

Queensland



ANNO TRICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

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No. 22 of 1983

**An Act to provide for the protective security of law courts and State buildings, for the establishment of a State Government Protective Security Service as part of the Public Service of Queensland and for the functions, powers and duties of the members thereof and for related purposes**

[ASSENTED TO 19TH APRIL, 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

**1. Short title.** This Act may be cited as the *Law Courts and State Buildings Protective Security Act 1983*.

**2. Commencement.** (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as is provided by subsection (1), the provisions of this Act shall commence on a date to be appointed by Proclamation.

The date so appointed is in this Act referred to as the date of commencement of this Act.

**3. Arrangement.** This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1–4);

PART II—PROTECTIVE SECURITY SERVICE (ss. 5–17);

PART III—FUNCTIONS, POWERS AND DUTIES OF OFFICERS (ss. 18–29);

PART IV—MISCELLANEOUS PROVISIONS (ss. 30–33).

**4. Interpretation.** In this Act except where a contrary intention appears—

“Administrator” means the person for the time being appointed under section 6 to administer the protective security service;

“building” means any building or part of a building in Brisbane containing premises used as a court of law and any other building or part of a building of the same or a different description declared by Order in Council to be a building for the purposes of this Act;

“Commissioner” means the Commissioner of Police for the time being appointed under the *Police Act 1937–1980*;

“explosive substance” means a substance that is or contains an explosive within the meaning of the *Explosives Act 1952–1981*;

“firearm” means a firearm within the meaning of the *Firearms and Offensive Weapons Act 1979*;

“Minister” means the Minister for Works and Housing or other Minister of the Crown charged with the administration of this Act and includes any person for the time being performing the duties of the Minister; ‘

“offensive weapon” means any thing made or adapted for use for causing injury to or for incapacitating a person or intended by the person in possession of it for such a use;

“precincts” means, in relation to a building—

(a) any forecourt or other court used in conjunction with the building;

(b) any yard or area used in conjunction with the building or adjacent to the building,

in either case within boundaries prescribed in respect of a particular building by the regulations or in the absence of such prescription up to the alignment of any public vehicular or pedestrian way adjacent to the building but including any wall or fence along the alignment; and

(c) any area above or below the ground adjacent to the walls, roof or foundations of the building;

“protective security service” means the State Government Security Service constituted as provided for by section 5.

#### PART II—PROTECTIVE SECURITY SERVICE

**5. Establishment of Protective Security Service.** (1) There shall be established as soon as practicable after the date of commencement of this Act the State Government Protective Security Service.

(2) The protective security service shall consist of all persons who hold appointments as any of the following:—

- (a) senior protective security officer;
- (b) senior protective security officer (in training);
- (c) protective security officer.

**6. Administration of Protective Security Service.** The Minister may, by instrument in writing, appoint a fit and proper person to administer the protective security service.

The person so appointed shall, for so long as he holds the appointment, administer the service subject to the Minister.

**7. Appointment of protective security officers.** The Minister may from time to time, upon the recommendation of the Public Service Board, appoint fit and proper persons, other than members of the police force, to be—

- (a) protective security officers; or
- (b) senior protective security officers (in training).

**8. Training of senior protective security officers.** (1) The Administrator and the Commissioner may arrange for any senior protective security officer (in training), any protective security officer and any other person, other than a member of the police force, to undergo a course of training at the Police Academy at Brisbane to qualify him for appointment as a senior protective security officer.

(2) The Commissioner may, in respect of any officer or person referred to in subsection (1) who has successfully completed the course of training referred to in that subsection, notify the Minister, in writing, that such officer or person is, in the Commissioner’s opinion—

- (a) qualified for appointment as a senior protective security officer; and
- (b) is a fit and proper person to hold such an appointment.

**9. Standard of fitness and propriety.** (1) A person shall not be deemed to be a fit and proper person for appointment as a member of the protective security service—

- (a) if he has been convicted in Queensland of a crime or misdemeanour or elsewhere than in Queensland, of an offence that, if it had been committed in Queensland, would constitute a crime or misdemeanour; and
- (b) unless he is of good character.

(2) A person shall not be deemed to be a fit and proper person for appointment as—

a protective security officer, or

a senior protective security officer (in training) or a senior protective security officer,

unless his physique and state of physical fitness comply with the standard prescribed therefor in relation to protective security officers or, as the case may be, senior protective security officers.

**10. Appointment of senior protective security officers.** (1) Where the Minister has been notified as referred to in section 8 (2) he may, upon the recommendation of the Public Service Board, appoint the person to whom the notification relates as a senior protective security officer.

(2) Every senior protective security officer shall be appointed in respect of a building and his authority as such an officer shall be restricted to the building in respect of which he is appointed and the precincts thereof.

