



Court Security Act 2013

No. 128, 2013

An Act to enhance the security of persons and premises connected with courts, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Court Security Act 2013

No. 128, 2013

An Act to enhance the security of persons and premises connected with courts, and for related purposes

[Assented to 1 July 2013]

The Parliament of Australia enacts:

Court Security Act 2013 No. 128, 2013 1

Part 1 Preliminary

Section 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Court Security Act 2013*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	1 July 2013
2. Sections 3 to 52	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 January 2014

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Object of this Act

The main object of this Act is to ensure:

- (a) the secure and orderly operation of courts; and
- (b) the safety of persons on, and going to and from, court premises.

4 Simplified outline of this Act

- (1) The following is a simplified outline of this Act.
 - (2) The rest of this Part defines terms used in this Act and deals with the scope of this Act.
 - (3) Part 2 provides for the appointment and powers of security officers and authorised court officers in relation to court premises, and complaints about the exercise of those powers by those officers. The powers include:
 - (a) requesting a person who is seeking to enter, or is on, court premises to:
 - (i) undergo screening or a frisk search; or
 - (ii) give the person's name and address and evidence of the person's identity; or
 - (iii) leave dangerous items or recording or transmitting devices; and
 - (b) refusing a person entry to court premises, preventing a person from entering court premises, directing a person to leave court premises or removing a person from court premises, if:
 - (i) the person does not comply with a request; or
 - (ii) the person is harassing or intimidating a person on the premises, threatening violence to a person or property on the premises or committing an offence on the premises; and
 - (c) escorting a person to and from court premises, and giving directions in the course of doing so.
 - (4) Part 3 prohibits certain conduct connected with court premises, including:
 - (a) possessing a weapon on court premises; and
 - (b) making an unauthorised recording or transmission of proceedings in a court or associated events, in certain parts of court premises; and
-

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- (c) unreasonably obstructing a person's entry to, or activity on, court premises.
- (5) Part 4 allows certain members of certain courts to make orders to prevent ongoing disruption of those courts or violence affecting persons or property connected with those courts.
- (6) Part 5 deals with various matters.

5 Definitions

In this Act:

administrative head of a court means the person identified in the table for the court:

Administrative head of a court	
Court	Administrative head
1 High Court	Chief Executive and Principal Registrar appointed under section 18 of the <i>High Court of Australia Act 1979</i>
2 Federal Court of Australia	Registrar appointed under section 18C of the <i>Federal Court of Australia Act 1976</i>
3 Family Court of Australia	Chief Executive Officer appointed under section 38C of the <i>Family Law Act 1975</i>
4 Military Court of Australia	Registrar appointed under section 18C of the <i>Federal Court of Australia Act 1976</i>
5 Family Court of Western Australia	Director General of the Department of the Attorney General of Western Australia or, if no such position exists, a person prescribed by the regulations
6 Federal Circuit Court of Australia	Chief Executive Officer, within the meaning of the <i>Federal Circuit Court of Australia Act 1999</i>
7 A federal court not covered by item 1, 2, 3, 4 or 6	The chief officer, other than a judicial officer, with responsibility for managing, or assisting a judicial officer in managing, the administrative affairs of the court
8 Administrative	Registrar appointed under section 24C of the

Administrative head of a court	
Court	Administrative head
Appeals Tribunal	<i>Administrative Appeals Tribunal Act 1975</i>
9 Tribunal covered by paragraph (d) of the definition of <i>court</i>	Person prescribed by the regulations for the tribunal

AFP member means:

- (a) a member of the Australian Federal Police (as defined in the *Australian Federal Police Act 1979*); or
- (b) a special member (as defined in that Act).

authorised court officer means a person appointed under section 10 as an authorised court officer.

court means:

- (a) a federal court; or
- (b) the Family Court of Western Australia; or
- (c) the Administrative Appeals Tribunal; or
- (d) a tribunal that is prescribed by the regulations for the purposes of this paragraph.

court premises means:

- (a) any premises occupied or used (whether permanently or temporarily or under a lease or otherwise) in connection with the sittings, or any other operations, of a court; or
- (b) premises specified in an order in force under section 6.

Note: Some examples of premises occupied or used in connection with the sittings or other operations of a court include:

- (a) a courthouse; and
- (b) premises containing a registry of a court; and
- (c) premises used to enable a person to appear before a court by means of facilities that enable audio and/or visual communications between persons at different places; and
- (d) court parking areas, driveways, courtyards and forecourts.

court security order means an order made under Part 4.

