the Director-General still believes that grounds to take the action exist, the Director-General may:
- (a) if the show cause notice was a notice of intention to suspend the licence for a specified period:
    - (i) suspend the licence for a period not longer than the specified period; or
    - (ii) impose a maximum penalty of 85 penalty units;
  - (b) if the show cause notice was a notice of intention to cancel the licence:
    - (i) cancel the licence;
    - (ii) suspend the licence for a period; or
    - (iii) impose a maximum penalty of 85 penalty units; or
  - (c) if the show cause notice was a notice of intention not to renew the licence:
    - (i) refuse to renew the licence;
    - (ii) refuse to renew the licence for a period; or
    - (iii) impose a maximum penalty of 85 penalty units.
- (3) As soon as practicable after making a decision under subsection (2) the Director-General must:
- (a) if the decision is to take no action – inform the licensee of the decision by written notice; or
  - (b) otherwise – give a decision notice to the licensee.
- (5) A decision under subsection (2) takes effect on:
- (a) the day on which the notice is given to the licensee; or

(b) the day specified in the notice,

whichever is later.

- (6) Notwithstanding subsections (1) and (2), the Director-General may, if the Director-General considers immediate suspension of a licence on one or more of the grounds specified in section 26 is, in all the circumstances, justifiable, suspend the licence immediately by giving a decision notice to the licensee.

## **28 Return of suspended or cancelled licence**

- (1) If the Director-General cancels or suspends a person's licence, the Director-General may give the person a written notice requiring the person to return the licence within a period, of not less than 14 days, specified in the notice.

- (2) The person shall not, without reasonable excuse, fail to comply with the notice.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 100 penalty units.

- (3) If a suspended licence returned to the Director-General is still current at the end of the suspension period, the Director-General shall return the licence to the licensee.

## **29 Automatic cancellation on conviction**

- (1) A licensee's licence is cancelled if the licensee, or another person who would have been required to be an appropriate person within the meaning of section 15 for the grant of the licence, is convicted of a disqualifying offence.

- (2) The licensee shall return the licence to the Director-General within 14 days after the conviction.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 100 penalty units.

# **Part 5 Inspectors**

## **35 Inspectors**

- (1) The Director-General may appoint a public sector employee to be an inspector.

- (2) The Director-General may appoint a person to be an inspector only if:
  - (a) the Director-General believes that the person has the necessary expertise or experience to be an inspector; or
  - (b) the person has satisfactorily completed a course of training approved by the Director-General.
- (3) The Director-General may limit the powers of an inspector by stating conditions in the instrument of appointment.
- (4) A member of the Police Force is an inspector for the purposes of this Act.

### **36 Inspector's identity card**

- (1) The Director-General shall issue an identity card to each inspector, other than a member of the Police Force.
- (2) The identity card shall:
  - (a) contain a recent photograph of the inspector; and
  - (b) be signed by the inspector.
- (3) A person who ceases to be an inspector shall, as soon as practicable after ceasing to be an inspector, return to the Director-General the identity card issued to him or her, unless the person has a reasonable excuse for not returning it.

Penalty: 20 penalty units.

### **37 Production of inspector's identity card**

- (1) An inspector, other than a member of the Police Force, may exercise a power under this Act in relation to a person only if the inspector first produces or displays the inspector's identity card for inspection by the person.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the inspector shall produce the identity card for inspection by the person at the first reasonable opportunity.

### **38 Entry of place by inspector**

An inspector may enter a place if:

- (a) the occupier of the place consents to the entry; or



- (b) it is a public place and the entry is made when the place is open to the public.

### **39 Inspector's general powers in a place**

- (1) After entering a place under section 38, an inspector may exercise a power specified in subsection (2) only if the occupier of the place consents to the exercise of the power.
- (2) The inspector may:
  - (a) search any part of the place;
  - (b) seize a thing if the inspector believes on reasonable grounds that:
    - (i) the thing is evidence of the commission of an offence against this Act; and
    - (ii) the seizure is necessary to prevent:
      - (A) the concealment, loss or destruction of the thing; or
      - (B) the use of the thing in committing, continuing or repeating an offence against this Act;
  - (c) inspect, examine, photograph or film anything in or on the place;
  - (d) take extracts from, or make copies of, any documents in or on the place; or
  - (e) take into or onto the place any person, equipment and materials that the inspector reasonably requires for the purpose of exercising any powers in relation to the place.

### **40 Procedure after thing seized**

- (1) As soon as practicable after a thing is seized by an inspector under section 39, the inspector shall give a receipt for it to the person from whom it was seized.
- (2) The inspector shall allow a person who would be entitled to the seized thing if it were not in the inspector's possession:
  - (a) to inspect it; or
  - (b) if it is a document – to take extracts from it or make copies of it.

- (3) The inspector shall return the seized thing to the person at the end of:
- (a) 6 months; or
  - (b) if a prosecution for an offence involving it is commenced within 6 months – the proceeding for the offence and any appeal from the proceeding.
- (4) Notwithstanding subsection (3), the inspector shall return the seized thing to the person if the inspector is satisfied that:
- (a) its retention as evidence is no longer necessary; and
  - (b) its return is not likely to result in its use in repeating the offence.

