

By Sam Wilks

**A companion support for the
CPP20218 CERTIFICATE II IN SECURITY
OPERATIONS
in the Northern Territory**

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About the Author

Sam Wilks has carved out a distinguished role as an instructor in the security sector, backed by a diverse and extensive background that spans several decades. Since 1995, his involvement in the security industry has been multifaceted, spanning animal and personnel patrols, armed guard duties, crowd control, supervision, risk assessment, management, and business development. His expertise also extends to niche areas like tenders and bodyguard services.

From 2018 onward, Mr. Wilks has been imparting his knowledge as an instructor in the security and safety sector. His experience is not limited to this area alone; previously, he contributed as a trainer and assessor in the hospitality and gaming industries. His contributions are global, having developed and executed training programs in regions such as the Northern Territory, Malaysia, and the United States. His intellectual contributions include a variety of articles and training materials that cover a wide spectrum of topics, from hospitality and marketing to ethics, law, and security.

Adding to his portfolio, Mr. Wilks is a certified defensive tactics instructor and fitness coach. His coaching prowess is exemplified by the training of Geraldo Hector Del Nido Navarette, who achieved notable titles in bodybuilding competitions.

In addition to his security-related endeavours, Mr. Wilks has made significant inroads in the real estate industry. Since 2001, as the director of a real estate firm, he has been deeply involved in sales, development, and leasing, demonstrating his versatile expertise in this sector as well.

Mr. Wilks is known for his motivational expressions, such as 'If you can't, you must', 'Do what others won't, and you will do what others can't', and 'This is an AND world, not an or/if one; if you can bake a cake, you can eat it as well!'. These phrases encapsulate his philosophy of pushing boundaries and embracing a multifaceted approach to both personal and professional growth.

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The use of this Legislation Booklet is to be in conjunction with the Certificate II in Security Operations provided by Integrated Security Training.

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Introduction

The legal framework of our society comprises a set of regulations that govern our behaviour in a civilised manner. The lack of this structure has the potential to result in societal disintegration and chaos. A proficient security officer must possess a comprehensive comprehension of the law. The primary responsibility of a security officer is to prevent, identify, document, and safeguard against potential threats.

Law

The framework of law is anchored in two fundamental pillars:

1. **Parliament**, which is the crucible where Statute Law is forged. This encompasses Legislation, Acts, and Regulations - the codified rules that govern society.
2. **The Courts**, serving as interpreters of these statutes. Their interpretations, far from being mere footnotes, actively shape Common Law, thus continuously molding the legal landscape.

Sourcing Legislation

Continuous adaptation is inherent in the nature of legislation, necessitating that Security Providers possess an adeptness in accessing up-to-date legislative documents. This proficiency is essential to:

1. Assure the Security Provider's adherence to all legal mandates.
2. Equip the Security Provider with precise knowledge of offences and sanctioned actions to either halt or avert these offences.
3. Recognize the need for explicit legislative measures to augment worker safety, rather than relying solely on common law, particularly in areas of negligence.

The pursuit of current legislation is typically directed towards three key resources:

1. The Local Magistrate's Court, a primary source of legal information.
2. Legal Professionals, including Solicitors, Barristers, and Lawyers, though this avenue may involve financial costs.
3. Digital platforms, notably:
 - o www.comlaw.gov.au for Federal legislation, and
 - o <https://legislation.nt.gov.au> for Northern Territory legislation.

Referencing Legislation

The Northern Territory is filled with a diverse array of legislative documents, each characterised by their comprehensiveness, often extending to several hundred pages. Navigating this vast legal terrain demands a methodical and standardised approach to effectively locate and reference pertinent information within these documents.

The two types of legislation covered in this section are Acts and Regulations.

ACTS

Private Security Act 1995

Workplace, Health and Safety (National Uniform Legislation) Act 2011

Summary Offences Act 1923

Criminal Code Act NT 1983

Trespass Act NT 2023

Weapons Control Act 2001

Liquor Act 2019

Alcohol Harm Reduction (National Uniform Legislation) Act 2017

Anti-discrimination Act NT 1992

Evidence (National Uniform Legislation) Act 2011

Evidence Act 1939

Firearms Act 1997

Youth Justice Act 2005

Regulations

PRIVATE SECURITY (CROWD CONTROLLERS) REGULATIONS 1996

PRIVATE SECURITY (MISCELLANEOUS MATTERS) REGULATIONS 2006

PRIVATE SECURITY (SECURITY FIRMS) REGULATIONS 1998

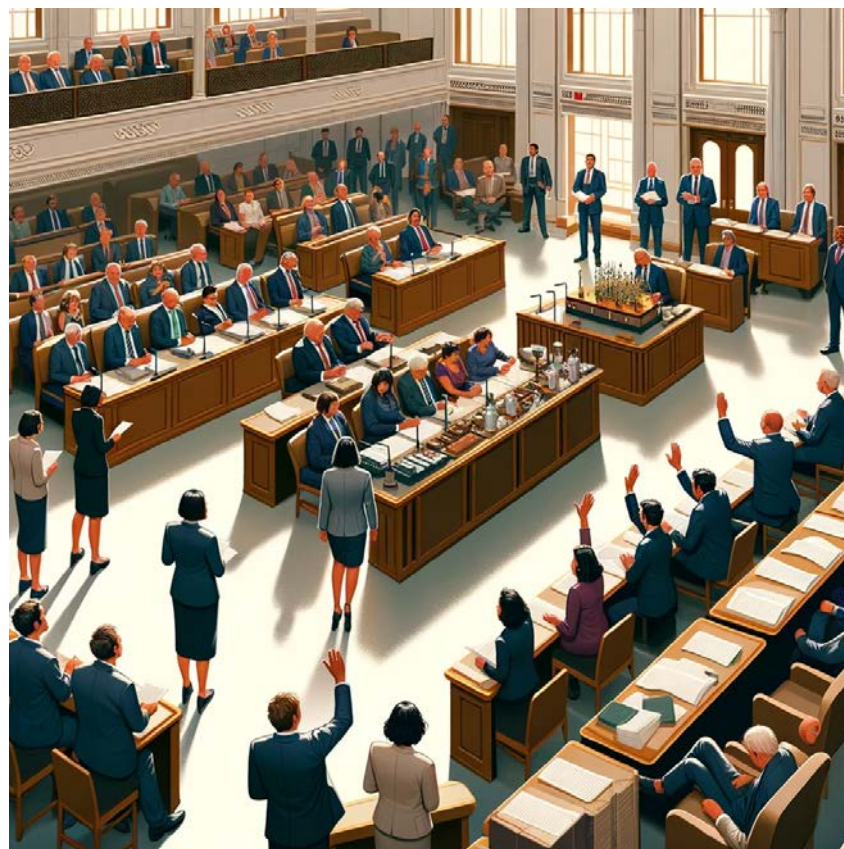
PRIVATE SECURITY (SECURITY OFFICERS) REGULATIONS 1998

The difference between an Act and a Regulation?

An Act represents the foundational legal framework, often originating from the deliberations and enactments of the Parliament. It's a primary piece of legislation, reflecting the will of the legislative body, and encapsulates significant legal principles, rules, and provisions. The creation of an Act involves a rigorous process of proposal, debate, amendment, and approval through both houses of Parliament, and finally, it requires the formal assent of the Governor-General.

Regulations, on the other hand, are a form of subordinate legislation. They are created under the authority granted by a specific Act, which often outlines the broad strokes of the law, leaving the finer details to be filled in through these regulations. Regulations are typically crafted by government agencies or ministers who have been delegated this power by the Act. They are essential for the practical application and enforcement of the Act, providing detailed instructions, guidelines, and procedures. Unlike Acts, regulations usually do not pass through the full legislative process in Parliament but are subject to parliamentary oversight and can be disallowed by Parliament.

