

Version No. 032
Court Security Act 1980
No. 9499 of 1980

Version incorporating amendments as at
1 July 2014

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An Act to make Provisions in relation to the secure and orderly operation of Courts and other Tribunals, and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1 Short title and commencement

- (1) This Act may be cited as the **Court Security Act 1980**.
- (2) This Act shall come into operation on the day upon which it receives the Royal Assent.

2 Definitions

- (1) In this Act, unless inconsistent with the context or subject-matter—

authorized officer, in relation to any court, means a police officer or a protective services officer within the meaning of the **Victoria Police Act 2013** or a person appointed as an authorized officer under section 2A by the chief executive officer of the court or the clerk of the court;

chief executive officer, in relation to a court, means the chief executive officer of the court, by whatever name called;

S. 2 amended by No. 3/2005 s. 17(2) (ILA s. 39B(1)).

S. 2(1) def. of *authorized officer* substituted by No. 64/1996 s. 19(a), amended by No. 37/2014 s. 10(Sch. item 35.1)(b)).

S. 2(1) def. of *chief executive officer* inserted by No. 64/1996 s. 19(b).

S. 2(1) def. of
clerk
amended by
Nos 57/1989
s. 3(Sch.
item 38),
77/2008
s. 129(Sch. 2
item 8).

clerk in relation to a court means—

- (a) in the case of the Supreme Court, the Prothonotary;
- (b) in the case of the County Court, the Registrar of the County Court;
- (c) in the case of the Magistrates' Court, a registrar of that Court;
- (ca) in the case of the Coroners Court, a registrar of that Court;
- (d) in the case of any other court, the person prescribed by the regulations to be the clerk of that court;

S. 2(1) def. of
contractor
inserted by
No. 64/1996
s. 19(b).

contractor means a party to an agreement under section 2C with a chief executive officer of a court;

court includes the Supreme Court and the County Court and other inferior courts of record and any tribunal body or person which is by law entitled to hear receive and examine evidence and is prescribed by the regulations to be a tribunal body or person which is a court for the purposes of this Act;

S. 2(1) def. of
court premises
substituted by
No. 68/2013
s. 3.

court premises means—

- (a) any premises occupied in connection with the operations of a court, including—
 - (i) the precincts and immediate environs of those premises, adjacent car parks, adjacent footpaths and laneways between or abutting court premises; and

- (ii) court buildings and the exit and entry points and steps to those buildings; or
- (b) any other place, limited to where a court is, for the time being, constituted and performing the functions or exercising the powers of that court or in connection with court operations, including any area in the immediate vicinity of that place;

explosive substance has the same meaning as in Division 8 of Part I of the **Crimes Act 1958**;

firearm has the same meaning as in the **Firearms Act 1996**;

S. 2(1) def. of *firearms* amended by No. 39/1989 s. 4(3)(Sch. item 1), substituted by No. 66/1996 s. 204.¹

frisk search means—

S. 2(1) def. of *frisk search* inserted by No. 64/1996 s. 19(b).

- (a) a search of a person's body conducted by quickly running the hands over the person's outer garments; and
- (b) an examination of anything worn by the person that is conveniently and voluntarily removed by the person; and
- (c) an examination of anything carried by the person that is voluntarily given to an authorized officer;

offensive weapon means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use;

s. 2A

S. 2(1) def. of
police officer
inserted by
No. 37/2014
s. 10(Sch.
item 35.1(a)).

police officer has the same meaning as in the
Victoria Police Act 2013;

S. 2(1) def. of
*prohibited
item*
inserted by
No. 3/2005
s. 17(1).

prohibited item means—

- (a) a firearm; or
- (b) an explosive substance; or
- (c) an offensive weapon; or
- (d) an item that is likely to affect adversely
the security, good order or management
of the court premises;

S. 2(1) def. of
*scanning
search*
inserted by
No. 64/1996
s. 19(b).

scanning search means a search carried out by an
electronic or mechanical device whether
hand held or otherwise.