#### **41 Power to require name and address**

- (1) An inspector may require a person to state the person's name and address if the inspector:
- (a) finds the person committing an offence against this Act; or
  - (b) finds the person in circumstances that lead, or has information that leads, the inspector to suspect on reasonable grounds that the person has recently committed an offence against this Act.
- (2) When making the requirement, the inspector shall warn the person that it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.
- (3) The inspector may require the person to give evidence of the correctness of the person's name or address if the inspector suspects, on reasonable grounds, that the name or address given is false.
- (4) A person shall not, without reasonable excuse, fail to comply with an inspector's requirement under subsection (1).

Penalty: In the case of a natural person – 20 penalty units.

In the case of a body corporate – 100 penalty units.

**42 Power to require information from certain persons**

- (1) If an inspector suspects, on reasonable grounds, that a contravention of this Act has occurred, the inspector may require any of the following persons to give information about the contravention:
  - (a) a person who was a security provider at a time relevant to the contravention (a **relevant time**);
  - (b) a person who had directly or indirectly engaged a security provider at a relevant time;
  - (c) a person who was an employee of a person specified in paragraph (a) or (b) at a relevant time.
- (2) When making the requirement, the inspector shall warn the person that it is an offence to fail to give the information unless the person has a reasonable excuse.
- (3) The person shall not, without reasonable excuse, fail to comply with a requirement under subsection (1).

Penalty: In the case of a natural person – 20 penalty units.

In the case of a body corporate – 100 penalty units.

- (4) It is a reasonable excuse for the person to fail to give information if giving the information might tend to incriminate the person.

**43 False or misleading information**

- (1) A person shall not:
  - (a) state anything to an inspector that the person knows is false or misleading in a material particular; or
  - (b) omit from a statement made to an inspector anything without which the statement is, to the person's knowledge, misleading in a material particular.

Penalty: In the case of a natural person – 100 penalty units or imprisonment for 6 months.

In the case of a body corporate – 500 penalty units.

- (2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states the statement made was false or misleading to the person's knowledge.

**44 Power to require production of documents**

- (1) An inspector may require a person to produce to the inspector, for inspection, a document required to be held or kept by the person under this Act.
- (2) A person required to produce a document under subsection (1) shall not, without reasonable excuse, fail to produce the document.

Penalty: In the case of a natural person – 100 penalty units or imprisonment for 6 months.

In the case of a body corporate – 500 penalty units.

- (3) The inspector may keep a document that is produced:
  - (a) to take an extract from the document; or
  - (b) to make a copy of the document.
- (4) The inspector shall return the document to the person as soon as practicable after taking the extract or making the copy.

**45 False or misleading documents**

- (1) A person shall not give to the Director-General or an inspector a document containing information the person knows is false, misleading or incomplete in a material particular.

Penalty: In the case of a natural person – 100 penalty units or imprisonment for 6 months.

In the case of a body corporate – 500 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document:
  - (a) informs the Director-General or inspector of the extent to which the document is false, misleading or incomplete; and
  - (b) gives the correct information to the Director-General or inspector if the person has, or can reasonably obtain, the correct information.

**46        Obstruction of inspectors**

A person shall not obstruct an inspector in the exercise of a power.

Penalty:        In the case of a natural person – 100 penalty units or imprisonment for 6 months.

                    In the case of a body corporate – 500 penalty units.

**47        Police to retain powers under other Acts for the purposes of this Act**

Nothing in this Act shall be taken to restrict in any way a power, authority, right or privilege that a member of the Police Force may have under any other Act or the law of the Territory.

**Part 6                    Codes of practice, competency standards and training****48        Codes of practice**

- (1) The Director-General may with the approval of the Minister, and shall if the Minister so directs, prepare and submit to the Minister for consideration a draft code of practice in respect of a category of licence.
- (2) For the purpose of preparing a draft code of practice, the Director-General shall:
  - (a) arrange for consultation with, and invite submissions from, such persons and organisations as, in the opinion of the Director-General, would have an interest in the terms of the proposed code; and
  - (b) give notice in a newspaper circulating in the Territory that a draft code is to be prepared and invite members of the public to make written submissions as to what its terms should be.
- (3) If the Director-General is satisfied that security providers, or a category of security providers, have, in consultation with organisations representing consumers and other interested persons, agreed to abide by a particular code of practice in their dealings with or in relation to consumers and the public, the Director-General may submit the code to the Minister for consideration, together with any recommendations by the Director-General with respect to amendments to the code.
- (4) The Minister may approve a code of practice in respect of a category of licence.

- (5) The Minister shall, as soon as practicable after approving a code of practice under subsection (4), give notice of the approval in the *Gazette*, specifying where the code may be viewed or purchased.
- (6) A code of practice comes into operation on the date on which the relevant notice is published in the *Gazette* under subsection (5), or, where a later date is specified in the notice, that date.
- (7) The Director-General shall make copies of codes of practice available for viewing and purchase by the public.

#### **49 Undertakings by persons contravening code**

- (1) Where it appears to the Director-General that a person has carried on business in contravention of a code of practice approved by the Minister under section 48 and applicable to the person, the Director-General may request the person to execute within a specified time a deed in terms approved by the Director-General under which the person gives undertakings as to:
  - (a) discontinuance of the conduct;
  - (b) future compliance with the code of practice; and
  - (c) the action the person will take to rectify the consequences of the contravention,or any of those matters.
- (2) A person who fails to observe an undertaking given in a deed executed under subsection (1) is guilty of an offence.

