

2006

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT
BILL 2006**

EXPLANATORY STATEMENT

Circulated with the authority of
Mr Simon Corbell MLA
Attorney General

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2006

Overview of Bill

The Justice and Community Safety Legislation Amendment Bill 2006 (the Bill) amends a number of laws administered by the ACT Department of Justice and Community Safety. The laws amended include the:

- *Civil Law (Wrongs) Act 2002*;
- *Classification (Publications, Films and Computer Games)(Enforcement) Act 1995*;
- Consumer Credit Regulation 1996;
- *Court Procedures Act 2004*;
- *Domestic Violence and Protection Orders Act 2001*;
- *Fair Trading (Consumer Affairs) Act 1973*;
- *Human Rights Commission Act 2005*;
- *Land Titles Act 1925*;
- *Liquor Act 1975*;
- *Mental Health (Treatment and Care) Act 1994*;
- *Residential Tenancies Act 1997*;
- *Sale of Motor Vehicles Act 1977*;
- *Security Industry Act 2003* (with consequential amendments to the Magistrates Court (Security Industry Infringement Notices) Regulation 2003);
- Security Industry Regulation 2003; and
- consequential amendments arising out of the harmonisation of court rules.

The proposed amendments are detailed below.

Civil Law (Wrongs) Act 2002

Part 15.2 of the *Civil Law (Wrongs) Act 2002* sets out the general reporting requirements for insurance companies in the ACT. Previously the provisions required insurers to provide particular information to the Minister by a particular date, but do not give the Minister powers other than the power to

receive the information. The amendments to Part 15.2 allow the Minister to give directions to insurance companies as to how to compile the data, as well as allow the Minister to request additional information from insurers who have already lodged a report.

In addition, a technical amendment to Chapter 9 of the *Civil Law (Wrongs) Act 2002* will ensure that the definition of **Australian jurisdiction** is consistent with the definition used in the Model Defamation Provisions.

Classification (Publications, Films and Computer Games)(Enforcement) Act 1995

Amendments to the *Classification (Publications, Films and Computer Games)(Enforcement) Act 1995* create a delegation power for the Registrar of X18+ Film Licenses. This amendment is consequential to the recent repeal of subsection 230(2) of the *Legislation Act 2001*, which provided an implied power to delegate with any statutory authority, and had previously been relied upon to make delegations under this Act.

Consumer Credit Regulation 1996

Amendments to the Consumer Credit Regulation 1996 further clarify the terms relating to the maximum annual percentage rate for credit contracts. The amendment to the Regulation inserts a mathematical formula which credit providers can use to calculate the maximum annual percentage rate of a credit contract. Another amendment defines the term **temporary credit facility** for the purposes of section 5 of the Regulation. In addition, a new clause is inserted into the Regulation to outline a series of assumptions that apply when calculating the maximum annual percentage rate of a continuing credit contract.

Court Procedures Act 2004

The amendment clarifies the law in respect to the status of matters that can take place in a criminal trial in the ACT prior to the empanelling of a jury. Recently, Justice Crispin in the Supreme Court matter of *The Queen v Lieske* (SCC 139 of 2003, unreported) had cause to consider whether matters of an

interlocutory nature could be dealt with by that court prior to the empanelling of a jury. During the discussion, the case of *TKWJ v The Queen*, a 2002 High Court decision, was cited for the proposition that a judicial discretion can only be exercised when the occasion for the making of the relevant decision arises. To remove this confusion, the amendment to the *Court Procedures Act 2004* ensures that matters conducted prior to the empanelling of the jury are within the relevant trial.

Domestic Violence and Protection Orders Act 2001

Schedule 1 of the *Domestic Violence and Protection Orders Act 2001* lists offences which are classed as domestic violence offences pursuant to section 9(2). The schedule contains offences against the person and a person's property. Schedule 1 has been amended to include section 26A of the *Crimes Act 1900* (Common Assault) in the list of offences which are classed as domestic violence offences pursuant to section 9(2).