(3) The appointment of a senior protective security officer in respect of a particular building may at any time be terminated by the Minister for the purpose of his being appointed as a senior protective security officer in respect of another building and he may thereupon be so appointed by the Minister.

**11. Public Service Act applicable to appointments.** Subject to this Act, the provisions of the *Public Service Act 1922-1978* that relate to appointments made under that Act shall apply in relation to appointments made for the purposes of this Act:

Provided that where an appointment referred to in section (3) is to be made it shall not be necessary, at the Minister's discretion, to comply with the provisions of that Act that require appointments to be made on probation in the first instance.

**12. Appointments to be held subject to Public Service Act and this Act.** Every—

senior protective security officer,

senior protective security officer (in training) and

protective security officer

shall hold his appointment subject to and in accordance with the *Public Service Act 1922-1978* and this Act.

**13. Oath of protective security officer.** (1) A person appointed as a protective security officer, before acting as such, shall take and subscribe the following oath:—

“ I, (name of appointee), swear by Almighty God that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second and Her Heirs and Successors according to law in the office of protective security officer without favour or affection, malice or ill-will, from this date and until I am lawfully discharged from the State Government Protective Security Service; and that while I continue to be a protective security officer I will, to the best of my skill and knowledge, discharge all the duties lawfully imposed on me faithfully and according to law. So help me God.”

(2) If any person required by subsection (1) to take and subscribe the oath therein provided refuses or fails to take or subscribe the oath his appointment as a protective security officer shall be thereby terminated.

**14. Oath of senior protective security officer.** (1) A person appointed as a senior protective security officer, before acting as such, shall take and subscribe the following oath:—

“ I, (name of appointee), swear by Almighty God that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second and Her Heirs and Successors according to law in the office of senior protective security officer for the (name of building in respect of which the office is held) without favour or affection, malice or ill-will, from this date and until I cease to hold that office; and that while I continue to hold that office I will to the best of my power cause the peace to be kept and preserved and prevent all offences against all persons within the said building or its precincts or against the properties of Her Majesty or such persons within the said building or its precincts and will, to the best of my skill and knowledge, discharge all the duties of that office faithfully and according to law. So help me God.”

(2) If any person required by subsection (1) to take and subscribe the oath therein provided refuses or fails to take or subscribe the oath his appointment as a senior protective security officer shall thereby be terminated.

**15. Justice to administer oaths.** An oath required by section 13 or 14 shall be administered by a justice of the peace and shall be subscribed before him.

The oath when subscribed shall be forwarded to the Minister.

**16. Taking of oath deemed to make agreement.** Every person who takes and subscribes the oath required by section 13 or 14 shall be deemed to have thereby entered into an agreement in writing with the Crown and to be bound by that agreement to serve Her Majesty in terms of the oath—

- (a) in the case of an oath required by section 13, as a protective security officer in whatever capacity he may be required to serve at any time, or

(b) in the case of an oath required by section 14, in the office of senior protective security officer to which the oath refers, in consideration of the wage or salary payable to him at the rate of pay applicable at the material time to an officer of his description and rank.

**17. Discipline of protective security service.** (1) If a member of the protective security service engages or participates in a strike or other industrial action that could result in the security of any building or the precincts thereof or any property therein or the safety of persons therein being detrimentally affected, the Administrator may in his discretion and notwithstanding the provisions of any other Act or law—

- (a) suspend the member without pay until he ceases to so engage or participate;
- (b) suspend the member as authorized by paragraph (a) and recommend to the Public Service Board—
  - (i) that the existing appointment of the member be terminated and that he be appointed to a position of lower classification and pay; or
  - (ii) that the member be dismissed from his employment in the Public Service of Queensland;
- (c) impose a fine on the member in a sum not exceeding \$100.

(2) Where the Administrator has taken action in respect of a member of the protective security service under subsection (1) he shall, as soon as is practicable, notify the member in writing of the action taken.

(3) A member of the protective security service in respect of whom action has been taken under subsection (1) may, in accordance with this subsection, appeal to the Public Service Board against the action taken.

Every such appeal—

- (a) shall be in writing;
- (b) shall include the appellant's submissions as to why the action taken should not have been taken or should not be given effect; and
- (c) shall be lodged with the Public Service Board within 48 hours after receipt by the member of notification under subsection (2) or, where that period would expire on a day or at a time when the Department of the Public Service Board is not ordinarily open to the public, upon the day next following the expiration of that period when that department is ordinarily so open.

(4) Where an appeal has been duly made the Public Service Board, upon consideration of the appellant's submissions and without further hearing, may—

- (a) confirm the action of the Administrator;
- (b) remove the suspension of the appellant either *ab initio* or from a date specified by the Board;

(c) impose in respect of the appellant a less penalty, being one specified in subsection (1),

and the Board's decision shall be final and shall not be questioned in any proceedings whatever.