Penalty: In the case of a natural person – 100 penalty units or imprisonment for 6 months.

In the case of a body corporate – 500 penalty units.

#### **50 Registers of undertakings**

- (1) The Director-General shall maintain in such form as the Director-General thinks fit registers of undertakings given pursuant to section 49(1).
- (2) Where a person executes a deed containing undertakings pursuant to section 49(1), the Director-General shall:
  - (a) retain the deed and enter in a register of undertakings the prescribed particulars with respect to the deed; and
  - (b) give a copy of the deed to the person who executed it.

- (3) A register of undertakings may, at any reasonable time, be inspected by any person free of charge.

## **51 Orders by Tribunal where undertaking refused or breached**

- (1) Where a person fails to comply with a request by the Director-General for the giving of an undertaking under section 49(1), the Tribunal may, on the application of the Director-General or any other person, and on being satisfied that there were grounds for requesting the undertaking, order the first-mentioned person:

- (a) to act in a manner that would have been required; or  
(b) to refrain from acting in a manner that would have been prohibited,

by the undertaking if it had been given.

- (2) Where, on the application of the Director-General or any other person, the Tribunal is satisfied that a person has failed to observe an undertaking given by that person under section 49(1), the Tribunal may make an order under subsection (3).

- (3) The Tribunal may order the person by whom the undertaking was given:

- (a) to observe the undertaking; and  
(b) in the case of an undertaking to rectify the consequences of a contravention of a code of practice – to observe the undertaking within a time specified in the order.

- (4) Where:

- (a) the failure on which an application under subsection (1) or (2) is based is a failure by a body corporate; and  
(b) the Tribunal is satisfied that the failure occurred with the consent or connivance of a person who, at the time of the failure, was a director of the body corporate or a person otherwise concerned in its management,

the Tribunal may, in addition to any other order, make an order under subsection (5).

- (5) The Tribunal may, in a case falling within subsection (4), make an order prohibiting the person from:

- (a) continuing to consent to, or connive at, the failure; or

- (b) consenting to, or conniving at, a like failure by any other body corporate of which the person is a director or in the management of which the person is concerned.
- (6) An order under this section may be made subject to such conditions (whether as to the duration of the order or otherwise) as the Tribunal thinks fit including:
- (a) conditions as to the future conduct of the person affected; and
  - (b) conditions specifying the action to be taken by the person to rectify the consequences of the failure the subject of the application under this section.
- (7) A person who contravenes or fails to comply with an order under this section is guilty of an offence.

Penalty: In the case of a natural person – 100 penalty units or imprisonment for 6 months.

In the case of a body corporate – 500 penalty units.

## **52 Variation and discharge of orders**

The Tribunal may on the application of the Director-General vary or discharge an order made under section 51.

## **53 Competency standards and training**

- (1) Subject to subsection (2), the Minister may approve:
- (a) competency standards; and
  - (b) the training required for the attainment of competency standards,
- in respect of a category of licence.
- (2) The Minister must not approve under subsection (1) competency standards and training in respect of a category of licence unless he or she has received advice from the Director-General under subsection (2A) regarding the competency standards and training required to attain competency standards in respect of the category of licence.



- (2A) For subsection (2), the Director-General:
- (a) must consult regarding suitable competency standards and training required to attain competency standards in respect of a category of licence with persons who have interests sufficiently connected with competency standards and training in respect of the category of licence; and
  - (b) having completed the consultation under paragraph (a), must advise the Minister as to competency standards and training required to attain competency standards in respect of the category of licence.
- (3) A Minister shall, as soon as practicable after approving a competency standard or training under subsection (1), give notice of the approval in the *Gazette*, specifying where copies of instruments to which the approval relates may be viewed or purchased.
- (4) The Director-General shall make copies of the instruments to which approvals under subsection (1) relate available for viewing and purchase by the public.

## **Part 6A          Complaints**

### **53A          Person may make complaint about security provider**

- (1) A person may make a complaint regarding any matter arising out of the conduct or operations of a security provider.
- (2) A complaint is to:
  - (a) be in writing in the approved form;
  - (b) set out the grounds on which the complaint is made and the facts relied on by the person to constitute the grounds;
  - (c) be signed by the person making it; and
  - (d) be lodged with the Director-General.

### **53B          Opportunity to be given to security provider to reply to complaint**

If a complaint is made under section 53A, the Director-General must inform the security provider of the complaint and must give the security provider sufficient opportunity to provide a written reply to the complaint.

**53C Consideration and decision of Director-General**

- (1) The Director-General must consider each complaint received under section 53A, taking into account the written reply of the licensee (if any) and any other matter the Director-General considers relevant.
- (2) The Director-General must consider each complaint in a manner that is fair and expeditious and gives proper consideration to the issues.
- (3) For subsection (2), the Director-General:
  - (a) may conduct the investigations regarding the complaint that the Director-General thinks appropriate; and
  - (b) may require or, if requested to do so by the security provider, must permit the security provider to make submissions or answer questions regarding the complaint.