Fair Trading (Consumer Affairs) Act 1973

Amendments to the *Fair Trading (Consumer Affairs) Act 1973* create a delegation power for the Commissioner for Fair Trading, allowing the commissioner to delegate functions under any Territory legislation. This amendment is consequential to the recent repeal of subsection 230(2) of the *Legislation Act 2001*, which provided an implied power to delegate with any statutory authority, and had previously been relied upon to make delegations.

Human Rights Commission Act 2005

Amendments to the *Human Rights Commission Act 2005* create delegation powers for the president and commissioners under the Act. This amendment is consequential to the recent repeal of subsection 230(2) of the *Legislation Act 2001*, which provided an implied power to delegate with any statutory authority, and had previously been relied upon for delegations under this Act.

Land Titles Act 1925

Section 72A of the *Land Titles Act 1925* requires the ACT Planning and Land Authority to lodge with the Registrar-General any variation to a Crown lease,

which in turn is entered by the Registrar-General into the Register. However, the section did not define the exact point at which the variation takes legal effect. The amendment to section 72A clarifies that a variation of a Crown lease takes legal effect from the time that the Registrar-General enters the variation into the Register.

Liquor Act 1975

Amendments to the *Liquor Act 1975* create a delegation power for the Registrar of Liquor Licensing. This amendment is consequential to the recent repeal of subsection 230(2) of the *Legislation Act 2001*, which provided an implied power to delegate with any statutory authority, and had previously been relied upon to make delegations under this Act.

Mental Health (Treatment and Care) Act 1994

Amendments to the *Mental Health (Treatment and Care) Act 1994* were passed in August 2005, to provide for the expeditious administration of electroconvulsive therapy in cases where it is necessary to save a person's life. The amendment clarifies that the mandatory three-day notification period for the Mental Health Tribunal, under section 94 of the Act, does not apply to Tribunal proceedings concerning emergency electroconvulsive therapy orders.

Residential Tenancies Act 1997

The Act repeals subsection 71C(1)(d) of the *Residential Tenancies Act 1997*, following advice that the subsection created an unintended anomaly, causing certain people to be excluded from the operation of the Act's occupancy provisions (for instance, tenancies at common law), and such cases falling outside of the Tribunal's jurisdiction. Repealing the subsection allows access to the Tribunal for some parties who may otherwise be excluded.

The Act also amends the *Residential Tenancies Act 1997* to create a delegation power for the Registrar of the Residential Tenancies Tribunal in relation to registrar duties under that Act. This amendment is consequential to

the recent repeal of subsection 230(2) of the *Legislation Act 2001*, which provided an implied power to delegate with any statutory authority, and had previously been relied upon to make delegations under that Act.

Previously the Residential Tenancies Tribunal did not have jurisdiction to make an order for the payment of an amount, or for work of a value, exceeding \$10,000. Following a pattern in other jurisdictions, this limit has been raised to \$25,000 to allow the Tribunal to make orders in relation to higher rent premises, or for cases where the tenant seriously damages the premises.

Further, the jurisdiction of the Tribunal has been extended, to deal with disputes that would normally require hearing in the Magistrates Court, but which are related to an existing residential tenancy dispute being heard by the Tribunal. The amendment provides (with the agreement of the parties and where the matter in dispute is identified during a hearing) the Tribunal with the power to make an order in relation to the matter, in cases where the alternative for the parties would be to commence proceedings in another jurisdiction.

Another amendment to the Tribunal's jurisdiction allows for extension of the jurisdiction with the agreement of both parties to a dispute. This ancillary jurisdiction is equivalent to the jurisdiction of the Magistrates Court, enabling the Tribunal when exercising this jurisdiction to make any order that the Magistrates Court may make (i.e. to a maximum of \$50,000).

Sale of Motor Vehicles Act 1977

Amendments to the *Sale of Motor Vehicles Act 1977* create a delegation power for the Registrar of Motor Vehicle Dealers. This amendment is consequential to the recent repeal of subsection 230(2) of the *Legislation Act 2001*, which provided an implied power to delegate with any statutory authority, and had previously been relied upon to make delegations under this Act.