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dangerous item means:

- (a) a weapon; or
- (b) an item that is or could be used in a dangerous or threatening way.

data storage device means any article or material (for example, a disk) from which a recording can be reproduced, with or without the aid of any other article or device.

frisk search means:

- (a) a search of a person conducted by quickly running the hands over the person's outer garments; and
- (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

identity card means:

- (a) an identity card issued under section 12; or
- (b) an identity card described in section 13.

member of a court means:

- (a) a Justice (including a Chief Justice) of a court; or
- (b) a Judge (including a Chief Judge or Deputy Chief Judge) of a court; or
- (c) a registrar or a deputy registrar of a court; or
- (d) a member (however described) of the Administrative Appeals Tribunal or a tribunal that is prescribed by the regulations for the purposes of paragraph (d) of the definition of ***court***.

police officer means:

- (a) an AFP member; or
- (b) a member (however described) of a police force of a State or Territory.

premises means:

- (a) an area of land or any other place (whether or not it is enclosed or built-on); or
- (b) a building or other structure; or
- (c) a part of any such premises.

recording device means a device for recording one or more of the following:

- (a) sound;
- (b) still or moving images.

screening equipment means a metal detector or a device for detecting objects or particular substances.

security officer means:

- (a) a person appointed under section 9 as a security officer; or
- (b) any of the following:
 - (i) an AFP member;
 - (ii) a protective service officer (as defined in the *Australian Federal Police Act 1979*);
 - (iii) a special protective service officer (as defined in that Act).

transmitting device means a device for transmitting one or more of the following:

- (a) sound;
- (b) still or moving images;

regardless of the means and form of the transmission and regardless of what equipment is needed to make any sound transmitted by the device readily audible and any images transmitted by the device readily visible.

undergo a screening procedure: a person **undergoes a screening procedure** if:

- (a) the person walks, or is moved, through screening equipment;
or
- (b) handheld screening equipment is passed over or around the person or around things in the person's possession; or
- (c) things in the person's possession are passed through screening equipment or examined by X-ray.

6 Orders identifying court premises

- (1) The administrative head of a court may make a written order (a **court premises order**) specifying particular premises for the

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purposes of paragraph (b) of the definition of *court premises* in section 5.

- (2) The administrative head of a court may make a court premises order in respect of particular premises only if he or she is satisfied that the premises are likely to be occupied or used (whether permanently or temporarily or under a lease or otherwise) in connection with a sitting, proceeding or any other operation of the court.
 - (3) A court premises order:
 - (a) must describe the premises to which it relates; and
 - (b) has effect:
 - (i) for the period specified in the order (unless it is revoked before the end of that period); or
 - (ii) if no period is so specified—until it is revoked.
- Note: Subsection 33(3) of the *Acts Interpretation Act 1901* deals with revocation.
- (4) If the administrative head of a court makes a court premises order, he or she must give notice of the order to any person likely to be directly affected by the order.
 - (5) The administrative head of a court may give notice of a court premises order as required by subsection (4):
 - (a) by doing both of the following:
 - (i) ensuring that, before the premises to which the order relates are occupied or used as mentioned in subsection (2), a copy of the order is posted in a prominent place in the vicinity of the premises;
 - (ii) ensuring that, if the premises are occupied or used for the purposes of a sitting or proceeding, an announcement is made at the beginning of, or during, the sitting or proceeding describing the order and the effect of the order; and
 - (b) if regulations described in subsection (6) are in force in relation to the giving of such notice—by complying with the requirements prescribed by the regulations.

- (6) The regulations may make provision for one or more of the following in relation to the giving of notice as required by subsection (4):
 - (a) the form of the notice;
 - (b) the manner of giving the notice;
 - (c) the content of the notice.
- (7) A court premises order is not a legislative instrument.

7 This Act binds the Crown

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

8 Extension to external Territories

This Act extends to every external Territory.

Part 2—Security officers and authorised court officers

Division 1—Appointment of security officers and authorised court officers

9 Appointment of security officers

The administrative head of a court may appoint in writing a person who has the qualifications prescribed by the regulations as a security officer for court premises generally or for specified court premises.

Note: Under section 33, a security officer appointed under this section may exercise powers as a security officer at court premises only if licensed under the law of a State or Territory to guard property or prescribed by the regulations.

10 Appointment of authorised court officers

The administrative head of a court may appoint in writing a person who has completed the training prescribed by the regulations as an authorised court officer for court premises generally or for specified court premises.

11 Appointment may relate to any court premises

The administrative head of a court (the *appointer*) may appoint a person as a security officer or an authorised court officer for:

- (a) court premises of the court of which the appointer is the administrative head; or
- (b) other court premises.

12 Identity cards

- (1) An administrative head of a court must issue an identity card to a person appointed by the administrative head as a security officer or an authorised court officer.

Form of identity card

- (2) The identity card must:
- (a) be in the form prescribed by the regulations; and
 - (b) contain a recent photograph of the person.

Offence

- (3) A person commits an offence if:
- (a) the person has been issued with an identity card under subsection (1); and
 - (b) the person ceases to be a security officer or an authorised court officer; and
 - (c) the person does not, as soon as practicable after so ceasing, return the identity card to the administrative head of the court whose administrative head appointed the person as a security officer or an authorised court officer.

Penalty: 1 penalty unit.

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

Note: For strict liability, see section 6.1 of the *Criminal Code*.