S. 2(2)
inserted by
No. 3/2005
s. 17(2).

- (2) A reference in this Act to "the security, good order
or management of the court premises" includes—
- (a) the safety of all persons who work at or
attend the court premises;
 - (b) the safety and welfare of all persons in
custody at the court premises;
 - (c) the good order or management of legal
proceedings or other business conducted at
the court premises.

S. 2A
inserted by
No. 64/1996
s. 20.

2A Appointment of authorized officers

The chief executive officer of a court or a clerk of
a court may only appoint as an authorized officer
a person whom the chief executive officer or the
clerk is satisfied—

- (a) is competent to exercise the functions
conferred on an authorized officer by or
under this Act; and

- (b) is of good repute, having regard to character, honesty and integrity; and
- (c) has agreed in writing to exercise the functions conferred on an authorized officer by or under this Act.

2B Identity card

S. 2B
inserted by
No. 64/1996
s. 20.

- (1) The chief executive officer of a court or a clerk of a court must issue an identity card to each authorized officer appointed by him or her under section 2A.
- (2) An identity card under subsection (1) must—
 - (a) contain a photograph of the authorized officer; and
 - (b) contain the signature of the authorized officer; and
 - (c) be signed by the chief executive officer of the court or the clerk of the court.
- (3) An authorized officer issued with an identity card under subsection (1) must—
 - (a) at all times while on duty at a court wear it in such manner as to be visible to other persons;
 - (b) produce it on being requested to do so.

Penalty: 5 penalty units.

2C Chief executive officer may enter into court security agreement

S. 2C
inserted by
No. 64/1996
s. 20.

Subject to the **Financial Management Act 1994** and the regulations made under that Act, a chief executive officer of a court may enter into an agreement for and on behalf of the Crown with a person or body for the provision by that person or body of court security services to that court.

S. 2D
inserted by
No. 64/1996
s. 20.

2D Matters to be included in agreement

An agreement under section 2C must provide for—

- (a) compliance by the contractor with all relevant provisions of this Act or the rules or regulations or of any other Act or instrument of a legislative character;
- (b) objectives and performance standards in relation to the provision of services;
- (c) the fees, costs and charges to be paid to the contractor;
- (d) the submission of periodic reports by the contractor to the chief executive officer in relation to the contractor's operations under the agreement;
- (e) an indemnity by the contractor in favour of the Crown and the Minister;
- (f) the office the holder of which is to be the principal officer for the purposes of the application of the **Freedom of Information Act 1982** to the contractor;
- (g) the office the holder of which is to be the principal officer for the purposes of the application of the **Ombudsman Act 1973** to the contractor;
- (h) any other matter that may be prescribed.

S. 2E
inserted by
No. 64/1996
s. 20.

2E Application of FOI

The **Freedom of Information Act 1982** applies to a contractor in its capacity as a provider of court security services under this Act as if—

- (a) the contractor were an agency within the meaning of that Act; and

- (b) the holder of the office specified in the agreement under section 2C for the purposes of the application of the **Freedom of Information Act 1982** were the principal officer of that agency; and
- (c) the Minister were the responsible Minister of that agency; and
- (d) the persons employed by the contractor were officers of that agency.

* * * * *

S. 2F
inserted by
No. 64/1996
s. 20,
repealed by
No. 82/2012
s. 286.

3 Powers of authorized officer

- (1) Subject to any limitations or restrictions provided by the rules an authorized officer may demand from a person who is on court premises that person's name and address, his reason for being on the premises and evidence of his identity.
- (2) Any person who in response to a demand under subsection (1)—
 - (a) fails or refuses to supply any of the information;
 - (b) gives false information; or
 - (c) provides any false evidence of identity—shall be guilty of an offence against this Act and liable to a penalty not exceeding 10 penalty units.
- (3) Subject to any limitations or restrictions provided by the rules, an authorized officer may require a person who wishes to enter the court premises, or is on the court premises—

S. 3(2)
amended by
No. 10/2004
s. 15(Sch. 1
item 3).

S. 3(3)
substituted by
Nos 64/1996
s. 21, 3/2005
s. 18(1).

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- (a) to submit to a frisk search or a search of any thing in the person's possession;
- (b) to submit to a scanning search of his or her person or of any thing in the person's possession;
- (c) to surrender to the authorized officer any item that the authorized officer believes on reasonable grounds is a prohibited item.