Security Industry Act 2003

Previously, a security industry licence was required to be worn by a range of employee licence holders who carry out security activities. Some of the security activities put employees in locations or situations (e.g. building sites, construction sites, roof spaces and under buildings) where the wearing of a licence is likely to be an inconvenience, and likely to result in the licence being damaged, dirtied or lost. Therefore the Act has been amended to remove the requirement for the wearing of a security industry licence when carrying out those activities. Instead, employees are required to carry and produce their licenses. This amendment also includes consequential amendments to the Magistrates Court (Security Industry Infringement Notices) Regulation 2003.

Security Industry Regulation 2003

Minor amendments to the wording in the Security Industry Regulation 2003 to clarify that an identification number which is issued to a crowd controller, is unique to the crowd controller (rather than to the master licensee who employs the crowd controller). This clarifies that members of the security industry may work for more than one employer at more than one location, but do not need various licences to carry out the same activity.

Amendments arising out of the harmonisation of court rules

The Bill includes amendments to a range of legislation, to make ancillary or consequential amendments necessary as part of the harmonisation of court rules project (in part, to remove duplicate provisions in primary legislation which is now dealt with in the Rules). The legislation amended includes:

- *Administration and Probate Act 1927;*
- *Administrative Appeals Tribunal Act 1989;*
- *Administrative Decisions (Judicial Review) Act 1989;*
- *Adoption Act 1993;*
- *Animal Diseases Act 2005;*
- *Bail Act 1992;*
- *Children and Young People Act 1999;*
- *Civil Law (Wrongs) Act 2002;*

- *Commercial Arbitration Act 1986;*
- *Consumer and Trader Tribunal Act 2003;*
- *Consumer Credit (Administration) Act 1996;*
- *Contractors Debts Act 1897;*
- *Court Procedures Act 2004;*
- *Discrimination Act 1991;*
- *Electoral Act 1992;*
- *Evidence (Miscellaneous Provisions) Act 1991;*
- *Guardianship and Management of Property Act 1991;*
- *Health Professions Act 2004;*
- *Judicial Commissions Act 1994;*
- *Land Titles Act 1925;*
- *Leases (Commercial and Retail) Act 2001;*
- *Legal Profession Act 2006;*
- *Magistrates Court Act 1930;*
- *Mental Health (Treatment and Care) Act 1994;*
- *Occupational Health and Safety Act 1989;*
- *Partnership Act 1963;*
- *Plant Diseases Act 2002;*
- *Residential Tenancies Act 1997;*
- *Royal Commissions Act 1991;*
- *Supreme Court Act 1933;*
- *Victims of Crime (Financial Assistance) Act 1983;*
- *Wills Act 1968;*
- *Workers Compensation Act 1951;* and the
- *Workers Compensation Rules 2002.*

Clause Notes

Clause 1 Name of Act – states the title of the Act as the *Justice and Community Safety Legislation Amendment Act 2006*.

Clause 2 Commencement – sets out the commencement for the Act. The clause states that section 3, Schedule 1 parts 1.2, 1.6, 1.9, and 1.13, and Schedule 2 (other than parts 2.22 and 2.32), of the Act, commence the day after notification of the Act. Schedule 1 part 1.7, dealing with amendments to the *Human Rights Commission Act 2005*, commence when section 3 of the *Human Rights Commission Act 2005* commences. The remainder of the provisions in Schedule 1 commence 21 days after notification. Parts 2.23 and 2.33 of Schedule 2 commence on 1 January 2007.

Clause 3 Legislation amended – schs 1 and 2 – notes that the legislation listed in schedules 1 and 2 is amended.

Schedule 1 – General Amendments – sets out the general amendments to legislation in Schedule 1 of this Act.

PART 1.1 – Civil Law (Wrongs) Act 2002

Amendment 1.1 – Section 4, note 1, new dot point – inserts a new dot point into section 4 of the *Civil Law (Wrongs) Act 2002*. The new point lists the offence under section 203B (Further reports by insurers) of the Act as an offence to which the Criminal Code applies.