Defence—card lost or destroyed

- (5) Subsection (3) does not apply if the identity card was lost or destroyed.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5); see subsection 13.3(3) of the *Criminal Code*.

13 Exception to requirement to issue identity card

An administrative head of a court is not required to issue an identity card under section 12 to a person if:

- (a) the person holds an identity card issued to the person by:
 - (i) a State or Territory authority responsible for licensing persons to guard property; or
 - (ii) a person or body prescribed by the regulations; and
- (b) the identity card contains a recent photograph of the person.

Part 2 Security officers and authorised court officers

Division 2 Requests that may be made of persons seeking to enter, or on, court premises

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Division 2—Requests that may be made of persons seeking to enter, or on, court premises

14 Requests relating to screening etc.

- (1) A security officer may request a person who is seeking to enter, or is on, court premises to undergo a screening procedure.
- (2) A security officer or an authorised court officer may request a person who is seeking to enter, or is on, court premises to do any of the following:
 - (a) remove his or her overcoat, coat or jacket and any gloves, shoes or hat;
 - (b) remove items from his or her pockets;
 - (c) produce an item in the person's possession for inspection;
 - (d) if a security officer or an authorised court officer reasonably believes that an item in the person's possession may be a dangerous item—answer reasonable questions about the item.

Note: Divisions 3 and 4 deal with the powers of security officers and authorised court officers if the person does not comply with the request.

15 Requests relating to identification etc.

- (1) A security officer or an authorised court officer may request that a person who is seeking to enter, or is on, court premises:
 - (a) inform a security officer or an authorised court officer of the person's name, residential address and reason for seeking to enter, or being on, court premises; and
 - (b) provide evidence of identity;if a security officer or an authorised court officer reasonably believes that the person:
 - (c) is harassing or intimidating another person; or
 - (d) is causing a reasonable apprehension of either violence to a person on the court premises or damage to the court premises; or

- (e) is significantly disrupting proceedings of a court, administration of a court or lawful activities on the court premises; or
- (f) has committed, is likely to commit or intends to commit an offence on, or in relation to, the court premises.

Note: Divisions 3 and 4 deal with the powers of security officers and authorised court officers if the person does not comply with the request.

- (2) A person commits an offence if:
 - (a) a security officer or an authorised court officer makes a request of the person under subsection (1); and
 - (b) when, or as soon as practicable after, making the request, the officer informs the person that the person may commit an offence if he or she does not:
 - (i) comply with the request; or
 - (ii) if the person is on court premises—immediately leave the premises; or
 - (iii) if the person is seeking to enter court premises—cease to seek to enter the premises; and
 - (c) the person does not do any of those things.

Penalty: 20 penalty units.

16 Requests to leave dangerous items for safekeeping

- (1) A security officer or an authorised court officer may request a person who is seeking to enter, or is on, court premises to give a dangerous item to a security officer or an authorised court officer for safekeeping while the person is on court premises.

Note: Divisions 3 and 4 deal with the powers of security officers and authorised court officers if the person does not comply with the request.

- (2) If a security officer or an authorised court officer has been given a dangerous item under subsection (1), the officer must return the item to the person when the person is about to leave the court premises, if requested to do so by the person.

Part 2 Security officers and authorised court officers

Division 2 Requests that may be made of persons seeking to enter, or on, court premises

Section 17

- (3) Despite subsection (2), a security officer or an authorised court officer may seize a dangerous item that a person has given to a security officer or an authorised court officer under subsection (1), if a security officer or an authorised court officer reasonably suspects that:
- (a) the dangerous item has been, or is likely to be, used in the commission of an offence on the court premises; or
 - (b) the dangerous item is a firearm or other weapon whose possession by the person is prohibited by a law of the State or Territory in which the court premises are located; or
 - (c) returning the item under subsection (2) is likely to give rise to an imminent threat to the safety of any person.
- (4) Despite subsection (2), a security officer or an authorised court officer who seizes a dangerous item under subsection (3) must give the item to a police officer as soon as reasonably practicable.

17 Requests relating to recording, data storage and transmitting devices

Request to give device to a security officer or an authorised court officer

- (1) A security officer or an authorised court officer may request a person who is seeking to enter, or is on, court premises to give a recording device, a data storage device or a transmitting device to a security officer or an authorised court officer, if the officer making the request reasonably suspects that the device has been, is being or will be used for:
- (a) making or storing a recording (an ***unauthorised recording***) covered by subsection (2); or
 - (b) making a transmission (an ***unauthorised transmission***) covered by subsection (2).

Note: Non-compliance with the request may be an offence against section 18.

- (2) This subsection covers a recording or transmission that either:

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- (a) is or will be of proceedings in a court and was, is or will be made without express permission of a member of the court; or
- (b) is or will be of another event relating to proceedings or proposed proceedings in a court on the court premises and was, is or will be made without express permission of the administrative head of:
 - (i) a court in connection with whose sittings or other operations the premises are used; or
 - (ii) a court whose administrative head made an order under section 6 specifying the premises.