**53D Determination of complaint**

- (1) After considering and investigating a complaint under section 53C, the Director-General must make a determination:
  - (a) that, in the Director-General's opinion, the complaint is of a frivolous, irrelevant or malicious nature, or that the complaint does not set out facts and circumstances that are sufficient grounds on which to base a complaint, and dismiss the complaint;
  - (b) that no further action is warranted;
  - (c) to reprimand the security provider;
  - (d) to fine the security provider an amount not exceeding the prescribed amount;
  - (e) to impose conditions on or vary the conditions of the security provider's licence;
  - (f) to suspend the security provider's licence; or
  - (g) to cancel the security provider's licence.
- (2) As soon as practicable after making the determination, the Director-General must give a decision notice for the decision to make the determination to the person who made the complaint and the security provider against whom the complaint was made.

- (4) A fine imposed under subsection (1)(d) is recoverable as a debt due and payable by the licensee to the authority.

## **Part 6B      Review of decisions**

### **53E      Meaning of *reviewable decision***

A ***reviewable decision*** is:

- (a) a decision specified in the Schedule, unless the decision was made by a delegate of the Director-General; or
- (b) a decision made by a delegate of the Director-General under section 18 to refuse to grant a licence because the applicant is not an appropriate person to hold the licence under section 15(7); or
- (c) a decision made on the review, under Part 3 of the *Licensing (Director-General) Act*, of a decision that:
  - (i) is specified in the Schedule; and
  - (ii) was made by a delegate of the Director-General.

*Note for section 53E*

*A decision made under this Act by a delegate of the Director-General is not a reviewable decision but may be a delegate decision under the Licensing (Director-General) Act. Part 3 of that Act sets out procedures for applying for a review of a delegate decision.*

### **53F      Meaning of *affected person***

- (1) A person is an ***affected person*** for a reviewable decision mentioned in section 53E(a) if the person is specified in the Schedule opposite the decision.
- (2) A person is an ***affected person*** for a reviewable decision mentioned in section 53E(b) if the person was the applicant for the licence.
- (3) A person is an ***affected person*** for a reviewable decision mentioned in section 53E(c) if the person was an affected person under the *Licensing (Director-General) Act* for the decision that was reviewed under Part 3 of that Act.

### **53G      Jurisdiction of Tribunal**

- (1) An affected person for a reviewable decision may apply to the Tribunal for a review of the decision.

- (2) For a reviewable decision that was made under the *Licensing (Director-General) Act*, that Act and this Act are together taken to be the relevant Act for the *Northern Territory Civil and Administrative Tribunal Act*.

### **53H Licence refused because of disqualifying offence**

- (1) This section applies if:
- (a) a person (the **applicant**) applies for a licence; and
  - (b) the applicant is not an appropriate person to hold a licence because the applicant has been convicted of an offence mentioned in section 15(7); and
  - (c) the Director-General or a delegate of the Director-General refuses to grant the licence on that ground; and
  - (d) the applicant applies to the Tribunal for a review of the decision.
- (2) On the review of the decision, the Tribunal may set aside the decision and substitute its own decision to grant a licence to the applicant despite section 15(7).
- (3) The Tribunal may do so only if satisfied, on the balance of probabilities, that the applicant is a suitable person to be granted the licence despite the conviction.
- (4) To avoid doubt, the Tribunal may grant the licence even though the Director-General or a delegate of the Director-General, in deciding the application, could not have done so because of section 15(7).

### **53J Delegate decisions**

Each of the following is not a delegate decision for the *Licensing (Director-General) Act*:

- (a) a decision made by a delegate of the Director-General under section 18 to refuse to grant a licence because the applicant is not an appropriate person to hold the licence under section 15(7);
- (b) a decision, other than a decision specified in the Schedule, made under this Act by a delegate of the Director-General that is prescribed by regulation.

## **Part 7                    General**

### **54                    Identification to be worn by crowd controller**

When acting as a crowd controller, a licensed crowd controller shall wear such identification, if any, as is prescribed, so that the identification is clearly visible.

Penalty:            50 penalty units.

### **55                    Liability for security provider's actions**

(1) Subject to subsection (2), where a person (an **employer**) employs a security provider (other than a security firm) for the purposes of providing security services, the employer is responsible, in tort and in contract, for anything done, or not done, by the security provider:

- (a) within the scope of the security provider's authority; or
- (b) for the benefit, or for the purported or intended benefit, of the employer or the employer's business.

(2) Where:

- (a) the service of the security provider is provided to the employer on behalf of a security firm; or
- (b) a security firm receives, whether directly or indirectly, reward for the provision of the services of the security provider to the employer,

the security firm, and not the employer, is responsible, in tort and in contract, for anything done, or not done, by the security provider:

- (c) within the scope of the security provider's authority; or
- (d) for the benefit, or for the purported or intended benefit, of the employer or the employer's business.

(3) Where a crowd controller or a security officer commits an offence against this Act, the employer of the person at the time of the offence is, in addition to the crowd controller or security officer, deemed to have committed the offence.

(4) For the purposes of subsection (3) a security firm is deemed to be the employer of a security provider, to the exclusion of any other person, if:

- (a) the service of the security provider is provided on behalf of that security firm; or

- (b) if the security firm receives, whether directly or indirectly, reward for the provision of those services by the security provider.