Amendment 1.2 – Section 116, definition of *Australian jurisdiction* – amends the definition of *Australian jurisdiction* to include Territories, as well as States and the Commonwealth. This amendment ensures that the definition is consistent with national defamation model provisions.

Amendment 1.3 – Section 123(5), definition of *Australian jurisdictional area* - amends the definition of *Australian jurisdiction* to include Territories, as well as States and the Commonwealth. This amendment ensures that the definition is consistent with national defamation model provisions.

Amendment 1.4 – Section 203(3) – amends subsection 203(3) to accommodate the creation of a new section 203A, which allows the Minister to give directions to insurers about their reporting requirements under the Act. The amendment states that reports by insurers must comply with any directions made by the Minister.

Amendment 1.5 – New sections 203A and 203B – inserts new sections 203A and B into the Act. New section 203A creates a power for the Minister to give directions to insurers regarding their reporting requirements under section 203. The section provides that those directions are to be made by disallowable instrument.

New section 203B allows the Minister to request further information from insurers in relation to a report lodged by the insurer under section 203. The section makes it an offence for an insurer if they do not comply with the request.

PART 1.2 – Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

Amendment 1.6 – New section 54BA – inserts a new section 54BA into the Act. The new section creates a delegation power for the registrar under the Act. This provision is consequential to the repealing of subsection 230(2) of the *Legislation Act 2001*.

PART 1.3 – Consumer Credit Regulation 1996

Amendment 1.7 – New section 5(2A) – inserts a new section into the Regulation, that states that a maximum annual percentage rate must be worked out in accordance with the specific procedures detailed in section 6 of the Regulation. This provision brings the legislation in line with the NSW equivalent.

Amendment 1.8 – New section 5(4) – inserts a new subsection 5(4) into the Regulation that defines *temporary credit facility* for the purposes of section 5 of the Regulation. This provision brings the legislation in line with the NSW equivalent.

Amendment 1.9 – New section 6 – inserts a new section into the Regulation that provides a mathematical formula and other guidelines, which must be used to work out the maximum annual percentage rate of a credit contract. Currently, the maximum annual percentage rate of a credit contract that can be charged (including fees and charges) in the ACT is 48%. The new section also sets out certain assumptions that apply when working out the maximum annual percentage rate of a continuing credit contract. The new section brings the legislation in line with the NSW equivalent.

PART 1.4 – Court Procedures Act 2004

Amendment 1.10 – New part 8 – inserts a new part 8 into the *Court Procedures Act 2004* dealing with criminal proceedings in the Supreme Court. The new part sets out provisions relating to trial proceedings which occur after the presentation of an indictment, but before empanelment of the jury to the trial. The amendment clarifies the position by bringing those particular trial proceedings within the relevant trial.

PART 1.5 – Domestic Violence and Protection Orders Act 2001

Amendment 1.11 – Section 9(2), definition of domestic violence offence, paragraph (c)(ii) – amends subsection 9(2)(c)(ii) of the Act to include an offence under section 316 of the Criminal Code ('Going equipped with

offensive weapon for theft etc’) within a list of Criminal Code offences which fit the definition of **domestic violence offence** for the purposes of the Act.

Amendment 1.12 – Schedule 1, new item 10A – inserts the summary offence of common assault under section 26A of the *Crimes Act 1900* in a list of offences that are domestic violence offences.

Amendment 1.13 – Schedule 1, item 38 – removes item 38 of the table, which lists the *Crimes Act 1900* offence under section 150(1)(a) (being armed with weapon etc with intent to commit offence) from the list of offences that are domestic offences. The equivalent offence has been included into the definition of **domestic violence offence** in section 9 of the Act.

Amendment 1.14 – Schedule 1, items 40 and 41 – amend items 40 and 41 of the table of domestic violence offences to update the descriptions of the offences listed. The amendment inserts references to ‘disabling substances’ within the descriptions.

