

NORTHERN TERRITORY OF AUSTRALIA

PRIVATE SECURITY BILL 1995

TABLE OF PROVISIONS

PART 1 - PRELIMINARY

Clause

1. Short title
2. Commencement
3. Definitions
4. Security providers
5. Crowd controllers
6. Security officers
7. Security firms
8. Act may be declared to apply to certain persons
9. Act only to apply to security firms and officers if declared to so apply

PART 2 - LICENSING AUTHORITY

10. Licensing authority
11. Licensing authority to keep register
12. Delegation by licensing authority

PART 3 - LICENCES

13. Requirement to be licensed
14. Application for licence
15. Entitlement to licences - natural persons
16. Inquiries about person's appropriateness to hold licence
17. Entitlement to licences - corporations or firms
18. Decision on application
19. Conditions of licence
20. Amendment of conditions
21. Notice to return licence for alteration
22. Production of licence
23. Period of validity of licence
24. Renewal of licence
25. Replacement licence

PART 4 - CANCELLATION, SUSPENSION, &c.,
OF LICENCES

26. Grounds for suspension, cancellation or refusal to renew
27. Procedure for suspension, cancellation or refusal to renew
28. Return of suspended or cancelled licence
29. Automatic cancellation on conviction
30. Right to appeal to Local Court
31. Commencement of appeal
32. Stay of operation of decisions
33. Hearing procedures
34. Powers of Court on appeal

PART 5 - INSPECTORS

35. Inspectors
36. Inspector's identity card
37. Production of inspector's identity card
38. Entry of place by inspector
39. Inspector's general powers in a place
40. Procedure after thing seized
41. Power to require name and address
42. Power to require information from certain persons
43. False or misleading information
44. Power to require production of documents
45. False or misleading documents
46. Obstruction of inspectors
47. Police to retain powers under other Acts for the purposes of this Act

PART 6 - CODES OF PRACTICE, COMPETENCY
STANDARDS AND TRAINING

48. Codes of Practice
49. Undertakings by persons contravening code
50. Registers of undertakings
51. Orders by Local Court where undertaking refused or breached
52. Variation and discharge of orders
53. Competency standards and training

PART 7 - GENERAL

54. Identification to be worn by crowd controller
55. Employer to be liable for security provider's actions
56. Confidentiality of information
57. Protection from liability
58. Evidentiary provisions
59. Approved forms
60. Private Security Industry Fund
61. Private Security Industry Levy
62. Private security provider to pay levy
63. Regulations
64. Transitional

SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

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

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART 1 - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Private Security Act 1995*.

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 -

"appropriate licence" for carrying out the functions of a security provider is -

- (a) if carrying out the functions of a crowd controller during the transitional period within the meaning of section 64 - a crowd controller's transitional licence;

Private Security

- (b) if carrying out the functions of a crowd controller other than during the transitional period within the meaning of section 64 - a crowd controller's licence or a crowd controller's provisional licence;
- (c) if carrying out the functions of a security officer - a security officer's licence or a security officer's provisional licence;
- (d) if carrying out the functions of a security firm - a security firm's licence; or
- (e) 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;

"criminal history" of a person -

- (a) means the person's criminal history within the meaning of the *Criminal Records (Spent Convictions) Act*; and
- (b) notwithstanding section 6 of the *Criminal Records (Spent Convictions) Act*, includes a conviction to which that section applies;

"crowd controller" has the meaning given by section 5;

"disqualifying offence" means an offence -

- (a) under the *Firearms Act* that is punishable by imprisonment for 1 year or more, even if a fine may be imposed in addition or as an alternative;
- (b) under the *Misuse of Drugs Act* that is punishable by imprisonment for 1 year or more, even if a fine may be imposed in addition or as an alternative; or
- (c) an offence against a provision of the Criminal Code specified in the Schedule;

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

"licensing authority" means the person appointed to be the licensing authority under section 10;

"obstruct" includes hinder, resist and attempt to obstruct;

Private Security

"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;

"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.