Thus, while an Act sets the legislative framework and outlines the core principles, regulations fill in the details, ensuring the practical and effective implementation of the law.



Private Security Act 1995

The Act was enacted with the specific intent of regulating the provision of security services and related activities within the Northern Territory. The mantle of responsibility for overseeing the Private Security Act presently falls upon the Department of Industry, Tourism, and Trade.

This department, functioning as the administrative authority, delegated the task of issuing licences to an entity known as the Territory Business Centre. This agency operates from its base located on the ground floor of Corporate Park in Berrimah, a notable area within Darwin.

Licensing

In the NT security industry, the necessity of licencing is unequivocal. The law mandates that every individual engaged in security-related activities must possess a valid licence. This requirement is not just a formality; it carries significant legal weight.

As per Section 13, engaging in the duties of a security provider without a licence is not merely an oversight, but a clear legal transgression.

Furthermore, the responsibility extends to employers as well. Under the same section, it is deemed an offense for an employer to hire an individual for security functions if that individual lacks the requisite licencing.

These regulations underscore the stringent legal framework governing the security sector, ensuring that only qualified and authorized personnel undertake these critical roles.

Definition of a Security Provider under the Private Security Act NT 1995

In the Northern Territory, the mandate is clear and unambiguous: individuals performing the role of a security provider must be in possession of the corresponding security licence. This is not merely a guideline but a legal stipulation with specific categorisations as outlined in Section 3, Definitions. Each category of service within the security domain demands a distinct type of licence. For instance:

(a) For those engaged as crowd controllers, they must hold either a provisional or a full crowd controller's licence.

(b) Those serving as security officers are required to have a security officer's licence, again with the option of a provisional licence.

(c) The operation of a security firm mandates the possession of a dedicated security firm licence.

(d) Additionally, any person falling within a category of security providers as specified under a notice in section 8 must acquire the relevant category of licence, including provisional licences where applicable.

This structured approach to licensing ensures that each facet of security provision is regulated, with clear, legally defined parameters for each role.

Exemptions

The security provisions incorporate certain exemptions from its licencing requirements. These exemptions are not arbitrary but are instead grounded in the roles and responsibilities of specific professions. Individuals are not deemed security providers and thus are not obliged to obtain a licence if they fall into one of the following categories:

- Members of the police force,
- Personnel of the defence force,
- Public servants at either the commonwealth or Territory level,
- Employees within a government department or serving a minister.

This exemption is applicable exclusively when these individuals are engaged in their official capacities. However, a critical distinction arises when these individuals step outside their official roles. Should they undertake security duties as a form of additional employment separate from their primary occupational duties, the exemption ceases to apply. In such instances, obtaining the appropriate security licence becomes a legal requirement, aligning with the broader regulatory framework governing the security industry.

Security officer

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

This also includes:

- In-house security (someone who guards, patrols or watches their employer's property)
- Loss prevention personnel
- Security gate operators
- Risk assessors

A Security Firm

A security firm is a person or partnership who for reward engages in the business of supplying the services of;

- a. Crowd controllers or security officers
- b. A person 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 i.e. locksmith.

Crowd controller

In the Private Security Act 1995, Section 5, a crowd controller is a person who, in respect of premises licensed under the Liquor Act 2019, a place of entertainment, a place to which the public has access or a public or private event or function, as part of his or her duties, performs the function of:

- (a) Controlling or monitoring the behaviour of person's.
- (b) Screening persons seeking entry; or
- (c) Removing persons because of their behaviour, or any other prescribed function.

For example, a hotel security guard needs a crowd controller licence, but an usher does not.

Cash-in-transit officer

The role of a cash-in-transit security officer is distinct, involving the transportation of cash, bullion, jewellery, or other valuables. This role, particularly when it entails the carriage of weapons, necessitates adherence to specific licencing protocols. Officers who bear arms as part of their duties are required to extend their licencing beyond the realm of security, seeking authorisation from the Northern Territory Police Force for the appropriate weapons licence.

The responsibility for the issuance and oversight of firearms licences in the Northern Territory is vested in two key figures: the Commissioner of Police and the CEO of Fire and Emergency Services.

For cash-in-transit officers, the possession of a firearms licence is not merely a procedural formality. It is a legal requirement that they carry this licence at all times during active duty. Moreover, they are obligated to concurrently display their security licence, ensuring that both their capability and authority to perform their duties are transparent and in compliance with the regulatory framework governing their profession.

Bodyguard

The role of a bodyguard is characterised by the provision of close personal protective services. In the Northern Territory, this specialised function necessitates a specific form of licencing.

Individuals serving as bodyguards are required to hold either a crowd controller's licence or a dual licence, reflecting the unique nature of their responsibilities. This requirement underscores the critical need for appropriate credentialing in roles that involve direct personal security and protection.

Monitoring security officer

A monitoring security officer undertakes the task of personal surveillance over property, employing electronic devices such as visual recording systems, radios, or remote alarm systems. Within the industry, these professionals are commonly referred to as CCTV operators or surveillance operators. In the Northern Territory, the legal framework governing this role is explicit: such individuals must possess either a security officer's licence or a dual licence. This requirement highlights the importance of specialised licencing in roles where technology is leveraged for security and surveillance purposes.

Dog patrol officer

The role of a dog patrol security officer is defined by the task of guarding, patrolling, or monitoring another person's property, specifically with the assistance of a guard dog. This particular function within the security sector necessitates a specific type of licencing. Individuals engaged in this capacity are required to hold either a security officer's licence or a dual licence in order to legally fulfil their duties. This stipulation underscores the necessity of appropriate licencing in roles that combine traditional security responsibilities with the unique aspect of handling guard dogs.

Private investigators

In the Northern Territory, private investigators operate under the designation of 'inquiry agents', a category governed by the Agents Licencing Act. Notably, unlike in other Australian jurisdictions where they fall under the Security Acts, these professionals do not require a security licence in the NT.

The role of a private investigator, or inquiry agent, is defined by specific activities:

- Acquiring private information about individuals without their consent,
- Engaging in surveillance to collect data on someone without their approval,
- Conducting investigations into the whereabouts of missing persons.

However, this designation does not extend to individuals performing investigative functions within certain professional environments. Those who are employed by or operate under the auspices of legal practitioners, accountants, insurance companies, insurance adjustment agencies, or as independent investigators looking into grievances within the public service do not fall under the 'private investigator' category. In the Northern Territory, the investigatory role within these specific contexts is termed an 'assessor'.

Training

A person may not be granted a licence in the Northern Territory until they have completed an approved training course: section 15

Provisional licence

You can apply for a provisional licence if you have paid for, however, are waiting to complete your training. This licence allows you to complete your training requirements while working under the direct supervision of a fully licensed security provider.

A provisional licence is issued for a temporary term only, this may be extended only with permission of Licencing and on application with a valid reason. After the term ends, you cannot apply for an extension. You must complete the training requirements and provide your required certificate of completion in the required security Qualification, currently a Certificate II in Security Operations to the Territory Business Centre, an agency for NT Licencing as soon as practical.

Direct supervision of Provisional licence holders

A crowd controller supervisor; cash transit security officer supervisor; dog patrol supervisor must:

- Remain on the same premises as the provisional licensee
- Remain in the provisional licensee's line of sight, where practical
- Be able to provide immediate assistance to provisional licensee if needed
- Give the provisional licensee detailed written instructions about the work they need to do
- Document the tasks that the licensee performs
- Document and give the provisional licensee regular progress checks
- Supervise no more than one provisional licence holder at any time

A bodyguard supervisor; monitoring security officer supervisor; monitoring crowd controller supervisor must:

- Give the Provisional licensee detailed written instructions about the work they need to do
- Document the tasks that the licensee performs
- Document and give the provisional licensee regular progress checks

Security Officer licence, Crowd Controllers Licence, or dual Licence

You may apply for one of three licences, however, if you do not have a dual licence you are restricted from carrying out the work and responsibilities of the non-applicable licence. It is recommended to carry a dual licence when working for most firms in the Northern Territory as it is more attractive to the employer and provides greater economic mobility.