PART 1.6 – Fair Trading (Consumer Affairs) Act 1973

Amendment 1.15 – Section 2, new definition of fair trading legislation – inserts a definition of **fair trading legislation** into the Act. The term refers to the *Agents Act 2003*, *Fair Trading Act 1992*, *Fair Trading (Consumer Affairs) Act 1973*, and the *Security Industry Act 2003*.

Amendment 1.16 – Section 7(1), new note – inserts a new note into section 7 of the Act. The note states that a provision of law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function.

Amendment 1.17 – Section 7(4) – omits subsection 7(4) of the Act which deals with the definition of **fair trading legislation**. This is now dealt with under section 2 of the Act.

Amendment 1.18 – Section 8 – amends section 8 of the Act to state that the Commissioner for Fair Trading can delegate the commissioner’s functions under consumer and trader legislation to a public servant. The section goes on to define consumer and trader legislation to mean the consumer credit legislation (as defined under section 3 of the *Consumer Credit (Administration) Act 1996*), the fair trading legislation (as defined under section 2 of the *Fair Trading (Consumer Affairs) Act 1973*), the *Pawnbrokers Act 1902*, the *Second-hand Dealers Act 1906*, and the trade measurement legislation (as defined under section 3 of the *Trade Measurement (Administration) Act 1991*).

This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*. The amendment is structured to allow the commissioner to delegate functions under any territory law, and obviates the need to insert delegation powers into each Act that might provide functions for the commissioner.

Amendment 1.19 – Section 8A, definition of *fair trading legislation* – omits the definition of *fair trading legislation*. This is now dealt with under section 2 of the Act.

PART 1.7 – *Human Rights Commission Act 2005*

Amendment 1.20 – New section 19AA – inserts a new section 19AA into division 3.2 of the Act. The new section provides an express delegation power for the president of the Human Rights Commission (excepting conciliation functions), to delegate the president’s functions to a member of the staff of the commission. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.21 – New section 19BA – inserts a new section 19BA into the Act. The new section provides an express delegation power for the children and young people commissioner, to delegate the commissioner’s functions to a member of the staff of the commission. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.22 – New section 21A – inserts a new section 21A into division 3.4 of the Act. The new section provides an express delegation power for the disability and community services commissioner to delegate the commissioner’s functions to a member of the staff of the commission. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.23 – New section 23A – inserts a new section 23A into division 3.5 of the Act. The new section provides an express delegation power for the discrimination commissioner to delegate the commissioner’s functions to a member of the staff of the commission. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.24 – New section 25A – inserts a new section 25A into division 3.6 of the Act. The new section provides an express delegation power for the health services commissioner to delegate the commissioner’s functions to a member of the staff of the commission. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.25 – New section 27A – inserts a new section 27A into division 3.7 of the Act. The new section provides an express delegation power for the human rights commissioner to delegate the commissioner’s functions to a member of the staff of the commission. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

PART 1.8 – *Land Titles Act 1925*

Amendment 1.26 – New section 72A(3) – inserts a new subsection in section 72A that clarifies the point at which a variation to a Crown lease takes

effect. The subsection states that the variation takes effect when it is entered into the register by the Registrar-General.

PART 1.9 – *Liquor Act 1975*

Amendment 1.27 – Sections 21 to 23 – inserts new sections 21, 22 and 23 into the Act. The amendments update the sections regarding the positions of Registrar and Deputy Registrar of Liquor Licences, and inspectors of licenced premises. In addition, the new section 22 provides express delegation powers to the registrar. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.28 – Section 108(3) – makes consequential amendments to subsection 108(3) following Amendment 1.27.

Amendment 1.29 – Dictionary, definition of *deputy registrar* - makes consequential amendments to subsection 108(3) following Amendment 1.27.

Amendment 1.30 – Dictionary, definition of *registrar* - makes consequential amendments to subsection 108(3) following Amendment 1.27.

PART 1.10 – Magistrates Court (Security Industry Infringement Notices) Regulation 2003

Amendment 1.31 – Schedule 1, new items 6A and 6B – inserts new items into the Schedule as a consequence of new offences created within ss42 and 42A of the *Security Industry Act 2003*.

