NORTHERN TERRITORY OF AUSTRALIA

COURT SECURITY ACT 1998

As in force at 1 May 2016

Table of provisions

Part 1 Preliminary

1 Short title 1
2 Commencement 1
3 Application 1
4 Definitions 2

Part 2 Entry to and exclusion from court

Division 1 Security Officers

5 Security officers 3
6 Termination of appointment 4

Division 2 Court security

7 Person may be required to state name and address, &c. 4
8 Searches 5
9 No firearms, explosives or offensive weapons on court premises 6
10 Seizure and forfeiture of firearms, &c. 6
11 Placards, objects, &c., likely to engender violence 6
12 Security officer may require object capable of concealing firearms, &c., to be deposited 7
13 Unlawful, disorderly conduct, &c. 7
14 Refusal of requirement of security officer 7
15 Obstruction, &c., of security officer 8
16 Arrest 8

Part 3 Miscellaneous

17 Judge may close court 9
18 Regulations 10

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2016

COURT SECURITY ACT 1998

An Act to provide for the security of courts and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Court Security Act 1998*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3 Application

(1) This Act is in addition to and does not derogate from any other power that a court, judge or person has relating to the conduct of proceedings in a court or regulating the conduct of persons on court premises.

(2) This Act does not affect any power of a court relating to contempt of the court or any other similar power.

(3) Except as provided in this Act, a person has a right to enter and remain on court premises, where there is room for the person on the court premises, if the person:

(a) has a proper reason for being on or about the court premises or has indicated that he or she wishes to see the proceedings of a court; and

(b) has complied with the requirements, if any, of a judge or security officer.

4 Definitions

In this Act, unless the contrary intention appears:

Chief Executive Officer means the Chief Executive Officer of the Agency allotted responsibility by an Administrative Arrangements Order for the administration of courts.

court means:

(a) the Supreme Court; or

(b) the Local Court; or

(d) the Youth Justice Court continued in existence by section 45 of the *Youth Justice Act 2005*; or

(e) the Work Health Court under Part 3 of the *Work Health Administration Act 2011*; or

(h) a prescribed court; or

(j) a tribunal, body or person that is by law entitled to hear, receive and examine evidence and is prescribed.

court premises means the premises or place where a court is held or that are used in connection with the operations of a court and includes:

(a) a forecourt, courtyard, yard or area used in conjunction with the premises or place; and

(b) a part of premises that is used to provide entry to or exit from court premises.

explosive means a substance or article manufactured, designed or ordinarily used to produce an explosion or a pyrotechnic effect and includes:

(a) fireworks and gunpowder;

(b) a gaseous substance so compressed that it is capable of exploding;

(c) material or a substance used to produce an explosion or pyrotechnic effect; and

(d) an apparatus, machine, implement or material, or a part of an apparatus, machine, implement or material, used or able to be used or adapted to cause or aid in causing an explosion or a pyrotechnic effect.

firearm has the meaning it has in the *Firearms Act 1997*.

frisk search means a search conducted by a person running his or her hands over the outer clothing of the person being searched.

Judge means a Supreme Court Judge, Local Court Judge, justice of the peace or a prescribed person.

offensive weapon has the same meaning it has in section 56A(4) of the *Summary Offences Act 1923*.

screening search means:

(a) in relation to a search of a person – a search by equipment that is designed to carry out the search without touching the person; and

(b) in relation to the search of an object – a search by equipment that is designed to carry out the search without touching the object or requiring it to be opened.

security officer, in relation to a court, means a person appointed under section 5(2) in relation to the court and person referred to in section 5(1)(a) or (b).

Part 2 Entry to and exclusion from court

Division 1 Security Officers

5 Security officers

(1) The following persons are security officers for the purpose of this Act:

(a) a member of the Police Force;

(b) a sheriff, or an officer of the sheriff, within the meaning of the *Sheriff Act 1962*;

(c) a person appointed under subsection (2).

(2) The Chief Executive Officer may, in writing, appoint a person to be a security officer.

(3) A person is not to be appointed a security officer unless:

(a) he or she is an employee within the meaning of the *Public Sector Employment and Management Act 1993*; or

(b) he or she holds a crowd controller's licence within the meaning of the *Private Security Act 1995* (not being a crowd controller's transitional licence or a crowd controller's provisional licence within the meaning of that Act).

(4) The instrument appointing a security officer is to specify his or her employer, if any.

(5) A person may be appointed a security officer under subsection (2) in relation to all courts, or a particular court, as is specified in the instrument appointing the person.

6 Termination of appointment

(1) The Chief Executive Officer may, in writing, terminate the appointment of a person as a security officer.