Security Licence fees can be paid in full for 1 year, 2 years or 3 years. These are applied for through The Territory Business Centre. Every time you apply for a licence renewal you will need to provide evidence of recent revalidated First Aid Requirements and complete a new criminal history check.

Character

When considering a licence application, the licencing authority may consider the following:

- a. Completion of required training course
- b. Whether the person is an appropriate person:
 - i. Shown dishonesty or lack of integrity, or
 - ii. Used harassing tactics.
- c. Consorting with habitual criminals.
- d. Taken advantage as a debtor of bankruptcy laws.
- e. Suffering from an illness which relates to unfitness to work in the security industry;
or
- f. Guilty of an offence.

If the person has been convicted within the last 10 years of a disqualifying offence in the Northern Territory or elsewhere, the licencing authority cannot grant a licence.

A disqualifying offence means an offence:

- a. Under the firearms Act liable for punishment of imprisonment for 1 year or more – even if that or no penalty was imposed.
- b. Under the misuse of drugs Act liable for punishment of imprisonment for 1 year or more – even if that or no penalty was imposed.
- c. Under the Criminal Code Act specified in the schedule e.g.,
 - i. Unlawful homicide, murder, manslaughter, attempted murder, threats to kill.
 - ii. Intends to or causes grievous harm or bodily harm,
 - iii. Sexual assault,
 - iv. Kidnapping, deprivation of liberty,
 - v. Robbery, assault intending to steal,
 - vi. Criminal deception: Section 15

Appeal

If an applicant is not granted a licence, they may appeal to the local court against the decision of the Director of licencing: Section 18

Conditions

The director of licencing may impose conditions on a licence: Section 19

The licensee shall comply with the conditions of the licence.

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

If the offender is a security firm – 500 penalty units

Production of licence

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

(a) an licencing inspector; or

(b) a member of the Police Force,

produce the security licence for inspection.

(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 security licence for inspection.

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

If the offender is a security firm – 100 penalty units

Suspension of licence

A licence may be suspended, cancelled, or not renewed if the person fails to be an appropriate person to hold a licence or fails to comply with the conditions applying to the issue of licences. For example, the security officer is convicted of a serious assault charge: Section 26

Any decision to impose a penalty, suspend, cancel, or fail to renew a licence by the Director of licencing may be appealed in the local court: Section 27

If a person is convicted of a disqualifying offence whilst holding a licence, it is automatically cancelled upon a conviction: Section 29

Mandatory fingerprinting

All new applicants for a security provider's licence must be fingerprinted through Safe NT by the Territory Police force in regional areas. After you've lodged your application, you will be contacted by SafeNT and an appointment set to have your fingerprints taken and a national police check completed to validate good character.

The fee amount can be confirmed by going to <https://pfes.nt.gov.au/> and is payable at the time the application is lodged.

Applying for a Security Licence

Get an application form from the Territory business centre or go to <https://nt.gov.au/industry/licences>

Ensure that your National Police check has been completed through SafeNT

Ensure you have enrolled or completed the required Certificate II in Security Operations training or equivalent and provide evidence.

Fill in the application and providing evidence of your National Police criminal history check, enrolment, or completion of required qualifications, copy of acceptably completed first aid course, proof of ID (passport or drivers licence) and payment of the fee.

The licence application may be for 1, 2 or 3 years and the fees are displayed at the following address:

<https://nt.gov.au/industry/licences/security-licences/fees>

Ochre Card or Working with Children Card

It is recommended that Security Officers gain and maintain working with Children Card. This requires a criminal history check. Many Facilities require one prior to attendance for Security employees.

Responsible Service of Alcohol Certificate

In the Northern Territory a Crowd Controller working in a licenced premise serving Alcohol requires valid Responsible Service of Alcohol training. This must be refreshed every 3 years through either attending or completing anew course or an approved refresher course. Fees vary through a range of registered training organisations.

White Card

A White Card is a mandatory work card required in Australia to order to work on a construction site.

Revalidation training

Every 12 months, as a licenced security officer or licenced crowd controller, you will need to successfully complete a Cardiopulmonary Resuscitation (CPR) refresher course through an ASQA Approved nationally recognised registered training provider.

Every three years, as a licenced security officer or licenced crowd controller, you will need to successfully complete a Provide advanced first Aid refresher course through a nationally recognised training provider. This is known as revalidation training. Revalidation training ensures that you remain up to date with the latest industry standards and techniques.

You must seek retraining and be re-assessed in each of this unit of competency by the due date.

It is the responsibility of the licensee to ensure that this CPR component remains current and up to date at all times. Licensees who fail to lodge evidence of completion of the required units of competency prior to the completion date will be subject to disciplinary action which may result in the cancellation of the security officer or crowd controller function from their licence.

Inspections

Licensing inspectors conduct random checks to ensure security providers are complying with the law. Inspectors also conduct investigations and may take enforcement action for breaches identified under the Private security Act 1995. Northern Territory police force officers can also issue on-the-spot infringement notices.

Security provider register

Security firms must record details of all security providers it employs or engages. They must store this register where unauthorised people cannot access it. Licensing inspectors and the police are authorised to inspect the register at any time. The register must contain each security provider's:

- Full Name, Address, licence number and security venue-issued ID number (crowd controllers only)
- Employment commencement and termination times/dates (where applicable)

Crowd controller register

Any licensed premise that engages a crowd controller must maintain a crowd controller register; Section 56. The register records which crowd controllers are on duty and any incidents that occur; Reg 8. Crowd controllers must sign in and out of each shift. Licencing inspectors and the police are authorised to inspect the crowd controller register at any time. Liquor licensees must keep the register on the premises. Otherwise, the security firm must keep the register. They must keep the register for seven years after the date of the last entry.

The register must contain:

- The crowd controller's full name and licence number
- The security firm's name and address (if applicable)
- The crowd controller's identification details (venue-issued ID number)
- The crowd controller's shift date, and start and finish time
- The name of any unrestricted crowd controller licensees directly supervising provisional crowd controller licensees
- Details of every incident in which a person is injured
- Details of every incident in which the crowd controller's remove's a person from a public place

Incident report details must include:

- The incident date and time
- The location at the premises where the incident happened
- Each person involved in the incident and, if known, their name
- The incident, including whether the crowd controller removed a patron from the premises because of the incident
- Injuries sustained by people involved in the incident
- Any action that a crowd controller or staff member took in response to the incident

Identification requirements

A crowd controller must identify themselves while working. They must:

- Enter their details in the crowd controller register if working at a licensed venue or for a security firm
- Wear the prescribed identification on their clothing at a visible level
- Not wear or display a hat with a chequer board design or band, as this could be confused with the police uniform

Their identification must include:

- The word 'SECURITY' in capital letters, at least 10 mm high
- A number unique to the controller at least 30 mm high and 4 mm wide
- Black numbers and letters on a white background

Carrying weapons

Holding a security provider licence in itself does not confer the authority to possess firearms, handcuffs, or batons. This restriction underscores a clear demarcation between basic licencing and the additional permissions required for carrying such equipment. For a licenced security provider to be armed, they must obtain explicit written permission. This authorisation can only be granted by two designated authorities: the Police Commissioner or the CEO of Fire and Emergency Services. This stipulation serves to maintain a controlled and regulated environment, ensuring that the carriage of potentially lethal or restraining equipment by security personnel is closely monitored and subject to stringent oversight.