PART 1.11 – *Mental Health (Treatment and Care) Act 1994*

Amendment 1.32 – New section 55N(3) – inserts a new subsection into s55N of the Act. The new subsection removes any doubt that section 94 of the Act, which imposes a 3-day waiting period on orders by the Mental Health Tribunal, does not apply to emergency electroconvulsive therapy orders made under s55N.

PART 1.12 – *Residential Tenancies Act 1997*

Amendment 1.33 – Section 71C(1)(d) and (e) – amends the Act by repealing subsection 71C(1)(d). The subsection previously stated that an agreement was not an occupancy agreement unless the agreement provided that the grantor may lawfully terminate the agreement, without cause, by giving less than 6 months notice. It was found that this condition excluded some people from the operation of the Act who should have been included.

Amendment 1.34 – Section 114(4) – amends the Act to provide the registrar of the Residential Tenancies Tribunal with express delegation powers. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.35 – Section 115 – amends section 115 of the Act dealing with the Residential Tenancies Tribunal. Section 115 deals with the jurisdiction of the tribunal generally. The amendment increases the jurisdiction of the tribunal to \$25,000 from the previous limit of \$10,000.

The amendment creates a new section 115A that provides for the saving of court jurisdiction. Under 115A, the tribunal will have the ability to deal with claims that relate to their current tenancy disputes, but which might otherwise be dealt with by a court, for instance, the Magistrates Court.

The amendment creates a new section 115B which provides for the extension of the tribunal jurisdiction under the condition of agreement of parties to the proceeding. The extension provides the tribunal with an extended jurisdiction equivalent to that of the Magistrates Court. Currently under the *Magistrates Court Act 1930*, the Magistrates Court has jurisdiction to hear and decide matters of amounts up to \$50,000.

Amendment 1.36 – Section 115A – renumbers previous section 115A as section 115C. This is a consequential amendment to the creation of new sections 115A and 115B in Amendment 1.35.

PART 1.13 – Sale of Motor Vehicles Act 1977

Amendment 1.37 – New section 94 – inserts a new section into the Act to expressly provide delegation powers to the Registrar of Motor Vehicle Dealers. This amendment is consequential to the repeal of subsection 230(2) of the *Legislation Act 2001*.

Amendment 1.38 – Section 94 – renumbers the section consequential to Amendment 1.37.

PART 1.14 – Security Industry Act 2003

Amendment 1.39 – new section 36(f) and (g) – inserts new subsections into section 36 of the Act to include decisions made under section 42A (Exemption for wearing of licences etc) in the list of reviewable decisions. This amendment is consequential to the creation of a new section 42A in Amendment 1.41.

Amendment 1.40 – Section 37 – amends section 37 of the Act dealing with review of reviewable decisions. This amendment is consequential to Amendment 1.41.

Amendment 1.41 - Section 42 – amends section 42 of the Act, and creates a new section 42A, to change the requirements of certain security employee licence holders. The amendment changes the requirement for employee licence holders who carry out security activities. The amendment removes the requirement for employees to wear their licence, and replaces it with a requirement to carry the licence and produce it for inspection on demand. This amendment does not apply to those employees who patrol, guard, watch or

protect property, or bodyguards. It also does not apply to crowd controllers, who under the Security Industry Regulation 2003, are instead required to wear an identifying number.

The creation of a new section 42A extends the previous provisions relating to exemptions for the wearing of security licences. Previously the Act provided that a security licensee can be exempted from wearing their licence by the commissioner for fair trading. An exemption may be conditional, e.g. the exemption may allow a licenced bodyguard to refrain from wearing the licence when working for certain clients (for instance, when working undercover), on the condition that the licence is worn when working for all other clients. The new section 42A creates an offence for licensees who have been granted an exemption, but do not comply with the conditions of that exemption. The maximum penalty for this offence is 10 penalty units.