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.

Private Security

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 or a public or private event or function, as part of his or her regular 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

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

(2) Notwithstanding subsection (1), a person is not a security officer merely because the person -

- (a) is an employee of a person who does not, for reward, patrol or guard another person's property; and
- (b) as an employee, patrols or guards the employer'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 doors) to be a category of security provider for the purpose of this Act, the Minister may request the licensing authority to conduct a review of the suitability of making such a declaration.

Private Security

(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; and
- (b) 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 licensing authority, 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 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.

Private Security

PART 2 - LICENSING AUTHORITY

10. LICENSING AUTHORITY

(1) The Minister shall appoint a person or persons to be the licensing authority for the purposes of this Act.

(2) The licensing authority shall at the end of each 12 month period after the commencement of this Act report to the Minister on the operation of the Act.

11. LICENSING AUTHORITY TO KEEP REGISTER

(1) The licensing authority shall keep, in such manner and form as it thinks fit, registers of persons holding licences under this Act or disqualified from holding licences under this Act.

(2) The licensing authority 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 licensing authority 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 licensing authority -

(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 an appeal under this 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*.

12. DELEGATION BY LICENSING AUTHORITY

(1) The licensing authority may, with the approval of the Minister, delegate the licensing authority's powers under this Act, other than this power of delegation, to an employee as defined in the *Public Sector Employment and Management Act*.

Private Security

(2) A delegation under subsection (1) does not prevent the exercise of the power delegated by the licensing authority.

PART 3 - LICENCES

13. REQUIREMENT TO BE LICENSED

- (1) Subject to subsection (5), 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 - \$10,000.

In the case of a body corporate - \$50,000.

(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 - \$10,000.

In the case of a body corporate - \$50,000.

(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.

(5) A person may not be granted a crowd controller's licence or a security officer's licence unless the Minister has approved -

- (a) a code of practice under section 48; and
- (b) competency standards and training under section 53,

in relation to the category of licence.

14. APPLICATION FOR LICENCE

(1) An application to the licensing authority for a licence under this Act may be made on the prescribed form accompanied by the prescribed fee and/or levy, if any, by -

- (a) a natural person;

Private Security

- (b) in the case of a security firm's licence - a person or a partnership; or
 - (c) in the case of a licence other than a security firm's licence - the employer or anticipated employer of the natural person on whose behalf the application is made.
- (2) A licence other than a security firm's licence shall only be granted in respect of a natural person.
- (3) The licensing authority may, in writing, request the applicant for a licence to give further information or documents relevant to the application.
- (4) The licensing authority may reject the application for a licence if the applicant fails, without reasonable excuse, to comply with the request.

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.
- (2) A person is entitled to be granted a licence if the licensing authority is satisfied that the person -
- (a) in the case of a licence other than a security firm's licence, a crowd controller's transitional licence, a crowd controller's provisional licence or a security officer's provisional licence - has successfully completed a course in the relevant training approved under section 53, if any; and
 - (b) is an appropriate person to hold the licence.
- (3) In deciding whether a person is an appropriate person to hold a licence, the licensing authority is limited to considering the matters specified in subsections (4), (5) and (6).
- (4) In deciding whether a person is an appropriate person to hold a licence, the licensing authority 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;

Private Security

- (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) evidence given in a court of the Territory, the Commonwealth or a State or another Territory of the Commonwealth or a commission of inquiry.
- (5) 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; or
 - (b) an offence that would be a disqualifying offence if committed in the Territory.
- (6) The licensing authority may, in its absolute discretion, refuse to grant a licence to an applicant if the licensing authority 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 licensing authority shall notify the Commissioner of Police of -
- (a) each application for a licence under this Act; and
 - (b) each inquiry of the licensing authority under this section.
- (2) The licensing authority 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 notice of an application for a licence under this Act or an inquiry by the licensing authority under this section, the Commissioner of Police shall give the licensing authority -
- (a) a written report of the criminal history of the applicant or person in relation to whom the inquiry is being held; and