More information

Refer to the <https://legislation.nt.gov.au/> Northern Territory Government website

The Security Licence application form is submitted to Territory Business Centre.
The application form may be completed and submitted online.



Work Health and Safety Act 2011

Subdivision 1 Principles that apply to duties

S13 Principles that apply to duties

This subdivision sets out the principles that apply to all duties that persons have under this Act.

Note: The principles will apply to duties under this part and other parts of this Act including, for example, duties relating to incident notification and consultation.

S14 Duties not transferable

Asserts that duties are non-transferrable; they remain the sole responsibility of the designated duty holder and cannot be passed on to another party.

S15 Person may have more than 1 duty

A person can have more than 1 duty by virtue of being in more than 1 class of duty holder.

It acknowledges the possibility of an individual holding multiple duties. This arises when a person falls into more than one category of duty holders, each carrying its own set of responsibilities.

S16 More than 1 person can have a duty

It expands on the scenario where a duty is shared among multiple individuals. It clarifies that:

1. The same duty can be held concurrently by more than one person.
2. Each duty holder is independently responsible for fulfilling their duty as per the Act's standards, regardless of others sharing the same duty.
3. In instances where multiple individuals have a duty concerning the same matter, each individual:
 - a) Remains accountable for their specific duty concerning that matter.
 - b) Is obligated to fulfill their duty to the degree they can exert influence and control over the matter, irrespective of any agreements or arrangements attempting to limit or negate this capacity.

S17 Management of risks

It focuses on risk management. It mandates that a duty holder, tasked with ensuring health and safety, must:

- a) Eliminate risks to health and safety as far as is reasonably practicable.
- b) Where total elimination of risks is not feasible, minimize these risks to the greatest extent practicable.

Division 2 Primary duty of care

S19 Primary duty of care

It delineates the fundamental responsibility of any individual managing a business or undertaking. This duty, anchored in practicality, encompasses ensuring the health and safety of:

1. Workers engaged by the person or whose work activities are under the person's influence or direction. This duty applies while these workers are actively involved in the business or undertaking.
2. Other individuals, ensuring that their health and safety are not compromised by the business's or undertaking's operations.

Beyond these general stipulations, the section specifies several key areas:

- a) The creation and upkeep of a work environment devoid of health and safety hazards.
 - b) The maintenance of safe machinery and structures.
 - c) The development and maintenance of safe work procedures.
 - d) Safe practices in the handling and storage of equipment, structures, and substances.
 - e) Adequate facilities for worker welfare during work, along with accessible means to these facilities.
 - f) The provision of necessary information, training, instruction, or supervision to mitigate health and safety risks from business operations.
 - g) Monitoring worker health and workplace conditions to prevent work-related illnesses or injuries.
- (4) addresses situations where a worker resides in accommodation controlled by the business or undertaking due to lack of alternative housing options. In such cases, the business or undertaking is obligated, within the bounds of practicality, to maintain the premises in a way that safeguards the occupant's health and safety.

Summary Offences Act 1923

This Act delineates a range of minor legal violations, directly impacting the operational scope of security officers and crowd controllers. These professionals, integral to maintaining public order and safety, must navigate the intricacies of this Act in their daily duties.

Understanding the Act's provisions enables them to effectively enforce rules while ensuring compliance with legal boundaries, thus playing a crucial role in upholding law and order within the framework set by this pivotal legislation.

The following are offences under the Summary Offences Act 1923:

Part VII Offence generally

S46A Forcible entry

addresses forcible entry, criminalizing entry onto another's property in a way that may breach or cause apprehension of breach of peace, with a potential imprisonment penalty of 12 months.

S47 Offensive conduct

outlines offensive conduct, including riotous, disorderly, or indecent behaviour in public places, disturbance of public peace, and similar conduct in police stations or dwelling houses. Violations carry a fine of \$2,000 or a six-month imprisonment.

S47AA Violent disorder

focuses on violent disorder, penalizing involvement in violent acts by two or more people, with a maximum 12-month imprisonment sentence.

S47AB Threatening violence

pertains to threatening violence, specifically the threat to damage a dwelling-house, carrying penalties of up to two years' imprisonment.

S47AC Loitering by sexual offender

deals with loitering by sexual offenders, particularly near children's facilities, with penalties of \$5,000 or 12 months' imprisonment.

S49A Illegal use of vehicle, &c.

criminalizes unauthorized interference with vehicles, animals, or boats, carrying a fine of \$1,000 or six months' imprisonment.

S50 Penalty for indecent exposure of the person

addresses indecent exposure, with penalties of \$2,000 or six months' imprisonment.

S53 Obscenity

concerns obscenity in public places or licensed premises, with fines up to \$2,000 or six months' imprisonment, extending liability to the premises' licensee in certain cases.

S55 Challenge to fight

relates to challenges to fight, penalizing such behaviour with fines or imprisonment, and may include a requirement for peace bonds.

S56 Offences

targets various forms of public nuisance and possession of illegal items, with penalties including fines or imprisonment.

S61 Persons suspected of having stolen goods

pertains to possession of suspected stolen goods, with potential penalties of \$2,000 or 12 months' imprisonment.

The Northern Territory Police have the authority to arrest for these offenses. Security officers, while also possessing arrest rights under the Criminal Code Act, are advised to conduct risk assessments aligning with their organizational objectives before applying force or making an arrest.



Criminal Code Act 1983

The Northern Territory delineates offences into three distinct categories. Firstly, serious crimes, or indictable offences, involve formal charges and typically require a jury, especially when the crime's gravity and potential punishment are significant. However, certain less severe indictable offences may be adjudicated summarily, bypassing the need for a jury. These offences generally carry penalties exceeding two years.

Summary offences represent a less severe category, processed without a jury. Handled by a magistrate or judge, these offences benefit from expedited judicial proceedings and lower associated costs, reflecting their lesser severity and reduced punitive measures.

Regulatory offences, a subset of summary offences, are notable for their procedural simplicity. These offences, which include examples like speeding and parking fines, typically do not necessitate a court appearance unless contested. Unique among offences, regulatory infractions do not require the demonstration of intent, or 'mens rea'—a Latin term signifying a 'guilty mind'. This principle holds that culpability is contingent not just on the act, but also on the perpetrator's intent.

Important Definitions in the ACT.

abnormality of mind means abnormality of mind arising from a condition of arrested or retarded development of mind or inherent causes or induced by disease, illness or injury.

act, in relation to an accused person, means the deed alleged to have been done by him. it is not limited to bodily movement and it includes the deed of another caused, induced or adopted by him or done pursuant to a common intention.

adult means a person of or over the age of 18 years.

application of force and like terms include striking, touching, moving and the application of heat, light, noise, electrical or other energy, gas, odour or any other substance or thing if applied to such a degree as to cause injury or personal discomfort.

building means any structure complete or otherwise, not being a flimsy or insubstantial structure by the standards of the community to which the owner or occupier of it belongs, that, except in the 3 cases hereinafter mentioned, is not readily moveable and that is used or intended for the occupation of man or his animals or the storage or shelter of his goods. it includes a caravan, ship and an erected tent used or intended for any such purpose.

child means a person who is not an adult.

circumstance of aggravation means any circumstance by reason of which an offender is liable to a greater punishment than that to which he would be liable if the offence were committed without the existence of that circumstance.

coercion means physical or mental pressure forcing the person said to be coerced to do what he would not otherwise do.

damages includes destroys and, when used in relation to a document or writing, includes obliterating and rendering it illegible either in whole or in part.

deception:

(a) means intentional deception by word or conduct as to fact or law and includes a deception as to the present intention of the person using the deception or another person; and

(b) includes an act or thing done or omitted to be done with the intention of causing:

(i) a computer system; or

(ii) a machine that is designed to operate by means of payment or identification, to make a response that the person doing or omitting to do the act or thing is not authorised to cause the computer system or machine to make.

declared offence means an offence against a law of the Territory that, under an Act, is declared to be an offence.