(5) Where the Administrator has made a recommendation referred to in paragraph (b) of subsection (1) and either—

the member of the protective security service has not duly appealed;  
or

upon an appeal the Public Service Board has confirmed the action of the Administrator,

the Board is authorized to give effect to the recommendation.

(6) A fine imposed by the Administrator or the Public Service Board pursuant to this section may be recovered by way of—

(a) action in a Magistrates Court for a debt due and owing to the Crown by the person upon whom it was imposed; or

(b) deduction without further authority than this subsection from moneys payable to the person upon whom it was imposed as wages or salary or otherwise in connexion with his employment.

(7) The Public Service Board may at any time remove a suspension imposed by the Administrator under subsection (1) or by the Board under subsection (4).

(8) In this section the expression "strike" means—

(a) a strike within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1982*;

(b) the act of any member of the protective security service, which, if done by two or more such members would constitute a strike within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1982*; and

(c) a refusal or wilful failure by any member of the protective security service to perform work required of him in the manner ordinarily applicable to such work and upon the conditions (if any) of any relevant legislation, or any award or industrial agreement within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1982*.

### PART III—FUNCTIONS, POWERS AND DUTIES OF OFFICERS

**18. Functions of officers.** The functions of every member of the protective security service are—

(a) to carry into effect the system formulated for the security of the building in respect of which he is appointed or in which he is assigned to perform his duties and of the precincts thereof;

(b) to carry into effect the system formulated for the safety of persons working or being within the building in respect of which he is appointed or in which he is assigned to perform his duties and within the precincts thereof;

- (c) to carry into effect the system formulated for the parking or entry of vehicles in or into the building in respect of which he is appointed or in which he is assigned to perform his duties and in or into the precincts thereof.

**19. Powers of senior protective security officer.** Every person who holds an appointment as a senior protective security officer shall have and may exercise within the building in respect of which he holds the appointment and within the precincts thereof all the powers and authorities referred to in section 28 of the *Police Act 1937-1980*, except the power of arrest, and in relation to the exercise of those powers and authorities shall have all the immunities referred to in that section.

**20. Authority to demand identification.** (1) A senior protective security officer may, subject to the regulations, demand of a person who is in the building in respect of which the officer is appointed or in the precincts thereof—

- (a) his name and address;
- (b) evidence of his name and address; or
- (c) his reason for being in the building or, as the case may be, the precincts thereof.

(2) A person who in response to a demand made of him under subsection (1)—

- (a) refuses or fails to supply the information sought or any particular thereof;
- (b) supplies information that is false;
- (c) refuses or fails to provide the evidence sought or any part thereof;
- (d) provides as evidence of his name or address material that is false,

commits an offence against this Act unless, in the case referred to in provision (c), he has a reasonable excuse therefor.

Penalty: \$500.

**21. Authority to search etc.** (1) A senior protective security officer may, subject to the regulations, require—

- (a) a person who is in the building in respect of which the officer is appointed or in the precincts thereof to allow a search to be made of his person and of such of his property accompanying him as the officer believes to be capable of concealing any firearm, explosive substance or offensive weapon; or
- (b) a person who is in or about to enter the building in respect of which the officer is appointed to deposit in a place specified by the officer any property that the officer believes to be capable of concealing any firearm, explosive substance or offensive weapon,



if the officer believes it to be necessary in the interests of security so to do.

(2) A person who refuses to comply with a requisition directed to him under subsection (1) commits an offence against this Act.

Penalty: \$1 000.

**22. Seizure of firearms etc.** (1) A senior protective security officer may seize and detain any firearm, explosive substance or offensive weapon found in the possession of any person in the building in respect of which the officer is appointed or in the precincts thereof except where that person is lawfully in possession of it in the course of his trade, business or calling.

(2) A firearm, explosive substance or offensive weapon seized under subsection (1) shall be disposed of in accordance with section 101 of the *Firearms and Offensive Weapons Act 1979* as if it were a firearm or dangerous article referred to therein in the custody of a member of the police force and until it is so disposed of may be detained in such custody as the Minister directs.

**23. Refusal of entry to and removal from building.** Where a person has refused or failed to comply with a demand made of him under section 20 or with a requisition directed to him under section 21 or has failed to satisfy a senior protective security officer that he has a good and lawful reason to be in a particular building or the precincts thereof then—

- (a) if he is in the building or the precincts thereof, it shall be lawful for the senior protective security officer and all persons acting in aid of him to remove the person from the building and the precincts thereof, using such force as is necessary for the purpose; or
- (b) if he is about to enter the building or the precincts thereof, it shall be lawful for the senior protective security officer and all persons acting in aid of him to prevent the person from entering the building or, as the case may be, the precincts thereof, using such force as is necessary for the purpose.