Private Security

- (b) such evidence as may assist the licensing authority to determine if the applicant 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 licensing authority 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(3) - (6) inclusive 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

- (1) The licensing authority shall consider an application for a licence and either -

Private Security

- (a) grant the licence; or
 - (b) refuse to grant the licence.
- (2) If the licensing authority decides to grant the licence, the licensing authority shall as soon as practicable give the applicant -
- (a) the licence; and
 - (b) if a condition is stated on the licence - a written notice stating that the applicant may within 28 days appeal to the Local Court against the imposition of the condition.
- (3) If the licensing authority decides to refuse to grant the licence, the licensing authority shall as soon as practicable give the applicant a written notice stating -
- (a) the decision;
 - (b) the reasons for the decision; and
 - (c) that the applicant may within 28 days appeal to the Local Court against the decision.

19. CONDITIONS OF LICENCE

- (1) The licensing authority may grant a licence on such conditions as the licensing authority thinks fit and as are stated on the licence.
- (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, stated on the licence; 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: \$5,000.

Private Security

20. AMENDMENT OF CONDITIONS

(1) If the licensing authority 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 licensing authority 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 licensing authority may amend the conditions if, after considering all representations made within the specified time, the licensing authority 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.

(3) If the licensing authority decides to amend the conditions, the licensing authority shall give the licensee a written notice stating -

- (a) the way in which the conditions have been amended; and
- (b) that the licensee may within 28 days appeal to the Local Court against the amendment of the conditions.

(4) Subsections (1) to (3) 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 licensing authority may make an amendment of a type specified in subsection (4) by written notice to the licensee.

Private Security

21. NOTICE TO RETURN LICENCE FOR ALTERATION

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

(2) After amending the conditions stated on the licence, the licensing authority 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: \$5,000.

(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: \$5,000.

(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: \$5,000.

23. PERIOD OF VALIDITY OF LICENCE

(1) Subject to this Act, a licence, other than a crowd controller's transitional licence, a crowd controller's provisional licence or a security officer's provisional licence, is valid for the period, being not more than 3 years from the date of issue, requested by the applicant and specified on the licence.

(2) Subject to this Act, a crowd controller's provisional licence or a security officer's provisional licence is valid until the conclusion of the next available training course, specified in the licence, in respect of crowd controllers or security officers, as the case may be, which may be attended by the holder of the licence.

(3) Where the holder of a crowd controller's provisional licence or a security officer's provisional

Private Security

licence is unable to attend a training course specified in the licence for reasons acceptable to the licensing authority, the licensing authority may extend the period of the licence until the conclusion of the next available training course, specified in the licence, in respect of crowd controllers or security officers, as the case may be, which may be attended by the holder of the licence.

(4) A crowd controller's provisional licence or a security officer's provisional licence shall not be extended under subsection (3) more than once.

24. RENEWAL OF LICENCE

(1) The holder of a licence, other than a crowd controller's transitional licence, a crowd controller's provisional licence or a security officer's provisional licence, may, on the approved form accompanied by the prescribed fee and/or levy, if any, apply to the licensing authority for the renewal of a licence not earlier than 3 months before, and not later than one month before, the licence ends.

(2) If an application for renewal of a licence is made, the licensing authority shall renew the licence unless the licensing authority refuses to renew it under section 26.

25. REPLACEMENT LICENCE

(1) A licensee may apply to the licensing authority for the replacement of a lost, stolen or destroyed licence.

(2) The licensing authority shall consider each application and either -

- (a) replace the licence; or
- (b) refuse to replace the licence.

(3) If the licensing authority is satisfied that the licence has been lost, stolen or destroyed, the licensing authority shall replace the licence.

(4) If the licensing authority decides to refuse to replace the licence, the licensing authority shall give the applicant a written notice stating -

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the applicant may within 28 days appeal to the Local Court against the decision.