“Legislation may not legalise any action, it may only criminalise the alternative”

dwelling-house means any building or part of a building kept by the owner or occupier for his residence or the residence of his family, guests or servants; it is immaterial that from time to time it is uninhabited.

gain:

(a) means:

(i) gain of property; or

(ii) gain of services provided free of cost or at less than the usual cost; and

(b) includes temporary gain and a gain by keeping what one has.

intoxication, means intoxication because of the influence of alcohol, a drug or any other substance.

offensive weapon means any article made or adapted to cause injury or fear of injury to the person or by which the person having it intends to cause injury or fear of injury to the person.

unnecessary force means force that the user of such force knows is unnecessary for and disproportionate to the occasion or that an ordinary person, similarly circumstanced to the person using such force, would regard as unnecessary for and disproportionate to the occasion.

Relevant Sections of the Criminal Code Act 1983

Sections like S12 and S13 of the Criminal Code Act 1983 delineate the roles of abettors, accessories, and parties to offences, while S43AH to S43AL define fault elements like intention, knowledge, recklessness, and negligence.

Sections addressing the use of force (S29C, S43BD) are particularly relevant to the security industry. They outline legal frameworks for self-defence and other scenarios requiring force.

S149A emphasizes the right of individuals to safety from intruders in their homes or commercial premises. S149 to S153 establish various duties of care, including responsibilities towards children, engaging in dangerous conduct, and managing hazardous materials.

The Act defines 'harm' as either physical harm or mental health harm, which may be temporary or permanent. Physical harm encompasses conditions like unconsciousness, pain, disfigurement, disease infection, and objectionable physical contact. Mental health harm covers significant psychological harm but excludes normal emotional responses like distress, grief, fear, or anger. Harm does not include force or impact considered normal in social interactions or community life.

Assault, as defined in Section 187, includes direct or indirect application of force without consent, or with coerced consent, and encompasses threats or attempts of such force where the perpetrator is capable of carrying out the threat. Exceptions to this definition include acts of rescue, medical treatment, reasonable restraint for protection, sporting activities within game rules, and actions integral to everyday social interaction.

Section 200 criminalizes threats made to injure or cause detriment to another with the intent to hinder or compel certain actions, punishable by up to two years in prison.

These sections are critical for security personnel, as they delineate legal boundaries for interventions, defining what constitutes harm, assault, and unlawful threats, thereby guiding appropriate responses in various security-related scenarios.

Weapons Control Act 2001

S3A Meaning of *body armour*

defines 'body armour' as any article designed for anti-ballistic or anti-fragmentation purposes meant to be worn on the body, excluding helmets, protective gear for sight or hearing, and empty vest or plate carriers. In the Northern Territory, slash-proof and stab-resistant clothing is classified as body armour.

Slash proof and stab resistant clothing in the Northern Territory is considered Body Armour.

S6 Prohibited weapons

strictly prohibits the importation, possession, or use of prohibited weapons without specific exemptions or approvals granted by the Police Commissioner. Violations entail severe penalties, including hefty fines or imprisonment, applicable to both individuals and security firms.

S7 Controlled weapons – general

governs controlled weapons, barring their possession, carriage, or use in public places or schools without lawful excuse. Penalties for non-compliance are substantial in terms of fines or imprisonment. Lawful excuses include employment, sports, recreation, and legitimate weapon collection, but explicitly exclude self-defence.

A weapon (Baton, Taser, Gun) may be used as a deterrent, it may not be used for self-defence in the Northern Territory.

S8 Offensive weapons & S9 Body Armour

similar regulations and penalties apply to offensive weapons and body armour, with heightened penalties for offences committed at night. Again, lawful excuses do not encompass self-defence.

A weapon (Baton, Taser, Gun) may be used as a deterrent, it may not be used for self-defence in the Northern Territory.

S12 Exemptions for prohibited weapons and body armour

offers exemptions for certain personnel acting in their official capacities regarding prohibited weapons or body armour, provided these are supplied by employers or seized during official duties.

S13 Person may apply for approval in relation to prohibited weapons and body armour

allows individuals to apply to the Commissioner for approval to engage in activities otherwise prohibited by Sections 6 and 9, highlighting the stringent regulatory framework surrounding the use and possession of weapons and body armour in the Northern Territory.



Youth Justice Act 2005

The Youth Justice Act aims to provide for justice in relation to youths who have committed offences, and for related matters.

S4 Principles

The following are general principles that must be taken into account in the administration of this Act:

- (a) Youth offenders must be held accountable and motivated to acknowledge their actions.
- (b) The treatment of youth should recognize their unique needs and promote their development into responsible members of society.
- (c) Custody for youth offenders should be a last resort, limited to the minimum necessary duration.
- (d) The legal processing of youth must align with their age and maturity, ensuring rights and protections akin to those afforded to adults in similar legal situations.
- (e) Youth must be educated on their legal responsibilities and the repercussions of law-breaking.
- (f) The response to youth offending should facilitate their reintegration into the community.
- (g) A balanced approach is required, considering the needs of the youth, victims' rights, and community interests.
- (h) Family ties should be maintained and strengthened where suitable.
- (i) Unnecessary removal from family or disruption of education or employment should be avoided.
- (j) The youth's racial, ethnic, or cultural identity should be respected and preserved.
- (k) Victims of youth offenses should have the opportunity to be involved in the resolution process.
- (l) Adults responsible for youth should be supported in their roles of care and supervision.
- (m) Decisions affecting youth should be timely, respecting their perception of time.
- (n) Punishment should aim to instil social responsibility and foster beneficial development.
- (o) For Aboriginal youth, involvement of their community in the process is ideal when feasible.
- (p) Programs and services should be culturally appropriate, promoting health, self-respect, responsibility, and skill development for societal integration.
- (q) Alternative means to legal proceedings should be considered unless the public interest dictates otherwise.
- (r) Youth proceedings should, as far as possible, be conducted separately from those involving adults.

Some basic security principles when dealing with youths:

- Should only be detained in custody as a last resort;
- If detained, should be held in a youth facility;
- Should be diverted from the court system if an offence is committed unless the nature of the offence or the child's history deem otherwise;
- Should be involved in a fair and just proceeding and held accountable and accept responsibility for their actions.

A Youth in this act

- (a) a person under 18 years of age; or
- (b) in the absence of proof as to age, a person apparently under 18 years of age. S6

The age of criminal responsibility in the Northern Territory is 12 years old. This was recently updated on the 1st of August 2023.

A child may not be interviewed by a security officer. If a child has been interviewed over an **indictable** offence, the security officer must have a parent, guardian, legal practitioner, or government agency representing the child, a Justice of the peace, or an adult nominated by the child.

If such a person is not present, the statement cannot be used in evidence against the child even if there is a full confession: s18

A search may not be conducted on a youth, this may be conducted by the police. There are exceptions if the child's wellbeing or life is in immediate danger, S19(2b) if the concealing of a weapon may place the youth at unnecessary risk. However, this search should never be done without a witness, should never be done by an officer of the opposite sex.

S10 Use of force generally

1. All other feasible measures have been exhausted without resolving the situation.
2. The individual applying the force must:
 - (i) Provide a clear warning about the impending use of force.
 - (ii) Allow the youth sufficient time to comprehend this warning.
 - (iii) Restrict the force to what is deemed necessary and reasonable under the circumstances as understood by the person.
 - (iv) Be certified in physical intervention techniques specific to youths. (this is included in most Certificate II in Security Operations Courses from CPP20218 onwards).