**24. Authority to detain offenders and suspects.** If a senior protective security officer—

- (a) suspects on reasonable grounds that a person has committed an offence against this Act in the building in respect of which the officer is appointed or in the precincts thereof; or
- (b) suspects on reasonable grounds that a person has committed an offence against any other law by reason of his having done anything or having had anything in his possession in that building or in those precincts,

it is lawful for that officer and any other senior protective security officer appointed in respect of that building acting in aid of him, if the person is in that building or in those precincts, to detain that person, using such force as is necessary for the purpose, until he can be surrendered to a member of the police force for investigation of the offence according to law.

**25. Member of police force authorized to exercise certain powers.**

A member of the police force may in respect of any building exercise a power conferred on a senior protective security officer by section 20, 21, 22 or 23 and in relation to the exercise thereof by such a member section 20, 21 or 22 shall be construed as if the words "the building in respect of which the officer is appointed" were "a building".

**26. Powers of arrest by police officers.** Where an offence by a person against this Act consists in a refusal or failure to state his true name and address in response to a demand made of him by a member of the police force pursuant to this Act or where in respect of any other offence by a person against this Act the member of the police force investigating the offence believes on reasonable grounds that proceedings against that person by summons would not be effective the alleged offender may be arrested without warrant upon a charge of the offence in question and taken before a justice to be dealt with according to law.

**27. Recording offender's particulars.** (1) Where a person has been arrested upon a charge of an offence against this Act the officer in charge of police at the police establishment to which he is taken after arrest or where he is in custody may take or cause to be taken all such particulars as he considers necessary for identification of the person, including his voice print, photograph, finger prints, palm prints, foot prints, toe prints and handwriting.

Such force as is necessary may be used in the taking of those particulars.

(2) Where a person arrested upon a charge of an offence against this Act is not proceeded against or is found not guilty of that offence any voice print, photograph, finger prints, palm prints, foot prints, toe prints or specimens of handwriting taken from him pursuant to this section consequent upon his arrest shall automatically be destroyed unless—

- (a) he has been arrested upon a charge of any other offence, which charge is then pending;
- (b) he has been convicted of any other offence with which he was charged upon arrest; or
- (c) those particulars are required as evidence in respect of a charge of any other offence alleged to have been committed by that person.

**28. Prescribed powers additional to other powers.** The powers and authorities conferred by this Act are in addition to and shall not be held to prejudice any other powers and authorities had—

- (a) by any person exercising judicial functions or constituting any tribunal in relation to the presence of persons or the conduct of persons or proceedings in a building used as a court or by such tribunal or in the precincts thereof; or
- (b) by any person in relation to the presence or conduct of persons in a building within which he is entitled to exercise control or in the precincts thereof.

**29. Offence to assault or resist officer.** A person who assaults, or resists in the execution of his duty, any member of the protective security service commits an offence against this Act.

Penalty: \$500 or six months' imprisonment or both.

PART IV—MISCELLANEOUS PROVISIONS

**30. Officer to surrender equipment.** (1) Upon a person ceasing to be a member of the protective security service he shall surrender  
any identity card issued to him,  
any firearm or other weapon issued to him, and  
any other prescribed thing issued to him,  
to the Administrator.

(2) A justice of the peace may, upon the complaint of the Administrator, issue his warrant authorizing the person named therein or a member of a class of person specified therein to search for and seize on behalf of the Administrator anything specified in subsection (1) that has not been surrendered as prescribed and for that purpose to enter upon any premises or place in which the thing sought is likely to be and to break open any receptacle found therein that is capable of holding the thing sought.

**31. Exclusion of liability.** Neither the Crown nor any person shall incur any liability on account of anything done in good faith and without negligence pursuant to or for the purposes of this Act.

**32. Offence provision and proceedings therefor.** (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and is liable, where a penalty is not expressly prescribed, to a penalty not exceeding \$200.

(2) Proceedings in respect of offences against this Act shall be taken in a summary way under the *Justices Act 1886-1982*.

**33. Regulations.** The Governor in Council may make regulations, whether general or to meet particular cases, with respect to—

- (a) the functions and duties of members of the protective security service;
- (b) the manner in which powers, functions and duties of members of the protective security service are to be exercised or discharged;
- (c) regulating the presence and conduct of persons within buildings or the precincts thereof;
- (d) the definition of the boundaries of any particular building or buildings or of the precincts thereof;

- (e) all matters required or permitted by this Act to be prescribed where no other means of prescription are provided for;
  - (f) all matters that in his opinion are necessary or convenient for the administration of this Act or to achieve the objects and purposes of this Act.
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