Seizure of device for non-compliance with request

- (3) A security officer may seize a recording device, data storage device or transmitting device from a person who is on court premises and has not complied with a request under subsection (1) to give the device to a security officer or an authorised court officer.

Inspection and operation of device

- (4) If a security officer or an authorised court officer has been given a device by a person under subsection (1) or has seized a device from a person under subsection (3), a security officer or an authorised court officer may do one or more of the following for the purposes of determining whether it has been, is being or will be used for making or storing an unauthorised recording or for making an unauthorised transmission:
 - (a) inspect the device;
 - (b) request the person to allow a security officer or an authorised court officer to operate the device;
 - (c) request the person to help a security officer or an authorised court officer to operate the device;
 - (d) request the person to operate the device.

Deletion of unauthorised recordings

- (5) After the device has been inspected or operated under subsection (4), a security officer or an authorised court officer may,
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Part 2 Security officers and authorised court officers

Division 2 Requests that may be made of persons seeking to enter, or on, court premises

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after informing the person that it may be an offence to use a recording device to make an unauthorised recording or to use a transmitting device to make an unauthorised transmission, make either or both of the following requests of the person:

- (a) a request not to use the device to make or store an unauthorised recording or to make an unauthorised transmission;
- (b) a request to delete any unauthorised recordings from the device.

Security officer's and authorised court officer's powers if request under subsection (4) or (5) not complied with

- (6) If a security officer or an authorised court officer makes a request of a person under subsection (4) or (5) relating to a device and the person does not comply with the request, a security officer or an authorised court officer may:
 - (a) seize the device; and
 - (b) operate the device for the purposes of determining whether it has been, is being or will be used for making or storing an unauthorised recording or for making an unauthorised transmission; and
 - (c) if the device is being used for making an unauthorised recording or an unauthorised transmission—stop and temporarily prevent that use of the device or give the device to a police officer; and
 - (d) if there are any unauthorised recordings on the device—either delete them or give the device to a police officer.

Note 1: Non-compliance with the request may also be an offence against section 18.

Note 2: Section 49 provides for compensation if the device is damaged as a result of certain action under this section.

- (7) After the security officer or authorised court officer finishes deleting unauthorised recordings from the device under paragraph (6)(d), he or she must return the device to the person.

18 Offence—non-compliance with a request under section 17

Request to give a device to a security officer or an authorised court officer

- (1) A person commits an offence if:
- (a) a security officer or an authorised court officer makes a request of the person under subsection 17(1); and
 - (b) when, or as soon as practicable after, making the request, the officer informs the person that the person may commit an offence if he or she does not:
 - (i) comply with the request; or
 - (ii) if the person is seeking to enter court premises—cease to seek to enter the premises; and
 - (c) the person does not do either of those things.

Penalty: 20 penalty units.

Request relating to operation of device or deletion of unauthorised recordings

- (2) A person commits an offence if:
- (a) a security officer or an authorised court officer makes a request of the person under subsection 17(4) or (5); and
 - (b) when, or as soon as practicable after, making the request, the officer informs the person that the person may commit an offence if he or she does not comply with the request; and
 - (c) the person does not comply with the request.

Penalty: 20 penalty units.

19 Requests to undergo a frisk search

- (1) A security officer may request a person who is seeking to enter, or is on, court premises to undergo a frisk search.
- (2) If the person agrees to undergo a frisk search, the search may be conducted only by:
- (a) a security officer of the same sex as the person; or

Part 2 Security officers and authorised court officers

Division 2 Requests that may be made of persons seeking to enter, or on, court premises

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- (b) if there is not a security officer of the same sex as the person available to conduct the search—a member of the staff of a court, who:
 - (i) is of the same sex as the person; and
 - (ii) has been requested by a security officer to conduct the search; and
 - (iii) has agreed to the request; and
 - (iv) conducts the search in the presence of a security officer;or
- (c) if there is no-one available to conduct the search in accordance with paragraph (a) or (b)—any security officer.

Division 3—Power to refuse entry to or direct a person to leave court premises etc.

20 Non-compliance with request under Division 2

A security officer or an authorised court officer may refuse a person entry to court premises, or direct a person to leave court premises, if:

- (a) a security officer or an authorised court officer has made a request of the person under Division 2; and
- (b) the person does not comply with the request.

21 Harassment etc.

A security officer or an authorised court officer may refuse a person entry to court premises, or direct a person to leave court premises, if the officer reasonably believes that the person:

- (a) is harassing or intimidating another person; or
- (b) is causing a reasonable apprehension of either violence to a person on the court premises or damage to the court premises; or
- (c) is significantly disrupting proceedings of a court, administration of a court or lawful activities on the court premises; or
- (d) has committed, is likely to commit or intends to commit an offence on or in relation to the court premises.