Exceptions to the requirement for prior warning and wait time exist in emergency situations. When determining what constitutes necessary and reasonable force, considerations should include the youth's age, gender, physical and mental health, and background. This nuanced approach underscores the importance of tailoring the response to the individual circumstances of each youth, emphasizing restraint and the youth's welfare.

Anti-Discrimination Act 1992

The Northern Territory stands out in Australia for its unique approach to anti-discrimination legislation. It operates under exemptions from the federal Racial Discrimination Act 1975, allowing it to implement 'special measures.' These measures are determined by the Commissioner or Minister and may involve policies or actions that, despite their potentially discriminatory nature, aim to achieve equality of opportunity.

In the tribunal process, there are two principal parties: the complainant and the respondent. A complaint undergoes initial assessment by the Commissioner to ascertain if there are reasonable grounds for it to proceed to a tribunal hearing.

The scope of discrimination covered by this legislation is extensive, encompassing sex, sexuality, marital status, pregnancy, parental status, breastfeeding, age, race, impairment, religion, political opinion or activity, irrelevant medical or criminal records, trade union or employer association involvement, and association with individuals possessing these attributes. The legislation also aims to eradicate sexual harassment.

Under Northern Territory law, vicarious liability applies, and the legislation addresses discrimination in various sectors including education, work, accommodation, provision of goods, services, facilities, clubs, and aspects of insurance and superannuation.

Similar to Commonwealth legislation, there are exclusions for bona fide occupational requirements and general exemptions for actions related to workplace health and safety, religious bodies, charities, compliance with legislation, issues concerning pregnancy or childbirth, public health, certain sports, and specific Northern Territory special measures like those targeting Aboriginal employment.

In Section 13(2), the Commissioner is instructed not to consider an Act or regulation, or proposed legislation in the Territory, as inconsistent with the Act's purposes if it contains provisions exclusively for promoting equal opportunity for disadvantaged groups. This includes provisions based on attributes like religious belief or activity, which is expansively defined to include Aboriginal spiritual beliefs or practices.

Section 22 addresses the prohibition of sexual harassment, defining it as unwelcome physical intimacy, demands or requests for sexual favours, remarks with sexual connotations, or any other unwelcome sexual conduct. The law considers both the intent of the harasser and the reasonable expectations of offense, humiliation, or intimidation by the harassed. Relevant circumstances in this determination include the sex, age, race, impairment of the harassed individual, their relationship with the harasser, and other relevant factors.

Section 57 introduces the concept of 'special measures,' allowing for discrimination in specific programs or arrangements aimed at promoting equal opportunities for disadvantaged groups or individuals with special needs. This provision remains effective until the targeted equality of opportunity is achieved, with the determination of this achievement resting with the Commissioner or Minister.

Section 59 empowers the Commissioner to grant exemptions from the Act for discriminatory conduct that would otherwise contravene the Act, under certain conditions.

Section 105 outlines vicarious liability, stating that if a worker or agent of a person commits an act in their professional capacity that is unlawful under this Act, the person or organization they represent is also considered responsible for the act. This approach underscores the importance of organizational accountability in preventing and addressing unlawful behaviours.

Justification of Force

Justification of Force under the Criminal Code Act 1983

S27 Circumstances in which force not being such force as is likely to cause death or serious harm is justified

Section 27 outlines situations where the application of force is justifiable, provided it does not intend to or is not likely to cause death or serious harm. These situations include lawful arrests, preventing escape from lawful custody, suppressing riots, preventing offences, maintaining possession of movable property against unlawful resistance, parental or guardian discipline, preventing self-harm, maintaining order on a ship or aircraft, and assisting in these endeavours.

S28 Circumstances in which force causing death or serious harm is justified

Section 28 specifies conditions under which force causing death or serious harm is justified, particularly in cases where there is a reasonable belief of an imminent threat of death or grievous harm, necessitating actions for self-defence or the defence of others.

S29 Defensive conduct justified

Section 29 explains when defensive conduct is justified, emphasizing that such conduct is not criminally responsible if it is necessary for self-defence, protecting personal liberty, safeguarding property, preventing or terminating trespass, and is a reasonable response to the circumstances as perceived.

However, defensive conduct does not include the use of force intended to cause death or serious harm for protecting property or removing trespassers, except in specific circumstances of offence intent or commission.

S 43BD Self-defence - Self-defence against unprovoked assaults

Section 43BD addresses self-defence against unprovoked assaults, clarifying that conduct carried out in self-defence is not criminally responsible if it is deemed necessary for defence against assault, unlawful imprisonment, property protection, preventing criminal trespass, or removing trespassers, and is a reasonable response in the perceived circumstances. These sections collectively form a legal framework guiding security personnel on the permissible use of force, emphasizing the principles of necessity, proportionality, and reasonableness in response to specific scenarios.

Arrest

The Criminal Code Act 1983 strictly defines the parameters for arrest without a warrant, superseding any common law arrest powers. Specifically, Section 441 outlines conditions under which a non-police individual may arrest someone:

S441 Arrest without Warrant

Arrest is permissible if the individual finds someone committing an offence or believes, on reasonable grounds, that the person has committed an offence. The arrest is justified if necessary to ensure the offender's court appearance, preserve public order, prevent offence continuation or recurrence, or safeguard public or offender welfare.

Arrest powers extend to assisting police officers or apprehending individuals escaping lawful custody.

Upon arresting under Section 441(2)(a), the individual must:

- Maintain the arrest only while the aforementioned conditions apply.
- Refrain from interrogating the arrested person about the offence.
- Transfer the arrested person to police custody as soon as feasible.

Should it become clear that the arrested individual did not commit the offence, they must be released immediately. It's crucial to note that offences justifying arrest do not include violations of administrative or legislative directives, such as failure to wear a mask or adhere to social distancing guidelines.

S442 Arrest on reasonable grounds not to be taken to be unlawful

Section 442 stipulates that an arrest made under Section 441 on reasonable grounds remains lawful even if it is later determined that the arrested individual did not commit the alleged offence. This provision safeguards the legality of the arrest based on the arresting individual's reasonable belief at the time of the arrest.

Stealing

Criminal Code Act 1983

S390 Things capable of being stolen

outlines what constitutes items capable of being stolen, encompassing anything that is someone's property and is either moveable or can be made moveable, even if this involves making the item moveable for the purpose of stealing it.

S391 Definition of stealing

defines stealing as the fraudulent taking or converting to one's own use (or another's use) anything that can be stolen. The fraudulent intent is characterized by various objectives, including permanent deprivation of the item from its owner, use as a pledge or security, alteration in a way that prevents its return in the original condition, or, in the case of money, using it at will with a vague intention to repay.

S409 Definition of robbery

describes robbery as an act of stealing accompanied by the use or threat of actual violence to secure the stolen item or overcome resistance to its theft.

S418 Definitions

elaborates on what constitutes breaking and entering into a dwelling or premises, which includes breaking any part of the dwelling, entering by any means, or obtaining entrance through threat, artifice, or collusion. The definition of premises is broad, encompassing various structures including tents, caravans, and vehicles.

S419 Burglary

addresses burglary, defining it as entering or being in another's dwelling with the intent to commit an indictable offence. The severity of punishment escalates based on factors like the method of entry, the time of the offence, use or threat of violence, the presence of weapons, being in company, or causing property damage.

S469 Wilful damage

deals with wilful damage, criminalizing the intentional and unlawful destruction or damage of any property, punishable by imprisonment.