## **56 Employers to keep incident registers**

- (1) Subject to this section, the employer of a crowd controller shall ensure that a register of crowd controllers, containing accurate records of prescribed information, is kept in a manner approved by the Director-General.

Penalty: In the case of a natural person – 100 penalty units.

In the case of a body corporate – 500 penalty units.

- (2) For the purposes of this section, where a security firm provides the services of a crowd controller to a person, body or authority, the person, body or authority is deemed to be the employer of the crowd controller.

- (3) An employer who:

(a) uses the services of a crowd controller less than once every 6 months; and

(b) sends a report, containing the information prescribed for subsection (1), to the Director-General within 14 days after the provision of services to the employer by a crowd controller,

is not required to keep a register under subsection (1).

- (4) An employer shall permit inspectors to examine the register kept under subsection (1).

Penalty: In the case of a natural person – 100 penalty units.

In the case of a body corporate – 500 penalty units.

## **57 Person not to hire crowd controller with disqualifying offence**

- (1) A person (the **employer**) shall not engage another person to carry out the functions of a crowd controller if the employer knows, or ought reasonably be expected to know, that the person has been convicted of a disqualifying offence other than an excused conviction.

Penalty: In the case of a natural person – 100 penalty units.

In the case of a body corporate – 500 penalty units.

- (2) If the Tribunal has previously granted a licence to a person under

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section 53H despite the person having been convicted of a disqualifying offence, that conviction is an excused conviction for subsection (1).

## **58 Confidentiality of information**

- (1) A person shall not disclose, use or record information gained by the person through involvement in the administration or enforcement of this Act.

Penalty: 100 penalty units or imprisonment for 12 months.

- (2) Subsection (1) does not apply to:
- (a) an act done for the purposes of this Act;
  - (b) disclosure of information to the Commissioner of Police;
  - (c) disclosure of information ordered by a court or tribunal for a proceeding before it; or
  - (d) disclosure of information under the Regulations or another Act.
- (3) A person gains information through involvement in the administration of this Act if the person gains the information in the course of, or because of an opportunity provided by, the involvement.
- (4) The following persons are taken to be involved in the administration of this Act:
- (a) the Director-General;
  - (b) officers and employees of the Agency allocated primary responsibility for the administration of this Act in accordance with the Administrative Arrangements Order;
  - (c) inspectors.

## **59 Protection from liability**

- (1) In this section **official** means:
- (b) an inspector; or
  - (c) a person acting under the direction of an inspector.
- (2) An official does not incur civil liability for an act or omission done honestly and without negligence under this Act.

- (3) A liability that would, apart from this section, attach to an official attaches instead to the Territory.
- (4) This section has effect subject to Part VIIA of the *Police Administration Act* to the extent it relates to the civil liability of an inspector who is a member of the Police Force.

## **60 Evidentiary provisions**

- (1) This section applies to any proceeding under this Act.
- (2) Unless a party, by reasonable notice, requires proof of:
  - (a) the appointment of an inspector; or
  - (b) the authority of an inspector to do anything under this Act,  
the appointment or authority shall be presumed.
- (3) A signature purporting to be the signature of the Director-General or an inspector is evidence of the signature it purports to be.
- (4) A certificate purporting to be signed by the Director-General and stating any of the following matters is evidence of the matter:
  - (a) that a specified document is a licence or copy of a licence issued under this Act;
  - (b) that on a specified day, or during a specified period, a person was or was not a licensee or a specified type of licensee;
  - (c) that a licence:
    - (i) was or was not issued for a specified term;
    - (ii) was or was not in force on a specified day or during a specified period; or
    - (iii) was or was not subject to conditions or a specified condition; or
  - (d) that a document is a copy of a record kept under this Act.

## **61 Approved forms**

The Director-General may approve forms for this Act.

## **65 Exemptions**

Subject to any regulations made for the purposes of section 66(2)(h), the Director-General may, by notice in the



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*Gazette*, exempt a person, a class of persons or a category of activities from the operation of all or any provision of this Act or the Regulations, subject to such conditions, if any, as the Director-General specifies in the notice.

## 66 Regulations

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may:
  - (a) provide that a security provider need not hold the appropriate licence for a specified type of activity, event or place, notwithstanding section 13;
  - (b) authorise the Director-General to approve that a crowd controller or security officer need not hold the appropriate licence for a specified activity, event or place, notwithstanding section 13;
  - (c) set the fees payable under this Act;
  - (d) prescribe offences for contraventions of a regulation and fix a maximum penalty of not more than 100 penalty units for a contravention;
  - (da) provide for the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act or the Regulations and for the service of an infringement notice within the meaning of the *Fines and Penalties (Recovery) Act* on a person alleged to have committed the offence and the particulars to be included in the notice;
  - (e) regulate the conduct of security providers;
  - (f) provide for licensed corporations and partnerships, including, for example:
    - (i) dealing with changes to the composition or control of corporations and partnerships; and

- (ii) imposing duties on particular persons to ensure the corporation or partnership complies with this Act and requiring proof of compliance;
- (g) determine that before a licence is granted a surety, on such terms and conditions as are specified in the Regulations, shall be required from the applicant, being a surety of an amount, specified in the Regulations, not greater than \$10,000;
- (h) prescribe classes of persons, or categories of activities, in relation to which an exemption of a provision or all provisions may not be granted under section 65, or the conditions subject to which such an exemption may be granted;
- (j) prescribe methods of service of documents or the provision of notice under this Act; and
- (k) prescribe the information, including fingerprints, to be provided by an applicant for the grant or renewal of a licence.