22 General directions power

- (1) A security officer or an authorised court officer may direct a person on court premises to do a thing, or not to do a thing, if the officer reasonably believes that the person:
 - (a) is harassing or intimidating another person; or
 - (b) is causing a reasonable apprehension of either violence to a person on the court premises or damage to the court premises; or

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Division 3 Power to refuse entry to or direct a person to leave court premises etc.

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- (c) is significantly disrupting proceedings of a court, administration of a court or lawful activities on the court premises; or
 - (d) has committed, is likely to commit or intends to commit an offence on or in relation to the court premises.
- (2) A direction under subsection (1) must be reasonable in the circumstances for the purpose of:
- (a) reducing or eliminating the harassment, the intimidation, the apprehension of violence or damage or the disruption; or
 - (b) dealing with or preventing the offence.

23 Offence—non-compliance with a direction

A person commits an offence if:

- (a) a security officer or an authorised court officer gives the person a direction under section 20, 21 or 22; and
- (b) when, or as soon as practicable after, giving the direction, the officer informs the person that the person may commit an offence if he or she does not comply with the direction; and
- (c) the person does not comply with the direction.

Penalty: 20 penalty units.

Division 4—Power to prevent entry to or remove a person from court premises etc.

24 Non-compliance with a request under Division 2 or direction under Division 3

A security officer may prevent a person from entering court premises, or remove a person from court premises, if:

- (a) a security officer or an authorised court officer has made a request of the person under Division 2 or given the person a direction under Division 3; and
- (b) the person does not comply with the request or direction.

25 Harassment etc.

A security officer may prevent a person from entering court premises, or remove a person from court premises, if the officer reasonably believes that the person:

- (a) is harassing or intimidating another person; or
- (b) is causing a reasonable apprehension of either violence to a person on the court premises or damage to the court premises; or
- (c) is significantly disrupting proceedings of a court, administration of a court or lawful activities on the court premises; or
- (d) has committed, is likely to commit or intends to commit an offence on or in relation to the court premises.

26 Use of force in exercising power under this Division

A security officer may use only such force as is necessary and reasonable in the circumstances in exercising a power under section 24 or 25 to prevent a person from entering court premises or remove a person from court premises.

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27 Power to seize dangerous item

- (1) A security officer (the *seizing officer*) may seize a dangerous item from a person on court premises if either:
 - (a) the person has not complied with a request by a security officer or an authorised court officer under section 16 for the person to give the item to a security officer or an authorised court officer for safekeeping; or
 - (b) the seizing officer reasonably believes that it is necessary to seize the item:
 - (i) to stop an imminent threat to the safety of a person on the court premises; or
 - (ii) to stop an imminent threat of serious damage to property on the court premises; or
 - (iii) to prevent or stop the commission of an offence on the court premises.
- (2) A security officer may use only such force as is necessary and reasonable in the circumstances in seizing a dangerous item under this section.
- (3) A security officer who seizes a dangerous item from a person under this section must either:
 - (a) ensure that the item is given to a police officer as soon as reasonably practicable; or
 - (b) return the item to the person when the person is about to leave the premises, if the person requests the return of the item and the security officer is satisfied of all of the following:
 - (i) the item has not been, and is not likely to be, used in the commission of an offence on the court premises;
 - (ii) the item is not a firearm or other weapon whose possession by the person is prohibited by a law of the State or Territory in which the court premises are located;
 - (iii) returning the item to the person is not likely to give rise to an imminent threat to the safety of any person.

28 Power to detain a person

- (1) A security officer may detain a person on court premises for the purposes of delivering the person into the custody of a police officer, if a security officer reasonably believes that the person:
 - (a) has committed, or attempted to commit, an offence on the premises; and
 - (b) must be detained to prevent violence to a person on the court premises or serious damage to the court premises.
- (2) A security officer may use only such force as is necessary and reasonable in the circumstances in detaining a person under this section.
- (3) A security officer who detains a person under this section:
 - (a) must ensure that the person is delivered into the custody of a police officer as soon as possible to be dealt with according to law for the alleged offence; and
 - (b) must inform the person in general terms of the alleged offence, unless:
 - (i) it is reasonable to expect that the person knows of his or her alleged commission of the offence or attempt to commit it; or
 - (ii) it is impracticable for the security officer to do so.

Division 5—Power to escort people to and from court premises

29 Security officer may escort people

A security officer may escort a person:

- (a) from court premises to a nearby place where transport to another place is available to the person; or
- (b) to court premises from a nearby place to which the person has been transported as part of a journey to the court premises;

if the officer reasonably believes that escorting the person will assist in ensuring the person's safety in connection with the person's attendance at the court premises.

30 Use of force in escorting

In escorting a person under section 29, a security officer may use only such force as is necessary and reasonable in the circumstances to prevent or lessen an imminent threat to the safety of the person or a security officer.

31 General directions power

A security officer may, in the course of escorting a person under section 29, direct another person to do a thing, or not to do a thing, if the officer reasonably believes that the direction is necessary in the circumstances for the purpose of ensuring the safety of the person or a security officer.