Force to prevent crime

the Act allows the use of reasonable and proportionate force to prevent the commission of a crime, especially in situations where the offence allows for arrest without a warrant (Section 266).

These sections collectively provide a legal framework for understanding the boundaries and conditions under which property crimes are defined and how they can be lawfully addressed.

Trespass Act 2023

Literally thousands of people enter and leave property every day in the Northern Territory. The basis upon which they may enter the property and (potentially) be removed will vary.

S3 Definitions

Here we define the playing field. 'Crown land' covers all government-owned areas, except those leased or under specific agreements. 'Direction' is a legal nudge to leave a place under section 9. The 'occupier' varies – it could be anyone managing Crown land or similar territories, or simply the lawful tenant or owner. 'Order' is a court's command to avoid certain places, while 'place' is a broad concept, encompassing everything from buildings and land to vehicles and vessels.

S4 Authority to enter and remain

This clarifies who gets a free pass. It includes the occupier, those with explicit or implied permission, and anyone legally authorized by Territory laws.

S5 Effect on other laws and agreements

this Act doesn't trump other laws or contracts, like the Criminal Code Act 1983's stance on justifiable force for trespass removal.

S9 Direction to leave

Occupiers or police can direct people to leave a place, with a potential ban on returning for up to a week or, by default, 72 hours if not specified.

S10 Warning to stay off

Here, occupiers or police issue a written formal no-entry warning, effective up to a year or three months if unspecified.

S11 Manner of Giving Direction or Warning

Directions and warnings can be verbal or written, even to groups collectively.

S13 Trespass – Entering or Remaining without Authority

Unauthorized entry or stay is penalized with fines or jail time.

S15 Trespass after Direction to Leave

Ignoring a leave direction incurs fines, emphasizing legal adherence.

S16 Trespass after Warning to Stay Off

Entry after a stay-off warning leads to penalties, though void if the issuer isn't an occupier anymore.

The power to remove a person using justifiable force with the Trespass Act 2023 still refers to the Criminal Code Act 1983 Section 29 and 43BD.

Gaming Control Act 1993

Where the term casino is used this also covers Gaming areas in licenced Venues.

S33 - Right of Entry to Casino

Who Gets In: Basically, you can't just waltz into a casino unless the casino's operator (the Licensee) grants consent. This could be a clear yes or a nod-and-a-wink kind of approval.

'Keep Out' Directive: The Licensee or their team can tell someone they're not welcome, either verbally or in writing. Refer to the Trespass Act 2023.

Enforcing the 'No Entry': If someone's been trespassed, the Licensee has to make sure they leave and stay out.

Legally Binding: Once you're been removed, stepping back in outside trespass timetables is not permitted.

Police Involvement: Police may ban or trespass patron, however, the licensee and director must be informed.

Responsibility of the Casino Staff: If you work for the casino, you can't turn a blind eye and let banned people enter.

Exceptions: This rule doesn't stop someone from entering if they've got legal business there or some other legal right to be there.

Changing the Decision: A ban can be lifted in the same way it was imposed.

S34 - Underage Gaming

No Kids Allowed in Gaming Areas

a. If you run a casino, you have to make sure no one under 18 is playing games or using gaming machines. It is not illegal for children to be in a gaming area, however, licensees are encouraged to prohibit it.

b. And they shouldn't be hanging around gaming areas either.

Defending Against Charges: If you're caught letting an underage person play, you may defend yourself by proving you genuinely had evidence they were over 18.

Rules for the Youngsters: a. If you're under 18, steer clear of the games and slot machines. b. If a casino worker has already warned you, don't even think about hanging out in the gaming areas.

Liquor Act 2019

There are various offences under the NT Liquor Act that relate to crowd controllers and licensees. There are also various 'powers' under the ACT for crowd controllers and Licensees.

S5 Meaning of *intoxicated*

A person is to be taken to be *intoxicated* if:

- (a) the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and
- (b) it is reasonable in the circumstances to believe the impairment results from the consumption of alcohol.

S49 Public interest and community impact

It is a responsibility of the licensee and therefore the crowd controllers to ensure that they are:

- (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
- (b) ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner;
- (c) safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
- (d) protecting the safety, health and welfare of people who use licensed premises;
- (e) increasing cultural, recreational, employment or tourism benefits for the local community area;
- (f) promoting compliance with this Act and other relevant laws of the Territory;
- (g) ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
- (h) preventing the giving of credit in sales of liquor to people;
- (i) preventing practices that encourage irresponsible drinking;
- (j) reducing or limiting increases in anti-social behaviour.

S93 Undue and unreasonable noise

A licensee must not cause or permit its employees or patrons to cause undue and unreasonable noise on or in the licensed premises that affects the amenity of the neighbourhood.

Examples for section 93

1 The delivery of stock and the removal of rubbish must be at appropriate hours.

2 Live music must be at a reasonable volume.

S102 Conditions on time of operation

- (1) A licensee must not sell, supply or serve liquor outside the hours prescribed by regulation in respect of the licensee's authority.
- (2) A licensee must not allow patrons to enter or remain on or in the licensed premises outside the hours prescribed by regulation in respect of the licensee's authority.
- (3) Despite subsections (1) and (2), a licensee may allow patrons to enter and remain on or in the licensed premises outside the hours prescribed by regulation if:
 - (a) no person is being sold, supplied or served liquor on or in the premises; and
 - (b) no person has access to gaming machines on or in the premises.

S136 Responsible service

A licensee must not take any action that would induce the irresponsible or excessive consumption of liquor on or in licensed premises contrary to a guideline of the Commission under section 316.

S137 Responsible service certificate

(1) A licensee must ensure that every employee whose responsibilities involve serving patrons or **supervising** (Security personnel) the serving of patrons:

(a) holds a responsible service of alcohol certificate issued by a body:

(i) accredited by the Australian Skills Quality Authority; or

(ii) approved by the Commission; and

(b) completes a refresher course on the responsible service of alcohol from a body approved by the Commission if the certificate is more than 3 years old.

(2) In the case of a new employee who does not hold the certificate, but whose responsibilities involve serving patrons or supervising the serving of patrons, the licensee must ensure that the employee either obtains the certificate within 7 days or is removed from those responsibilities.

S138 Duty to refuse service

A licensee and the licensee's employees must refuse to serve liquor to a person if the licensee or employee believes on reasonable grounds that the person:

(a) is intoxicated; or

(b) is registered on the banned drinkers register.

S139 Power to refuse service

A licensee and the licensee's employees may refuse to serve liquor to a person if the licensee or employee believes on reasonable grounds that the person:

(a) will commit an offence against this Act; or

(b) will become intoxicated; or

(c) will engage in violent, quarrelsome or disorderly behaviour on or in the licensed premises, or in the vicinity of those premises; or

(d) has engaged in any conduct specified in paragraph (c) within the last 12 months.

S141 Duty and power to exclude and remove persons

(1) A licensee and the licensee's employees must exclude and remove from the licensed premises any person who is violent, quarrelsome, disorderly or incapable of controlling the person's behaviour, other than a person occupying residential accommodation on or in the licensed premises.

(2) A licensee and the licensee's employees may exclude and remove from the licensed premises any person who is intoxicated, other than a person occupying residential accommodation on or in the licensed premises.

(3) A person commits an offence if the person contravenes subsection (1).

Maximum penalty: 100 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.

S142 Power to exclude or remove persons

(1) A licensee, a licensee's employee, an inspector or a police officer may exclude or remove from the licensed premises:

(a) a person occupying residential accommodation on or in the licensed premises who is intoxicated, violent, quarrelsome, disorderly or incapable of controlling the person's behaviour; or

(b) any person whose presence on or in the licensed premises might:

(i) render the licensee liable to a penalty under this Act or any other law of the Territory; or

(ii) disrupt the business of the licensee or unreasonably interfere with the wellbeing of other persons lawfully on or in the premises; or

(c) any person convicted of an offence relating to the possession or supply of a drug on or in licensed premises within the last 12 months.