## **Part 8                      Transitional matters for Licensing (Director-General) Act 2014**

### **Division 1                Definitions**

#### **67                      Definitions**

In this Part:

**2014 Acts** means the *Licensing (Director-General) Act 2014* and 2014 Amending Act.

**2014 Amending Act** means the *Licensing (Repeals and Consequential Amendments) Act 2014*.

**commencement** means the commencement of section 22 of the *Licensing (Director-General) Act 2014*.

**licensing authority** means the licensing authority as defined in section 3 as in force immediately before the commencement.

**NTLC Act** means the *Northern Territory Licensing Commission Act* as in force immediately before the commencement.

**old legislation** means the NTLC Act and this Act, as in force immediately before the commencement.

## **Division 2 Applications**

### **68 Application to licensing authority – not yet considered**

- (1) This section applies if, before the commencement:
  - (a) an application had been made under this Act for a decision to be made by the licensing authority; but
  - (b) the licensing authority had not commenced active consideration of the application.
- (2) The application:
  - (a) is taken to be an application made on the commencement for the decision to be made by the Director-General; and
  - (b) must be dealt with and determined in accordance with this Act as amended by the 2014 Amending Act.

*Note for section 68*

*The Director-General's decision on the application will be a decision made after the commencement and may therefore be a reviewable decision or a decision to which Part 3 of the Licensing (Director-General) Act applies.*

### **69 Application to licensing authority – under active consideration**

- (1) This section applies if, before the commencement:
  - (a) an application had been made under this Act for a decision to be made by the licensing authority and the licensing authority had commenced active consideration of the application; but
  - (b) the licensing authority had not made a decision.
- (2) The licensing authority must deal with and determine the application in accordance with the old legislation as if the 2014 Acts had not commenced.
- (3) However, the licensing authority's decision is then taken to have been made by the Director-General.

*Note for section 69(3)*

*As the decision will be made after the commencement and will be taken to be a decision of the Director-General, it may be a reviewable decision.*

### **Division 3      Review of decisions and appeals**

#### **70      New review regime applies to post-commencement decisions**

Part 6B applies only in relation to decisions made after the commencement.

#### **71      Appeal against pre-commencement decision – appeal not yet commenced**

- (1) This section applies if, before the commencement:
  - (a) a decision had been made under this Act and the period for filing a notice of appeal against the decision under section 30, as then in force, had not expired; but
  - (b) a notice of appeal had not been filed.
- (2) A person who would have been entitled to appeal against the decision under the old legislation may do so under the old legislation, as if the 2014 Acts had not commenced.
- (3) The Local Court must hear and determine the appeal in accordance with the old legislation as if the 2014 Acts had not commenced.

#### **72      Appeal against pre-commencement decision – appeal commenced**

- (1) This section applies if, before the commencement:
  - (a) an appeal against a decision made under this Act had been commenced under section 31, as then in force; but
  - (b) the appeal had not been finally determined.
- (2) The Local Court must hear and determine the appeal in accordance with the old legislation as if the 2014 Acts had not commenced.

### **Division 4      Complaints**

#### **73      New complaints regime applies to post-commencement complaints**

Subject to section 74, Part 6A, as amended by the 2014 Amending Act, applies only in relation to complaints made after the commencement.

**74 Complaint made before commencement – not yet considered**

- (1) This section applies if, before the commencement:
  - (a) a complaint had been made under section 53A, as then in force; but
  - (b) the licensing authority had not commenced active consideration of the complaint.
- (2) The complaint:
  - (a) is taken to have been made to the Director-General on the commencement; and
  - (b) must be dealt with and determined in accordance with Part 6A as amended by the 2014 Amending Act.

*Note for section 74*

*The Director-General's decision on the complaint will be a decision made after the commencement and may therefore be a reviewable decision or a decision to which Part 3 of the Licensing (Director-General) Act applies.*

**75 Complaint made before commencement – under active consideration**

- (1) This section applies if, before the commencement:
  - (a) the licensing authority had commenced active consideration of a complaint made under section 53A, as then in force; but
  - (b) the licensing authority had not determined the complaint under section 53D, as then in force.
- (2) The licensing authority must deal with and determine the complaint in accordance with the old legislation as if the 2014 Acts had not commenced.
- (3) If the licensing authority determines a complaint as mentioned in subsection (2):
  - (a) section 76 applies in relation to the licensing authority's decision as if it had been made before the commencement; and
  - (b) Part 6B does not apply in relation to the determination.

**76 Review of pre-commencement complaint decision – application not yet made**

- (1) This section applies if, before the commencement:
- (a) the licensing authority had made a decision under section 53D, as then in force, and the period for applying for a review of the decision under Part 4 of the NTLC Act had not expired; but
  - (b) an application for a review of the decision had not been made.