32 Offence—non-compliance with a direction

A person commits an offence if:

- (a) a security officer gives the person a direction under section 31; and
- (b) when, or as soon as practicable after, giving the direction, the officer informs the person that the person may commit an offence if he or she does not comply with the direction; and

(c) the person does not comply with the direction.

Penalty: 20 penalty units.

Division 6—General provisions about exercise of security officers' and authorised court officers' powers

33 Where powers may be exercised

A person appointed as a security officer or an authorised court officer may exercise the powers, and perform the duties, of a security officer or an authorised court officer in relation to court premises only if:

- (a) the premises are ones for which the person is appointed as a security officer or an authorised court officer; and
- (b) if the person is a security officer—the person is also:
 - (i) licensed under a law of a State or Territory to guard property (whether or not the premises are in that State or Territory); or
 - (ii) prescribed by the regulations.

Note: This section does not limit any of the following persons in exercising the powers, or performing the duties, of a security officer:

- (a) an AFP member;
- (b) a protective service officer (as defined in the *Australian Federal Police Act 1979*);
- (c) a special protective service officer (as defined in that Act).

34 Production of identification when exercising power as a security officer or an authorised court officer

- (1) When exercising a power, or performing a duty, as a security officer or an authorised court officer in relation to a person, the officer must carry:
 - (a) the officer's identity card, if the officer is appointed as a security officer or an authorised court officer; or
 - (b) identification of the officer as any of the following, if the officer is one of them:
 - (i) an AFP member;
 - (ii) a protective service officer (as defined in the *Australian Federal Police Act 1979*);

- (iii) a special protective service officer (as defined in that Act).
- (2) If the person requests the officer to show the person his or her identity card or identification, the officer must:
- (a) do so when requested; or
 - (b) if it is not reasonably practicable to do so when requested—do so as soon as reasonably practicable after that.
- (3) Despite subsection (2), if a security officer exercises a power under Division 4, the officer must show the person the officer's identity card before exercising the power, or if that is not reasonably practicable, as soon as reasonably practicable after exercising the power.
- (4) Despite subsection (2), if a security officer gives a direction to a person under section 31, the officer must show the person the officer's identity card before giving the direction or, if that is not reasonably practicable, as soon as reasonably practicable after giving the direction.

Division 7—Complaints about security officers and authorised court officers

35 Complaints about security officers and authorised court officers

- (1) A person may make a written complaint to the administrative head of a court about conduct of a security officer or an authorised court officer purporting to exercise a power or perform a duty under this Act in relation to court premises that:
 - (a) are occupied or used in connection with sittings or other operations of the court; or
 - (b) are the subject of an order made under section 6 by the administrative head of the court.

Note: Under the *Ombudsman Act 1976*, the Ombudsman may also investigate such conduct, either because a complaint is made to the Ombudsman or on his or her own initiative.

- (2) The administrative head must deal with the complaint in accordance with the regulations.
- (3) This section does not apply to the administrative head of the Family Court of Western Australia.

36 Reports to Ombudsman about complaints

- (1) As soon as practicable after the end of a financial year, the administrative head of a court must give the Ombudsman a report:
 - (a) stating whether any complaints were made to the administrative head under section 35 in the financial year; and
 - (b) if any such complaints were made—indicating how each of them has been dealt with.
- (2) This section does not apply to the administrative head of the Family Court of Western Australia.

37 Complaints to administrative head of Family Court of Western Australia

- (1) This section applies if an arrangement is in force between the Commonwealth and Western Australia for the administrative head of the Family Court of Western Australia to perform the duty imposed by subsection (2).
- (2) The administrative head must deal, in accordance with the regulations, with a written complaint made by a person to the administrative head about conduct of a security officer or an authorised court officer purporting to exercise a power or perform a duty under this Act in relation to court premises that:
 - (a) are occupied or used in connection with sittings or other operations of the Family Court of Western Australia; or
 - (b) are the subject of an order made under section 6 by the administrative head.

Part 3—Offences

38 Offence—possessing weapon on court premises

- (1) A person must not possess a weapon on court premises.

Penalty: Imprisonment for 12 months.

- (2) Subsection (1) does not apply to:

- (a) the possession of a weapon by a member of a court, security officer, authorised court officer, police officer or member of staff of a court in the performance of his or her duties; or
- (b) the possession of a weapon by a person in the performance of duties that the person, or the person's employer, has under a contract to assist the operation of a court; or
- (c) the possession of a weapon that is, or is to be, evidence before a court for whose sittings or other operations the court premises are used or occupied.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

39 Offence—making an unauthorised recording or transmission on court premises

- (1) A person in a building that is wholly court premises, or on court premises that are merely part of a building, must not make a recording or transmission of sound, or of one or more still or moving images, associated with:

- (a) proceedings in a court; or
- (b) an event associated with proceedings or proposed proceedings in a court.

Penalty: 30 penalty units.