Private Security

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 licensing authority believes that reasonable grounds exist to suspend, cancel or refuse to renew a licence (the "action"), the licensing authority 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 licensing authority's belief;
- (d) if the licensing authority's proposes to suspend the licence - states the suspension period the licensing authority proposes to impose; and

Private Security

- (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 licensing authority accordingly.
 - (2) If, after considering all submissions, if any, made by the licensee, the licensing authority still believes that grounds to take the action exist, it 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 penalty of not more than \$10,000;
 - (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 penalty of not more than \$10,000; 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 license for a period; or
 - (iii) impose a penalty of not more than \$10,000.
 - (3) The licensing authority shall inform the licensee of the decision by written notice.
 - (4) If the licensing authority decides to -
 - (a) cancel, suspend or refuse to renew the licence; or
 - (b) impose a penalty,
- under subsection (2) the notice shall state -
- (c) the reasons for the decision; and
 - (d) that the licensee may within 28 days appeal to the Local Court against the decision.

Private Security

(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 licensing authority may, where it 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 serving on the licensee notice of the suspension, stating -

(a) the reasons for the decision; and

(b) that the licensee may within 28 days appeal to the Local Court against the decision.

28. RETURN OF SUSPENDED OR CANCELLED LICENCE

(1) If the licensing authority cancels or suspends a person's licence, the licensing authority 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: \$5,000.

(3) If a suspended licence returned to the licensing authority is still current at the end of the suspension period, the licensing authority 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 the licence, is convicted of a disqualifying offence.

(2) The licensee shall return the licence to the licensing authority within 14 days after the conviction.

Penalty: \$5,000.

Private Security

30. RIGHT TO APPEAL TO LOCAL COURT

(1) An applicant for a licence may appeal against the licensing authority's decision to refuse to grant a licence.

(2) The holder of a licence may appeal against a decision of the licensing authority -

- (a) to impose a condition on a licence;
- (b) to amend a condition on a licence;
- (c) to suspend or cancel a licence;
- (d) to refuse to renew a licence; or
- (e) to refuse to replace a licence.

31. COMMENCEMENT OF APPEAL

(1) An appeal may be commenced by -

- (a) filing a written notice of appeal with the Registrar within the meaning of the *Local Court Act*; and
- (b) serving a copy of the notice on the licensing authority.

(2) The notice of appeal shall be filed within 28 days after the appellant receives notice of the decision appealed against.

(3) The Local Court may at any time extend the period for filing the notice of appeal.

(4) The notice of appeal shall state the grounds of the appeal.

32. STAY OF OPERATION OF DECISIONS

(1) The Local Court has power to grant a stay of a decision appealed against for the purpose of securing the effectiveness of the appeal.

(2) A stay -

- (a) may be granted on conditions that the Local Court considers appropriate;
- (b) has effect for the period specified by the Local Court; and
- (c) may be revoked or amended by the Local Court.

Private Security

(3) The period of a stay specified by the Local Court shall not extend past the time when the Court decides the appeal.

(4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

33. HEARING PROCEDURES

(1) The power under the *Local Court Act* to make rules for the Local Court includes power to make rules for appeals to the Local Court under this Act.

(2) The procedure for an appeal to the Local Court under this Act is to be in accordance with -

- (a) the rules made under the *Local Court Act*; or
- (b) in the absence of relevant rules - directions of the Court.

(3) An appeal is to be by way of rehearing, unaffected by the licensing authority's decision.

(4) In deciding an appeal, the Court -

- (a) is not bound by the rules of evidence; and
- (b) shall observe natural justice.

(5) The Court may require that information supplied in confidence to the licensing authority or to the Court shall not be published or otherwise disclosed.

34. POWERS OF COURT ON APPEAL

(1) In deciding an appeal, the Local Court may -

- (a) confirm the decision appealed against;
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the licensing authority with directions that the Court considers appropriate.