*Note for subsection (1)*

*Under section 53E, as in force immediately before the commencement, a decision of the licensing authority under section 53D was reviewable under Part 4 of the NTLC Act.*

- (2) A person who would have been entitled to apply for a review of the decision under the old legislation may do so under the old legislation as if the 2014 Acts had not commenced.
- (3) The licensing authority must review the decision in accordance with the old legislation as if the 2014 Acts had not commenced.

**77 Review of pre-commencement complaint decision – application made**

- (1) This section applies if, before the commencement:
- (a) an application had been made under section 28 of the NTLC Act for a review of a decision made under section 53D, as then in force; but
  - (b) the licensing authority had not completed the review.
- (2) The licensing authority must complete the review in accordance with the old legislation as if the 2014 Acts had not commenced.

**Division 5 General matters**

**78 Continuation of ongoing documents and things**

- (1) This section applies if:
- (a) before the commencement, a power or function was conferred by this Act on the licensing authority; and
  - (b) on the commencement, the power or function (or a substantially similar power or function) is conferred on the Director-General.

- (2) On the commencement, an ongoing document continues with the same force and effect as if it had been issued by, or given to, the Director-General.
- (3) On the commencement, an ongoing thing continues with the same force and effect as if it had been done by, or in relation to, the Director-General.
- (4) This section applies subject to the other provisions of this Part and Part 5, Division 2 of the *Licensing (Director-General) Act*.
- (5) In this section, a reference to something done before the commencement includes a reference to something done after the commencement in accordance with this Part as if it had been done before the commencement.
- (6) In this section:

***ongoing document*** means a document that:

- (a) was issued by, or given to, the licensing authority before the commencement in or for the exercise of the power or performance of the function; and
- (b) immediately before the commencement, had ongoing effect.

***ongoing thing*** means a thing that:

- (a) was done by, or in relation to, the licensing authority before the commencement in or for the exercise of the power or performance of the function; and
- (b) immediately before the commencement, had ongoing effect.

## **79 Active consideration**

Regulations may make provision for determining when active consideration of:

- (a) an application commences for Division 2; or
- (b) a complaint commences for Division 4.

## **80 Licence issued despite disqualifying offence**

A reference in section 15(7A) or 57(2) to a licence issued by the Tribunal under section 53H includes a reference to a licence issued before the commencement by the Local Court under section 34(4), as then in force.

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**Schedule Reviewable decisions and affected persons**

sections 53E, 53F(1) and 53J

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<b>Section</b>	<b>Decision</b>	<b>Affected person</b>
18	Decision to refuse to grant licence	Applicant
19	Decision to impose condition on licence	Applicant
20(2)	Decision to amend conditions on licence	Licensee
20(2C)	Decision to refuse to amend conditions on licence	Licensee
23(4)	Decision not to extend period of provisional licence	Holder of licence
25	Decision to refuse to replace licence	Licensee
27(2)	Decision to suspend, cancel, or refuse to renew licence or to impose penalty	Licensee
53D	Decision to determine complaint	Licensee

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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>bl</b> = by-law	<b>om</b> = omitted
<b>ch</b> = Chapter	<b>pt</b> = Part
<b>div</b> = Division	<b>r</b> = regulation/rule
<b>exp</b> = expires/expired	<b>renum</b> = renumbered
<b>f</b> = forms	<b>rep</b> = repealed
<b>Gaz</b> = <i>Gazette</i>	<b>s</b> = section
<b>hdg</b> = heading	<b>sch</b> = Schedule
<b>ins</b> = inserted	<b>sdiv</b> = Subdivision
<b>lt</b> = long title	<b>SL</b> = Subordinate Legislation
<b>N/C</b> = not commenced	<b>sub</b> = substituted

**2****LIST OF LEGISLATION*****Private Security Act 1995 (Act No. 59, 1995)***

Assent date	28 December 1995
Commenced	s 13: 1 March 1996; rem: 28 December 1995 ( <i>Gaz</i> G7, 14 February 1996, p 4)

***Private Security Amendment Act 1999 (Act No. 71, 1999)***

Assent date	17 December 1999
Commenced	14 February 2000 (s 2, s 2 <i>Northern Territory Licensing Commission Act 1999</i> (Act No. 67, 1999) and <i>Gaz</i> G5, 9 February 2000, p 6)

***Private Security Amendment Act 2003 (Act No. 16, 2003)***

Assent date	29 May 2003
Commenced	5 November 2003 ( <i>Gaz</i> G44, 5 November 2003, p 2)

***Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)***

Assent date	15 September 2004
Commenced	27 October 2004 ( <i>Gaz</i> G43, 27 October 2004, p 3)

***Police Administration Amendment (Powers and Liability) Act 2005 (Act No. 11, 2005)***

Assent date	17 March 2005
Commenced	20 April 2005 ( <i>Gaz</i> G16, 20 April 2005, p 5)

***Statute Law Revision Act 2007 (Act No. 4, 2007)***

Assent date	8 March 2007
Commenced	8 March 2007

***Personal Property Securities (National Uniform Legislation) Implementation Act 2010 (Act No. 30, 2010)***

Assent date	9 September 2010
Commenced	ss 58 to 60: 30 January 2012 (S 2, 24 January 2012); rem: 25 November 2011 ( <i>Gaz</i> , S68, 25 November 2011)

***Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)***

Assent date	12 July 2013
Commenced	28 August 2013 ( <i>Gaz</i> G35, 28 August 2013, p 2)

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***Licensing (Repeals and Consequential Amendments) Act 2014 (Act No. 44, 2014)***

Assent date 5 December 2014  
 Commenced 1 January 2015 (*Gaz S130*, 19 December 2014, p 2)

***Statute Law Revision Act 2017 (Act No. 4, 2017)***

Assent date 10 March 2017  
 Commenced 12 April 2017 (*Gaz G15*, 12 April 2017, p 3)

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

ss 6 and 7 *Private Security Amendment Act 1999* (Act No. 71, 1999)

**4 LIST OF AMENDMENTS**

s 3	amd No. 71, 1999, s 4; No. 16, 2003, s 4; No. 4, 2007, s 2; No. 44, 2014, s 91
s 6	amd No. 16, 2003, s 5
s 8	amd No. 44, 2014, s 103
s 10	rep No. 71, 1999, s 5
pt 2 hdg	amd No. 44, 2014, s 103
s 11	amd No. 44, 2014, s 103
s 12	rep No. 71, 1999, s 5
s 13	amd No. 16, 2003, s 6
s 14	amd No. 16, 2003, s 7; No. 44, 2014, s 103
s 15	amd No. 16, 2003, s 8; No. 44, 2014, s 92
ss 16 – 17	amd No. 44, 2014, s 103
s 18	amd No. 16, 2003, s 9; No. 54, 2004, s 7; No. 44, 2014, s 93
s 19	amd No. 16, 2003, s 10; No. 44, 2014, s 103
s 20	amd No. 16, 2003, s 11; No. 44, 2014, s 94
s 21	amd No. 16, 2003, s 12; No. 44, 2014, s 103
s 22	amd No. 16, 2003, s 13
s 23	amd No. 16, 2003, s 14; No. 44, 2014, s 103
s 24	sub No. 16, 2003, s 15 amd No. 44, 2014, s 103
s 25	amd No. 16, 2003, s 16; No. 44, 2014, s 95
s 25A	ins No. 30, 2010, s 45
s 27	amd No. 54, 2004, s 7; No. 23, 2013, s 6; No. 44, 2014, s 96
s 28	amd No. 16, 2003, s 17; No. 44, 2014, s 103
s 29	amd No. 16, 2003, s 18; No. 44, 2014, s 103
ss 30 – 34	rep No. 44, 2014, s 97
s 35	amd No. 16, 2003, s 19; No. 44, 2014, s 103
s 36	amd No. 16, 2003, s 20; No. 44, 2014, s 103
s 41	amd No. 16, 2003, s 21
s 42	amd No. 16, 2003, s 22
s 43	amd No. 16, 2003, s 23
s 44	amd No. 16, 2003, s 24
s 45	amd No. 16, 2003, s 25; No. 44, 2014, s 103
s 46	amd No. 16, 2003, s 26
s 48	amd No. 44, 2014, s 103
s 49	amd No. 16, 2003, s 27; No. 44, 2014, s 103
s 50	amd No. 44, 2014, s 103
s 51	amd No. 16, 2003, s 28; No. 44, 2014, s 103
s 52	amd No. 44, 2014, s 103
s 53	amd No. 16, 2003, s 29; No. 44, 2014, s 103
pt 6A hdg	ins No. 16, 2003, s 30
ss 53A – 53C	ins No. 16, 2003, s 30 amd No. 44, 2014, s 103

## ENDNOTES

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s 53D	ins No. 16, 2003, s 30 amd No. 44, 2014, s 98
pt 6B hdg	ins No. 44, 2014, s 99
s 53E	ins No. 16, 2003, s 30 sub No. 44, 2014, s 99
ss 53F – 53J	ins No. 44, 2014, s 99
s 54	amd No. 16, 2003, s 31
s 56	amd No. 16, 2003, s 32; No. 44, 2014, s 103; No. 4, 2017, s 34
s 57	amd No. 16, 2003, s 33; No. 44, 2014, s 100
s 58	amd No. 16, 2003, s 34; No. 44, 2014, s 103
s 59	amd No. 11, 2005, s 24; No. 44, 2014, s 103
s 60	amd No. 44, 2014, s 103
s 61	sub No. 44, 2014, s 101
ss 62 – 64	rep No. 16, 2003, s 35
s 65	amd No. 44, 2014, s 103
s 66	amd No. 16, 2003, s 36; No. 44, 2014, s 103
pt 8 hdg	ins No. 44, 2014, s 102
pt 8	
div 1 hdg	ins No. 44, 2014, s 102
s 67	ins No. 44, 2014, s 102
pt 8	
div 2 hdg	ins No. 44, 2014, s 102
ss 68 – 69	ins No. 44, 2014, s 102
pt 8	
div 3 hdg	ins No. 44, 2014, s 102
ss 70 – 72	ins No. 44, 2014, s 102
pt 8	
div 4 hdg	ins No. 44, 2014, s 102
ss 73 – 77	ins No. 44, 2014, s 102
pt 8	
div 5 hdg	ins No. 44, 2014, s 102
ss 78 – 80	ins No. 44, 2014, s 102
sch	ins No. 44, 2014, s 102