(2) A licensee, licensee's employee, inspector or police officer exercising a power under this section or section 141 may use the force that is reasonably necessary for the purpose.

(3) A police officer must, on the request of the licensee, licensee's employee or inspector, exclude, remove or assist in excluding or removing from licensed premises any person who is being excluded or removed in accordance this section or section 141.

(4) A person may be excluded or removed from licensed premises even if the person is a member of an incorporated association that is the licensee in respect of the licensed premises.

S143 Excluded or removed person

(1) A person who is being excluded or removed in accordance with section 141 or 142 must immediately leave the licensed premises.

(2) A person commits an offence if the person contravenes subsection (1).

Maximum penalty: 20 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

S144 Returning after being excluded or removed

(1) A person excluded or removed from licensed premises under section 141 or 142 must not re-enter, or attempt to re-enter, the licensed premises within 12 hours after the time the person left or was removed from the licensed premises.

(2) A person commits an offence if the person contravenes subsection (1).

Maximum penalty: 20 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

S302 No liquor for child on or in licensed premises

A child must not consume or possess liquor on or in licensed premises. A child is any person under the age of 18 years old.

Security in licensed venues

Venues often engage a security firm to provide appropriately licensed personnel to avoid, reduce or address violent or otherwise poor patron behaviour.

According to the *Liquor Act 2019* licensees must maintain a safe environment for patrons and staff. The Private security Act 1995 states:

- Security provider licences are to be held by the security firm and its proprietors
- Crowd controllers who work for a security firm must be licensed
- Licence applicants must meet 'appropriate person' tests, including criminal record check
- Licensed security firms and their crowd controller staff are bound by codes of practice, which set ethical and professional standards

Engaging a security firm to provide specialist security staff and services is a legitimate, acceptable and commonly used practice, some venue licences require security personnel as a condition of operating, for example 1 security crowd controller for every 50 patrons.

Identification (ID)

Four forms of ID are acceptable in licensed venues:

- A current driver licence or learner permit
- A current passport (from any country)
- An Australian Government-issued proof of age card (18+ card)
- A keypass phone application provided by an Australian statutory authority

A foreign driver's licence is accepted as evidence of age, providing it has a photo and the date of birth of the licence holder.

Confiscating ID documents

Suspected fake, defaced or falsely presented documents should be confiscated and forwarded to licencing as soon as possible, with an ID confiscation report for further investigation.

Barring problem customers

Generally, three levels of bans can be imposed:

- Court imposed bans ie. the BDR (Banned Drinking register)
- Venue Trespass - a licensee trespasses a person from their venue, this may be for 24 hrs verbally or up to 12 months in writing
- Voluntary ban – a person signs a document barring themselves from a location.

A venue placing a trespass on a person, when it can be justified, is a legitimate risk management approach. Fair and efficient trespass policies and procedures may be a deterrent to potential troublesome patrons.

Designated outdoor smoking area (DOSA)

A DOSA is a dedicated outdoor licensed area where a person may take a drink and have a cigarette break before returning to their group or companion. While drinks taken into the DOSA may be consumed, the supply of alcohol, food or entertainment to a person in a DOSA is restricted depending on the venues licence conditions. Some DOSA do not allow access by children. Check with your venue manager prior to your shift to clarify the location specific rules.

The DOSA should be kept clean and presentable. In the Northern Territory it is common practice for indigent people to enter DOSA to collect 'smoke butts' or 'bumpers'. This has been recognised as a health risk and clubs and pubs are advised to regularly clear out their ash trays and deter the practice.

Tribunals and Courts in the Northern Territory

Court Security Act 1998

Court Security Officers

S5 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.

Northern Territory Civil Administration tribunal

The NT Civil Administration tribunal (NTCAT) is not a court. Its role is to mediate between parties and may also hold hearings on Acts in the NT including the Private Security Act 1995. The role of NTCAT is to mediate and it may only hear cases with a financial threshold of \$25,000.

There are no rules of evidence in NTCAT, although its structure is made to mimic a courtroom. The delegate gives orders not rulings, and the prosecutor is called the applicant and the defendant is called the respondent. These terms and structure are to create a level of respect and project authority. However, NTCAT is not a court, it answers to the Attorney General an elected and appointed MLA, generally over the decades having no legal qualifications or experience, therefore decisions can be quite obviously political depending on the representative at the time. NTCAT does not direct its authority from the constitution it was created by an Act.

Magistrates Court

A Magistrates Court does not have a jury. It deals with civil matters with a financial threshold of \$250,000 and minor criminal matters.

It also hears 'prima facie' evidence for indictable criminal offences. In order for a prosecution to proceed, the police and the accused (defendant) must present a summary of their case to a magistrate. Not all the evidence is heard, but there will be a sufficient argument put forward from both parties for the magistrate to decide if there is sufficient grounds for the case to proceed to a full trial. The trial will take place in the District Court or Supreme Court, depending on the seriousness of what has taken place. Evidence is judged based on relevance.

A security officer may be asked to attend Magistrates Court as a witness. The court is presided over by a judge who should be referred to as: 'Your Honour'. In a serious criminal case, the accused is first charged in a Magistrates Court. The magistrate will determine if there is sufficient evidence to justify a trial before sending the matter to trial at a higher court. This is called a *committal for trial*. In the instance of a criminal case, the magistrate determines guilt or innocence and also the penalty.

Supreme Court

The Trial Court and the Court of Appeal are the two divisions of the Northern Territory Supreme Court. Presiding over the court is a justice of the Supreme Court. The justice is referred to as 'Your Honour'. The Supreme Court hears serious criminal offences including murder and serious drugs offences.

The trial division of the Supreme Court must use a jury to determine guilt or innocence in criminal cases. Civil cases are usually heard by a judge without a jury. Appeals go before the Court of Appeal and are heard by three justices of the Supreme Court.

Bibliography of Cited Acts

Private Security Act 1995

Jurisdiction: Northern Territory

Passed: 1995

Workplace, Health and Safety (National Uniform Legislation) Act 2011

Jurisdiction: National

Passed: 2011

Summary Offences Act 1923

Jurisdiction: Northern Territory

Passed: 1923

Criminal Code Act NT 1983

Jurisdiction: Northern Territory

Passed: 1983

Trespass Act NT 2023

Jurisdiction: Northern Territory

Passed: 2023

Weapons Control Act 2001

Jurisdiction: Northern Territory

Passed: 2001

Liquor Act 2019

Jurisdiction: Northern Territory

Passed: 2019

Alcohol Harm Reduction (National Uniform Legislation) Act 2017

Jurisdiction: National

Passed: 2017

Anti-discrimination Act NT 1992

Jurisdiction: Northern Territory

Passed: 1992

Evidence (National Uniform Legislation) Act 2011

Jurisdiction: National

Passed: 2011

Evidence Act 1939

Jurisdiction: Northern Territory

Passed: 1939

Firearms Act 1997

Jurisdiction: Northern Territory

Passed: 1997

Youth Justice Act 2005

Jurisdiction: Northern Territory

Passed: 2005

Acknowledgment

Thank you for investing your time in reading the information provided. In an era where knowledge is as crucial as physical strength in security, your effort to understand these laws and regulations is not just commendable, but essential. It's my hope that this knowledge does more than just occupy space in your mind. Ideally, it equips you to be more effective, more discerning, and ultimately, a better professional in the security field. The journey towards excellence in any profession starts with understanding, and you've taken a significant step on that path. May this information serve you well in your endeavours to maintain safety and order.

From the author

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