(2) In substituting another decision, the Local Court has the same powers as the licensing authority.

(3) If the Local Court substitutes another decision, the substituted decision is taken, for the purposes of this Act, to be the licensing authority's decision.

Private Security

PART 5 - INSPECTORS

35. INSPECTORS

(1) The licensing authority may appoint an employee as defined in the *Public Sector Employment and Management Act* to be an inspector.

(2) The licensing authority may appoint a person to be an inspector only if -

(a) the licensing authority 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 licensing authority.

(3) The licensing authority may limit the powers of an inspector by stating conditions in the instrument of appointment.

(4) A member of the Police Force and an authorised officer as defined in the *Consumer Affairs and Fair Trading Act* are inspectors for the purposes of this Act.

36. INSPECTOR'S IDENTITY CARD

(1) The licensing authority shall issue an identity card to each inspector, other than a member of the Police Force or an authorised officer under the *Consumer Affairs and Fair Trading Act*.

(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 licensing authority the identity card issued to him or her, unless the person has a reasonable excuse for not returning it.

Penalty: \$5,000.

(4) An identity card issued to an authorised officer under the *Consumer Affairs and Fair Trading Act* is deemed to be an identity card for the purposes of this Act, other than subsection (3).

Private Security

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

Private Security

- (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.

Private Security

(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: \$5,000.

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: \$5,000.

(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: \$5,000.

Private Security

(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: \$5,000.

(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 licensing authority or an inspector a document containing information the person knows is false, misleading or incomplete in a material particular.

Penalty: \$5,000.

(2) Subsection (1) does not apply to a person who, when giving the document -

(a) informs the licensing authority or inspector of the extent to which the document is false, misleading or incomplete; and

(b) gives the correct information to the licensing authority or inspector if the person has, or can reasonably obtain, the correct information.

46. OBSTRUCTION OF INSPECTORS

A person shall not, without reasonable excuse, obstruct an inspector in the exercise of a power.

Penalty: \$5,000.

Private Security

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 licensing authority 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 licensing authority shall -

(a) arrange for consultation with, and invite submissions from, such persons and organisations as, in the opinion of the licensing authority, 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 licensing authority 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 licensing authority may submit the code to the Minister for consideration, together with any recommendations by the licensing authority 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 licensing authority shall make copies of codes of practice available for viewing and purchase by the public.

Private Security

(8) Without limiting the matters that may be prescribed in a code of practice, a code of practice may prescribe competency and training standards in relation to a category of licence.

49. UNDERTAKINGS BY PERSONS CONTRAVENING CODE

(1) Where it appears to the licensing authority 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 licensing authority may request the person to execute within a specified time a deed in terms approved by the licensing authority 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: \$5,000.

50. REGISTERS OF UNDERTAKINGS

(1) The licensing authority shall maintain in such form as it 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 licensing authority 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.

Private Security

51. ORDERS BY LOCAL COURT WHERE UNDERTAKING REFUSED OR BREACHED

(1) Where a person fails to comply with a request by the licensing authority for the giving of an undertaking under section 49(1), the Local Court may, on the application of the licensing authority 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 licensing authority or any other person, the Local Court is satisfied that a person has failed to observe an undertaking given by that person under section 49(1), the Local Court may make an order under subsection (3).

(3) The Local Court 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 Local Court 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 Court may, in addition to any other order, make an order under subsection (5).

(5) The Local Court 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

Private Security

(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 Court 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: \$5,000.

52. VARIATION AND DISCHARGE OF ORDERS

The Local Court may on the application of the licensing authority vary or discharge an order made under section 51.

53. COMPETENCY STANDARDS AND TRAINING

(1) 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 licensing authority shall advise the Minister as to -

(a) competency standards; and

(b) the training required for the attainment of competency standards,

in respect of a 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 licensing authority shall make copies of the instruments to which approvals under subsection (1) relate available for viewing and purchase by the public.

Private Security

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: \$5,000.