(2) A person appointed under section 5(2) ceases to be a security officer if:

(a) he or she ceases to be an employee of the employer specified in his or her instrument of appointment;

(b) the employer of the security officer ceases to be engaged to provide the services of crowd controllers to the court in relation to which the security officer is appointed; or

(c) he or she ceases to hold a crowd controller's licence within the meaning of the *Private Security Act 1995*.

Division 2 Court security

7 Person may be required to state name and address, &c.

(1) A security officer may require a person who is entering or who is on court premises:

(a) to tell the security officer the person's name and address;

(b) to tell the security officer the person's reason for entering or being on the premises; and

(c) to provide to the security officer proof of the person's identity.

(2) A person must not fail to provide, when required to do so by a security officer, his or her name and address, his or her reason for entering or being on court premises or any proof of identity the person is carrying.

Maximum penalty: 17 penalty units.

(3) A person must not provide to a security officer a false name, a false address, false information as to why the person is entering or on court premises or a false proof of identity.

Maximum penalty: 40 penalty units.

8 Searches

(1) A security officer may require a person who is entering or who is on court premises to submit himself or herself and any object in the possession of the person to a screening search.

(2) Where a security officer believes, on reasonable grounds, that it is necessary to do so in the interests of security, he or she may require a person who is entering or who is on court premises:

(a) to submit to a frisk search or to remove a jacket or coat and submit to a frisk search; and

(b) to open and empty out the person's pockets, to open or empty a container, briefcase, bag, box, carton or other receptacle in the possession of the person or otherwise to permit the security officer to search an object in the possession of the person.

(3) A frisk search may only be performed by:

(a) a security officer of the same sex as the person being searched; or

(b) where a security officer of the same sex as the person being searched is not available to perform the search – by any other person of the same sex who agrees to a request by a security officer to perform the frisk search.

(4) A person of whom a requirement is made under subsection (1) or (2) must, as soon as practicable after the requirement is made:

(a) comply with the requirement; or

(b) leave the court premises.

Maximum penalty: 40 penalty units.

(5) An action or proceeding, whether civil or criminal, is not to be commenced or lie against a person authorised for the purposes of subsection (3)(b) for or in respect of an act or thing done in good faith by the person performing a frisk search of the person in accordance with the request of a security officer.

9 No firearms, explosives or offensive weapons on court premises

(1) A person must not be in possession of a firearm, explosives or an offensive weapon on court premises.

Maximum penalty: 220 penalty units or imprisonment for 5 years.

(2) Subsection (1) does not apply in relation to:

(a) a member of the Police Force acting in the course of his or her duties;

(b) a security officer acting in the course of his or her duties; or

(c) a person in possession of a firearm, explosives or an offensive weapon for the purposes of proceedings in a court.

10 Seizure and forfeiture of firearms, &c.

(1) A security officer may seize a firearm, explosives or an offensive weapon that is in the possession of a person, other than a person to whom section 9(2) applies, who is entering or who is on court premises.

(2) Where a person is found guilty of an offence against section 9(1), the firearm, explosive or offensive weapon to which the offence relates is forfeited to the Territory.

(3) Where a person is found guilty of an offence against section 11(2), the placard, poster or object to which the offence relates is forfeited to the Territory.

11 Placards, objects, &c., likely to engender violence

(1) A security officer may require a person who is entering or who is on court premises with a placard, poster or other object to deposit the placard, poster or object with the officer if it is:

(a) offensive, insulting, threatening or indecent; or

(b) likely to engender violence, create a breach of the peace or unreasonably cause substantial annoyance to another person.

(2) A person required under subsection (1) to deposit a placard, poster or object must, as soon as practicable after the requirement is made:

(a) deposit it with a security officer; or

(b) leave the court premises with it.

Maximum penalty: 40 penalty units or imprisonment for 12 months.

(3) Where a person fails to comply with a requirement under subsection (1) a security officer may seize the placard, poster or object to which the failure to comply relates.

12 Security officer may require object capable of concealing firearms, &c., to be deposited

(1) A security officer may require a person who is entering or who is on court premises with an object that is reasonably capable of concealing a firearm, explosives or an offensive weapon to deposit the object with the officer.

(2) A person required to deposit an object under subsection (1) must, as soon as practicable after the requirement is made:

(a) deposit the object with a security officer; or

(b) leave the court premises with the object.

Maximum penalty: 40 penalty units or imprisonment for 12 months.

(3) Where a person fails to comply with a requirement under subsection (1) a security officer may seize the object to which the failure to comply relates.

13 Unlawful, disorderly conduct, &c.

(1) Where a security officer believes that a person on court premises is behaving unlawfully or in a disorderly or menacing manner, the security officer may require the person to leave the premises.

