

Serial 136
Private Security Amendment Bill 2003
Mr Stirling

**A BILL
for
AN ACT**

to amend the *Private Security Act*

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NORTHERN TERRITORY OF AUSTRALIA
PRIVATE SECURITY AMENDMENT ACT 2003

No. of 2003

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2003

AN ACT

to amend the *Private Security Amendment Act*

[Assented to 2003]

[Second reading 2003]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Private Security Amendment Act 2003*.

2. Commencement

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

3. Principal Act

The *Private Security Act* is in this Act referred to as the Principal Act.

4. Definitions

Section 3 of the Principal Act is amended by omitting "a crowd controller's transitional licence," from paragraph (a) of the definition of "appropriate licence".

5. Security officers

Section 6 of the Principal Act is amended –

- (a) by omitting "(1)"; and

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- (b) by omitting subsection (2).

6. Requirement to be licensed

Section 13 of the Principal Act is amended –

- (a) by omitting from subsection (1) "\$10,000" and "\$50,000" and substituting "100 penalty units" and "500 penalty units" respectively;
- (b) by inserting after subsection (1) the following:

"(1A) An offence against subsection (1) is a regulatory offence.";
- (c) by omitting from subsection (2) "\$10,000" and "\$50,000" and substituting "100 penalty units" and "500 penalty units" respectively; and
- (d) by inserting after subsection (2) the following:

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

7. Application for licence

Section 14 of the Principal Act is amended –

- (a) by omitting from subsection (1) "prescribed levy" and substituting "prescribed fee";
- (b) by omitting from subsection (5) "the person's criminal history." and substituting the following:

"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."; and
- (c) by omitting subsection (6).

8. Entitlement to licences – natural persons

Section 15 of the Principal Act is amended by omitting subsections (2) and (9).

9. Decision on application

Section 18 of the Principal Act is amended by omitting subsections (1) and (4).

10. Conditions of licence

Section 19 of the Principal Act is amended –

- (a) by omitting from subsection (1) "as are stated on the licence" and substituting "specifies in writing to the licensee";
- (b) by omitting subsection (2)(b) and substituting the following:
 - "(b) the conditions, if any, specified in accordance with subsection (1) and amended, if at all, in accordance with section 20; and"; and
- (c) by omitting from subsection (3) "Penalty: \$5,000." and substituting the following:

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

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

11. Amendment of conditions

Section 20 of the Principal Act is amended –

- (a) by omitting from subsection (2) "within the specified time" and substituting "under subsection (1)(c)";
- (b) by inserting after subsection (2) the following:

"(2A) A licensee may apply to the licensing authority 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 licensing authority may, if satisfied that the conditions should be amended as set out in the application, amend the conditions accordingly.";

- (c) by inserting in subsection (3) "under subsection (2) or (2C)" before ", the licensing authority"; and
- (d) by inserting in subsection (4) "(inclusive)" after "(3)".

12. Notice to return licence for alteration

Section 21 of the Principal Act is amended by omitting from subsection (3) "Penalty: \$5,000." and substituting the following:

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

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

13. Production of licence

Section 22 of the Principal Act is amended by omitting from subsections (1) and (2) "Penalty: \$5 000." and substituting the following:

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

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

14. Period of validity of licence

Section 23 of the Principal Act is amended –

- (a) by omitting from subsection (1) all the words before "is valid" and substituting "Subject to this Act, a licence, other than a provisional licence,"; and
- (b) by omitting subsection (2).

15. Repeal and substitution

Section 24 of the Principal Act is repealed and the following substituted:

"24. Renewal of licence

"(1) The holder of a licence, other than a provisional licence, may apply to the licensing authority 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 licensing authority.

"(3) The licensing authority 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 licensing authority must not renew the licence unless the licensee holds a current first aid certificate, being a certificate approved by the Minister."

16. Replacement licence

Section 25 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) An application under subsection (1) is to be accompanied by the prescribed fee (if any)."

17. Return of suspended or cancelled licence

Section 28 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$5,000." and substituting the following:

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

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

18. Automatic cancellation on conviction

Section 29 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$5,000." and substituting the following:

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

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

19. Inspectors

Section 35 of the Principal Act is amended by omitting from subsection (4) "and an authorised officer as defined in the *Consumer Affairs and Fair Trading Act* are inspectors" and substituting "is an inspector".