- (2) Subsection (1) does not apply to any of the following:

- (a) a recording or transmission expressly permitted by a member of the court;

- (b) a recording or transmission associated with an event described in paragraph (1)(b) and expressly permitted by the administrative head of the court;
- (c) a recording or transmission that relates to an event that occurs in a part of the building other than a room where the court is sitting, and is expressly permitted by the administrative head of the court;
- (d) a recording or transmission connected with official surveillance of the court premises for enhancing the security of the premises or persons on them;
- (e) a recording or transmission by a person for the purpose of preparing an official transcript of court proceedings;
- (f) a recording or transmission in the course of the operation of a hearing aid;
- (g) a recording or transmission by a lawyer of the lawyer's own voice in a part of the building other than a room where a court is sitting;
- (h) a recording or transmission prescribed by the regulations.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

- (3) It is a defence to a prosecution of an offence against subsection (1) for the making of a recording that the person:
- (a) as soon as practicable after realising he or she contravened that subsection, either:
 - (i) destroyed the recording and all copies (if any) of the recording; or
 - (ii) gave the recording and all copies (if any) of it to a security officer or an authorised court officer and permitted a security officer, authorised court officer or police officer to destroy the recording and copies; and
 - (b) did not give the recording or a copy of it to another person before taking the action described in subparagraph (a)(i) or (ii).

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

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40 Offence—obstructing entry to, or activity on, court premises

A person must not do an act that unreasonably obstructs another person's entry to, or activity on, court premises.

Penalty: Imprisonment for 6 months.

Part 4—Court security orders

41 Making a court security order

Making the order

- (1) A member of the Family Court of Australia, the Family Court of Western Australia or the Federal Circuit Court of Australia may, on application under section 42, make an order prohibiting (absolutely or conditionally) a specified person from doing a specified act for a specified period, if the member is satisfied that, unless the order is made, there is:
 - (a) an ongoing risk of significant disruption of any of the following:
 - (i) proceedings of the member's court;
 - (ii) administration of the member's court;
 - (iii) lawful activities on court premises of the member's court; or
 - (b) a risk of violence (to person or property) affecting one or more of the following:
 - (i) the member's court;
 - (ii) a member or official of the member's court;
 - (iii) a person on court premises of the member's court.

Content of the order

- (2) Examples of the acts that may be specified in the order include the following:
 - (a) entering specified court premises of the member's court;
 - (b) coming within a specified distance of specified court premises of the member's court;
 - (c) contacting, harassing or intimidating a person on specified court premises of the member's court or a member or official of the member's court;
 - (d) damaging property on specified court premises of the member's court;
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- (e) arranging for a person to do an act described in paragraph (c) or (d).
- (3) The order must not prevent the specified person from conducting legitimate business the person has on court premises.
- (4) Some examples of legitimate business a person has on court premises are:
 - (a) filing or viewing documents relating to proceedings or proposed proceedings to which the person is or is proposed to be a party; and
 - (b) attending a hearing of proceedings to which the person is a party or in which the person is appearing as a witness (whether or not there is an order of a court requiring the person to attend).

This subsection does not limit what legitimate business a person may have on court premises.

Considerations in making the order

- (5) In deciding whether to make an order under subsection (1) and the terms of such an order, the member must consider the following:
 - (a) the objects of this Act;
 - (b) any hardship that may be caused to anyone by the making of the order;
 - (c) any previous violence (to person or property) by the person to be specified in the order;
 - (d) any order made under a law of the Commonwealth, a State, a Territory or New Zealand to protect a person or property from violence by the person to be specified in the order under subsection (1);
 - (e) any contravention of an order described in paragraph (d);
 - (f) the need to ensure that persons and property on court premises are protected;
 - (g) how to achieve the objects of this Act and reduce to an acceptable level the risks described in subsection (1) while minimising restrictions on the rights and liberties of the person to be specified in the order;

- (h) arrangements for security and safety of persons and property on court premises on which the person to be specified in the order is conducting legitimate business the person has on those premises.
- (6) Subsection (5) does not limit the matters the member may consider.

Limits on registrars and deputy registrars making orders

- (7) Despite subsection (1), a registrar or deputy registrar cannot make a court security order unless he or she is:
 - (a) the Principal Registrar, or a Registrar, of the Family Court of Western Australia; and
 - (b) a magistrate under the *Magistrates Court Act 2004* (WA).

42 Application for a court security order

- (1) An order under section 41 may be made on application by the administrative head of the court to which the order is proposed to relate.
- (2) The applicant must inform the person proposed to be specified in the order of the making of the application.
- (3) The person proposed to be specified in the order is entitled to be heard on the application.

43 Interim court security order

- (1) If an application is made to a member of a court for an order under section 41, the member may make the order as an interim order without:
 - (a) determining the merits of the application; or
 - (b) considering the matters listed in subsection 41(5), except paragraph 41(5)(h); or
 - (c) hearing the person proposed to be specified in the order.
- (2) If the member makes the order as an interim order, he or she must determine the application for the order under section 41 as soon as reasonably practicable.