55. SECURITY FIRM TO BE LIABLE FOR SECURITY PROVIDER'S ACTIONS

(1) Where a person ("an employer") employs a security provider 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) The employer of the holder of a crowd controller's transitional licence, a crowd controller's provisional licence or a security officer's provisional licence is, in addition to the licensee, liable for any offence under this Act committed by the licensee in the course of the licensee's employment by the employer, as if the offence had been committed by the employer as a licensee.

(3) For the purposes of this section, a security firm is deemed to be the employer of a security provider, to the exclusion of any other person to whom the services of the security provider is provided, if the service of the security provider is provided on behalf of that security firm or if the security firm receives, whether directly or indirectly, reward for the provision of those services by the security provider.

56. 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: In the case of a natural person - \$5000 or imprisonment for 6 months.

In the case of a body corporate - \$5,000.

- (2) Subsection (1) does not apply to -
- (a) an act done for the purposes of this Act;

Private Security

- (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 licensing authority;
- (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.

57. PROTECTION FROM LIABILITY

(1) In this section "official" means -

- (a) the licensing authority;
- (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.

58. 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

Private Security

- (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 licensing authority or an inspector is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the licensing authority 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.

59. APPROVED FORMS

(1) The licensing authority may approve a form for the purposes of this Act.

(2) If the licensing authority approves a form for a purpose, the form shall be used for the purpose.

(3) A person may request the licensing authority to give the person an approved form.

(4) The licensing authority shall as soon as practicable comply with the request.

60. PRIVATE SECURITY INDUSTRY FUND

(1) The Treasurer shall, under the *Financial Management Act*, establish a trust account, to be known as the Private Security Industry Fund, for the purpose of financing operations under this Act.

(2) The Private Security Industry Fund shall consist of money collected by way of licence fees, fines and any levies collected under section 62(2).

Private Security

61. PRIVATE SECURITY INDUSTRY LEVY

(1) Subject to subregulation (2), the Minister may, by notice in the Gazette, prescribe a levy to be paid -

- (a) by an applicant for the grant or renewal of a licence under this Act; and/or
- (b) by a category of security providers, in relation to services of a kind specified in the notice.

(2) The Minister shall not prescribe a levy pursuant to subregulation (1) unless he or she has consulted with the licensing authority for the purpose of determining the amount of the levy.

(3) Where the licensing authority refuses to grant or renew a licence it shall refund to the applicant the levy paid by the applicant in respect of the application.

(4) All levies collected under this regulation, other than levies refunded to an applicant under subsection (3), shall be credited to the Private Security Industry Fund established in accordance with section 60.

62. PRIVATE SECURITY PROVIDER TO PAY LEVY

Where -

- (a) a levy is prescribed in a notice under section 61(1) (b); and
- (b) a person, or a person who is party to a partnership, contracts, with a security provider, in respect of services of a kind specified in that notice,

the security provider is liable to pay to the Territory the levy prescribed under that notice and the debt becomes due and payable within 30 days after the commencement of the use of the services by the person or partnership under the contract.

Penalty: \$5,000.

63. 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.

Private Security

- (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 licensing authority 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 \$2,000 for a contravention;
 - (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) exempt classes of persons from the requirement to obtain a licence;
 - (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.

64. TRANSITIONAL

- (1) This section applies to the 3 month period on and from the commencement of section 13 ("the transitional period").

Private Security

(2) Subject to this Act, a crowd controller's transitional licence is valid for the period on and from the date of issue until the end of the transitional period.

(3) The grant of a crowd controller's transitional licence does not give rise to a legitimate expectation that the licence shall be renewed, or that any other licence shall be granted or renewed.

SCHEDULE

Section 3

DISQUALIFYING OFFENCE
PROVISIONS UNDER THE CRIMINAL CODE

Sections 161, 162, 163, 165, 166, 177, 181,
182, 186, 189, 192, 192B, 193, 194, 195,
196, 211, 212, 227, 228.