20. Inspector's identity card

Section 36 of the Principal Act is amended –

- (a) by omitting from subsection (1) "or an authorised officer under the *Consumer Affairs and Fair Trading Act*";
- (b) by omitting from subsection (3) "\$5,000" and substituting "20 penalty units"; and
- (c) by omitting subsection (4).

21. Power to require name and address

Section 41 of the Principal Act is amended by omitting from subsection (4) "Penalty: \$5,000." and substituting the following:

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

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

22. Power to require information from certain persons

Section 42 of the Principal Act is amended by omitting from subsection (3) "Penalty: \$5,000." and substituting the following:

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

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

23. False or misleading information

Section 43 of the Principal Act is amended by omitting from subsection (1) "Penalty: \$5,000." and substituting the following:

"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."

24. Power to require production of documents

Section 44 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$5,000." and substituting the following:

"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."

25. False or misleading documents

Section 45 of the Principal Act is amended by omitting from subsection (1) "Penalty: \$5,000." and substituting the following:

"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."

26. Obstruction of inspectors

Section 46 of the Principal Act is amended by omitting "Penalty: \$5,000." and substituting the following:

"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."

27. Undertakings by persons contravening code

Section 49 of the Principal Act is amended by omitting from subsection (2) "Penalty: \$5,000." and substituting the following:

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

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

28. Orders by Local Court where undertaking refused or breached

Section 51 of the Principal Act is amended by omitting from subsection (7) "Penalty: \$5,000." and substituting the following:

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

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

29. Competency standards and training

Section 53 of the Principal Act is amended –

- (a) by omitting from subsection (1) "The Minister" and substituting "Subject to subsection (2), the Minister"; and
- (b) by omitting subsection (2) and substituting the following:

"(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 licensing authority 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 licensing authority –

- (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."

30. New Part

The Principal Act is amended by inserting after section 53 the following:

"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 a form approved by the licensing authority;
- (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 licensing authority.

"53B. Opportunity to be given to security provider to reply to complaint

"If a complaint is made under section 53A, the licensing authority must inform the security provider of the complaint within 48 hours after receiving it and must give the security provider sufficient opportunity to provide a written reply to the complaint.

"53C. Consideration and decision of licensing authority

"(1) The licensing authority must consider each complaint received under section 53A, taking into account the written reply of the licensee (if any) and any other matter he or she considers relevant.

"(2) The licensing authority must consider each complaint in a manner that is fair and expeditious and gives proper consideration to the issues.

"(3) For subsection (2), the licensing authority –

- (a) may conduct the investigations regarding the complaint he or she thinks appropriate; and
- (b) may require or, if requested to do so by the security provider, must permit the security provider to appear before it to make submissions or answer questions regarding the complaint.

"53D. Determination of complaint

"(1) On completing its consideration of and investigations into a complaint under section 53A, the licensing authority must make a determination –

- (a) that, in the licensing authority'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) The licensing authority must, as soon as practicable after it makes its determination, give notice of the determination to the person who made the complaint and the security provider against whom the complaint was made.

"(3) Notice of the determination is to be in writing and is to specify the licensing authority's reasons for the determination and the procedures for review under Part 4 of the *Northern Territory Licensing Commission Act*.

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

"53E. Review of determination of complaint

"A decision of the licensing authority under section 53D may be reviewed under Part 4 of the *Northern Territory Licensing Commission Act*."

31. Identification to be worn by crowd controller

Section 54 of the Principal Act is amended by omitting "\$5,000" and substituting "50 penalty units".

32. Employers to keep incident registers

Section 56 of the Principal Act is amended –

- (a) by inserting in subsection (1) "in a manner approved by the licensing authority" after "kept";
- (b) by omitting from subsection (1) "Penalty: \$2,000." and substituting the following:

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

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

- (c) by omitting from subsection (4) "Penalty: \$2,000." and substituting the following:

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

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

33. Person not to hire crowd controller with disqualifying offence

Section 57 of the Principal Act is amended by omitting "Penalty: \$5,000." and substituting the following:

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

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

34. Confidentiality of information

Section 58 of the Principal Act is amended by omitting from subsection (1) "\$5000" and "6 months" and substituting "100 penalty units" and "12 months" respectively.

35. Repeal

Sections 62, 63 and 64 of the Principal Act are repealed.

36. Regulations

Section 66 of the Principal Act is amended –

- (a) by omitting from subsection (2)(d) "\$2,000" and substituting "100 penalty units"; and

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(b) by inserting after subsection (2)(d) the following:

"(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;"