This is a strict liability offence. Section 23 of the Criminal Code provides that if a law that creates an offence provides that the offence is one of strict liability, there are no fault elements for any of the physical elements of the offence. Essentially this means that conduct alone is sufficient to make the defendant culpable. However, under the Criminal Code, all strict liability offences will have a specific defence of mistake of fact. Clause 23(3) of the Criminal Code makes it clear that other defences may still be available for use in strict liability offences.

This offence has a low penalty, and addresses the potential mischief that can be caused by members of the security industry in not complying with conditions of an exemption from wearing or carrying their licence. The offence serves the public interest in ensuring that regulatory schemes are observed through the sanction of criminal penalties, and prevents potential abuse of the scheme of granting exemptions from section 42.

PART 1.15 – Security Industry Regulation 2003

Amendment 1.42 – Section 10, definition of *identification number* – substitutes the current definition with a new definition of *identification number*, to mean the number allocated to crowd controllers under section 18. This definition makes it clear that an identification number is issued to a crowd controller personally, and not to a master licensee for use by the crowd controllers that they employ for that place.

Amendment 1.43 – Section 12 – amends section 12 of the Regulation relating to identification numbers issued to crowd controllers. The amendment clarifies that a crowd controller's identification number is unique to the crowd controller, and that the duties of a master licensee to ensure that the crowd controller wears that number, is limited to the duration of the crowd controller being at that particular place.

Amendment 1.44 – New section 18 – inserts a new section 18 into the Regulation. The new section states that in issuing licences to crowd controllers, the commissioner must also allocate a unique number to that

crowd controller. This amendment clarifies that an identification number worn by a crowd controller is unique to the wearer of the number, rather than unique to the master licensee or place at which they are employed.

Schedule 2 – Amendments arising out of harmonisation of court rules – sets out the legislation amended by Schedule 2 of this Act.

Schedule 2 makes a range of minor amendments to legislation consequential to the development of the Court Procedures Rules 2006 (the rules). The rules have been developed under the *Court Procedures Act 2004*. This Act provides for the rules of the Small Claims Court, Magistrates Court, Supreme Court and Court of Appeal, dealing with the conduct and preparation of litigation, to be simplified and where possible uniform across all of the courts. The rules are made by the Rule Making Committee (which consists of the Chief Justice, the President of the Court of Appeal, a Judge, the Chief Magistrate and a Magistrate).

The rules commenced in the Supreme Court and the Court of Appeal on 1 July 2006 and will commence in the Magistrates Court and the Small Claims Court shortly.

The rules are of value to civil practitioners who presently work with different sets of precedents and practices in the different courts. The rules may reduce the incidence of errors resulting from misapplication of process or timeframe rules in the wrong jurisdiction. The rules will also lead to procedural uniformity in most of the work of the different court registries.

The development of the court rules has identified the need for a number of minor amendments to ensure that legislation is in line with the modern and up-to-date language and concepts in the rules. For example, schedule 2 makes the following changes:

- clause 2.5 amends section 9B(1)(e) of the *Administration and Probate Act 1927* to replace the word 'lodged' with the word 'filed'. The amendment ensures consistency between the language of the provision and the Court Procedures Rules 2006;
- clause 2.9 removes section 10 and 10A of the *Administration and Probate Act 1927*. The amendment removes an unnecessary conferral of jurisdiction of the Supreme Court on the registrar of the Supreme Court. The *Supreme Court Act 1933* allows the rules to confer jurisdiction of the court on the registrar;
- clause 2.77 amends section 35(3) of the *Commercial Arbitration Act 1986* to replace the word 'taxation' with 'assessment'. The amendment ensures consistency between the language and concepts of the provision and the Court Procedures Rules 2006;
- clause 2.92 inserts a new part 12 into the *Court Procedures Act 2004*. It provides transitional provisions relating to the new harmonised rules of the Supreme Court and the Magistrates Court; and
- clause 2.116 inserts a new subsection 170(8) into the *Land Titles Act 1925*, to insert a definition of **writ of execution**. This amendment

takes account of the new enforcement processes under the Court Procedure Rules 2006.