(2) A person must not contravene or fail to comply with a requirement under subsection (1).

Maximum penalty: 40 penalty units or imprisonment for 12 months.

14 Refusal of requirement of security officer

(1) Where a person refuses to comply with a requirement of a security officer under section 7, 8, 11 or 12, a security officer may:

(a) refuse the person entry to the court premises or a part of the court premises; or

(b) order the person to leave the court premises or a part of the court premises.

(2) A person must not fail to comply with an order of a security officer under subsection (1)(b).

Maximum penalty: 40 penalty units or imprisonment for 12 months.

(3) Where a person fails to comply with:

(a) an order of a security officer under subsection (1)(b); or

(b) a requirement of a security officer under section 13(1),

a security officer may remove the person from the court premises or a part of the court premises using such force as is reasonably necessary for that purpose.

15 Obstruction, &c., of security officer

A person must not resist, hinder or obstruct a security officer in the execution of his or her duty.

Maximum penalty: 85 penalty units or imprisonment for 2 years.

16 Arrest

(1) Where a security officer is of the opinion that a person:

(a) has committed;

(b) is committing; or

(c) is likely to commit,

an offence against this Act, the security officer may, without warrant, arrest the person and take him or her into custody.

(2) Where a security officer who arrests a person under subsection (1) is not a member of the Police Force, the security officer must deliver the person to a member of the Police Force as soon as practicable after the person is arrested.

(3) A person who is arrested under subsection (1) and is in custody must not be questioned in relation to an offence other than by a member of the Police Force and in accordance with the *Police Administration Act 1978*.

(4) Where a person is delivered to a member of the Police Force under subsection (2) the *Police Administration Act 1978* applies to and in relation to the person and to the member as if the arrest had been made under that Act.

(5) A person who is arrested under subsection (1)(a) must be released immediately from custody where it becomes apparent that the person did not commit the offence for which the person was arrested.

(6) Nothing in this section derogates from the power of a person to arrest a person without warrant under section 441 of the Criminal Code.

Part 3 Miscellaneous

17 Judge may close court

(1) Where a judge is of the opinion that it is necessary for the purposes of securing order and safety in court premises or a part of court premises, the judge may:

(a) make an order requiring members of the public generally, or specified members of the public, to leave the court premises or a part of the court premises; or

(b) make an order refusing members of the public generally, or specified members of the public, admission to the court premises or a part of the court premises.

(2) A person must not contravene or fail to comply with an order of a judge under subsection (1).

Maximum penalty: 85 penalty units or imprisonment for 2 years.

(3) Where a person contravenes or fails to comply with an order of a judge under this section, a security officer may, using such force as is reasonably necessary for the purpose:

(a) remove the person from the court premises or the part of the court premises; or

(b) prevent the person from entering the court premises or the part of the court premises.

18 Regulations

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.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Court Security Act 1998* (Act No. 42, 1998)**
Assent date 27 May 1998
Commenced 1 July 1998 (*Gaz* S28, 1 July 1998, p 1)

***Youth Justice (Consequential Amendments) Act 2005* (Act No. 33, 2005)**
Assent date 22 September 2005
Commenced 1 August 2006 (s 2, s 2 *Youth Justice Act 2005* (Act No. 32, 2005) and *Gaz* G30, 26 July 2006, p 3)

***Law Reform (Work Health) Amendment Act 2007* (Act No. 30, 2007)**
Assent date 12 December 2007
Commenced 1 July 2008 (*Gaz* S29, 25 June 2008)

***Justice Legislation Amendment (Penalties) Act 2010* (Act No. 12, 2010)**
Assent date 20 May 2010
Commenced 1 July 2010 (*Gaz* G24, 16 June 2010, p 2)

***Mineral Titles (Consequential Amendments) Act 2010* (Act No. 37, 2010)**
Assent date 18 November 2010
Commenced 7 November 2011 (*Gaz* G41, 12 October 2011, p 5)

***Work Health and Safety (National Uniform Legislation) Implementation Act 2011* (Act No. 38, 2011)**
Assent date 14 December 2011
Commenced 1 January 2012 (*Gaz* S78, 30 December 2011)

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**
Assent date 6 April 2016
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: ss 1, 4, 5, 6 and 16.

4 LIST OF AMENDMENTS

s 4	amd No. 33, 2005, s 5; No. 30, 2007, s 59; No. 37, 2010, s 13; No. 38, 2011, s 31; No. 8, 2016, s 45
ss 7 – 9	amd No. 12, 2010, s 3
ss 11 – 15	amd No. 12, 2010, s 3
s 17	amd No. 12, 2010, s 3