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44 When a court security order has effect

- (1) A court security order specifying a person takes effect when the person is given written notice of the order or, if the person is present at the making of the order, when the order is made.
- (2) An order under section 41 ceases to have effect at the end of the period specified in the order.
- (3) An interim order made as a result of an application under section 42 ceases to have effect:
 - (a) if an order (the *substantive order*) is made on determination of the application—at the time the substantive order takes effect; and
 - (b) otherwise—when the application is determined.

45 Variation and revocation

A member of a court who may make a court security order may vary or revoke a court security order relating to the member's court.

46 Offence—non-compliance with a court security order

A person commits an offence if:

- (a) the person does an act; and
- (b) the act contravenes a court security order.

Penalty: Imprisonment for 12 months.

47 Maker of court security order need not be disqualified from certain proceedings

If a member of a court makes a court security order specifying a person, the member is not required to disqualify himself or herself from hearing other proceedings to which the person is or later becomes a party.

Part 5—Miscellaneous

48 Immunity of security officers and authorised court officers

- (1) An action, suit or proceeding (whether criminal or civil) does not lie against a security officer or an authorised court officer in relation to an act done, or omitted to be done, in good faith by the officer in the performance or exercise, or the purported performance or exercise, of any function, duty or power under, or in relation to, this Act.
- (2) Subsection (1) does not relieve the Commonwealth or an employer of the officer of any civil liability the Commonwealth or employer would have had for the officer's act or omission apart from that subsection.

49 Compensation for damage to recording, data storage or transmitting devices

- (1) This section applies if:
 - (a) as a result of a security officer or an authorised court officer operating a device either as a result of a request made under paragraph 17(4)(b) or under paragraph 17(6)(b) or stopping or preventing the use of a device under paragraph 17(6)(c):
 - (i) damage is caused to the device; or
 - (ii) the data recorded on the device, other than an unauthorised recording within the meaning of section 17, is damaged; and
 - (b) the damage occurs because the security officer or authorised court officer did not take sufficient care in operating the device or stopping or preventing the use of the device.
- (2) The Commonwealth must pay the owner of the device or the damaged data such reasonable compensation for the damage as the Commonwealth and the owner agree on.
- (3) However, if the owner and the Commonwealth fail to agree, the owner may institute proceedings in the Federal Court of Australia

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for such reasonable amount of compensation as the Court determines.

- (4) In determining the amount of compensation payable, regard is to be had to whether the person who gave the device to a security officer or an authorised court officer on request under subsection 17(1), or from whom the device was seized under subsection 17(3) or paragraph 17(6)(a), complied with a request under paragraph 17(4)(b), (c) or (d) or subsection 17(5).
- (5) For the purposes of subsection (1):

damage, in relation to data, includes damage by erasure of data.

50 Relationship between this Act and other powers and laws

- (1) This Act does not limit the powers that any of the following has apart from this Act:
 - (a) a court;
 - (b) a member of a court;
 - (c) an administrative head of a court;
 - (d) a person who is a security officer or an authorised court officer.
- (2) A power under this Act does not extend to doing anything expressly forbidden by an order of a court or judicial officer.
- (3) This Act is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act.

51 Delegation

The administrative head of a court mentioned in the table may delegate in writing all or any of the administrative head's powers and functions under sections 9, 10, 11 and 12 and paragraphs 17(2)(b) and 39(2)(b) and (c) to a person identified in the table for the court.

Persons to whom administrative head of a court may delegate	
Court	Persons to whom administrative head of the court may delegate
1 Federal Court of Australia	The District Registrar of the Federal Court of Australia for each District Registry, and the Sheriff of the Federal Court of Australia, appointed under section 18N of the <i>Federal Court of Australia Act 1976</i>
2 Family Court of Australia	The Marshal of the Family Court of Australia appointed under section 38N of the <i>Family Law Act 1975</i>
3 Military Court of Australia	The Deputy Registrars and Sheriff of the Military Court of Australia appointed under section 38 of the <i>Military Court of Australia Act 2013</i>
4 Family Court of Western Australia	The Marshal of the Family Court of Western Australia appointed under paragraph 25(1)(e) of the <i>Family Court Act 1997 (WA)</i>
5 Federal Circuit Court of Australia	The Marshal of the Federal Circuit Court of Australia appointed under section 99 of the <i>Federal Circuit Court of Australia Act 1999</i>
6 A federal court (except the High Court) not covered by item 1, 2, 3 or 5	An officer or member of staff of the court who is prescribed by the regulations
7 Administrative Appeals Tribunal	A District Registrar appointed under subsection 24N(2) of the <i>Administrative Appeals Tribunal Act 1975</i>
8 Tribunal covered by paragraph (d) of the definition of <i>court</i> in section 5	Persons prescribed by the regulations for the tribunal

52 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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*[Minister's second reading speech made in—
House of Representatives on 20 March 2013
Senate on 16 May 2013]*

(71/13)