S. 3(4)
substituted by
No. 64/1996
s. 21.

- (4) An authorized officer who conducts a search under this section must not use more force, or subject a person to greater indignity, than is reasonably necessary in order to conduct the search.

S. 3(5)
substituted by
No. 64/1996
s. 21.

- (5) If, when asked, a person does not submit to a demand under subsection (1) or a requirement under subsection (3), an authorized officer may prohibit the person from entering the court premises, or if the person is on the court premises, remove the person by reasonable force from the court premises.

S. 3(6)
inserted by
No. 64/1996
s. 21,
substituted by
No. 3/2005
s. 18(2).

- (6) An authorized officer, who during a search finds a prohibited item or to whom a prohibited item is surrendered, may seize and retain that prohibited item in accordance with this section.

S. 3(7)
inserted by
No. 64/1996
s. 21,
substituted by
No. 3/2005
s. 18(2).

- (7) A prohibited item (other than a firearm, an explosive substance or an offensive weapon) that is surrendered by a person in compliance with a requirement under subsection (3)(c) must be retained by the authorized officer until—

- (a) the person requests the item's return; or
- (b) the expiration of 28 days after the item was surrendered—

whichever happens first.

(8) Despite anything to the contrary in this section, if—

S. 3(8)
inserted by
No. 64/1996
s. 21,
substituted by
No. 3/2005
s. 18(2).

(a) a surrendered or seized prohibited item is a firearm, an explosive substance or an offensive weapon whose possession would constitute an offence under the **Crimes Act 1958**, the **Control of Weapons Act 1990** or this Act, the chief executive officer or a clerk of the court must ensure that the item is given to a police officer within 24 hours after the item is surrendered or seized;

S. 3(8)(a)
amended by
No. 37/2014
s. 10(Sch.
item 35.2).

(b) a surrendered or seized prohibited item is not an item referred to in paragraph (a) and is not collected within 28 days after it was surrendered or seized, the chief executive officer or a clerk of the court may destroy the item or sell the item and retain the proceeds of the item's sale.

(9) An authorized officer may refuse a person entry to the court premises or remove a person from the court premises if the authorized person believes on reasonable grounds that the person is likely to affect adversely the security, good order or management of the court premises.

S. 3(9)
inserted by
No. 64/1996
s. 21,
substituted by
No. 3/2005
s. 18(2).

(10) A person must not refuse to comply with a requirement under subsection (3).

S. 3(10)
inserted by
No. 3/2005
s. 18(2).

Penalty: 10 penalty units.

3A Police to be present at courts

The Chief Commissioner of Police must—

S. 3A
inserted by
No. 68/2009
s. 97(Sch.
item 36).

S. 3A(a)
amended by
No. 37/2014
s. 10(Sch.
item 35.3).

(a) direct that a sufficient number of police officers be present to keep order on court premises at all sittings of—

(i) the Supreme Court in its criminal jurisdiction; and

(ii) the County Court in its criminal jurisdiction; and

S. 3A(b)
amended by
No. 37/2014
s. 10(Sch.
item 35.3).

(b) at the request of the judge presiding at a particular sitting of a court referred to in paragraph (a), direct that an additional number of police officers be present at that sitting.

4 Offences

A person who without lawful excuse carries or has in his possession on court premises a firearm or an explosive substance or an offensive weapon is guilty of an indictable offence.

Penalty: Imprisonment for seven years.

5 Savings

(1) The powers conferred by this Act are in addition to and shall not derogate from any other powers conferred on or possessed by any court judge or person in relation to the conduct of proceedings in a court or the regulation of the conduct of persons in court premises.

(2) Nothing in this Act affects any other power of the court in relation to contempt of the court or any other similar power.

6 Regulations

The Governor in Council may make regulations for or with respect to any matter authorized or required to be prescribed for the purposes of this Act or any matter that is necessary or convenient

for better securing public order and safety in the courts.

7 Powers to make rules of court or regulations

Powers conferred on any court or on the Governor in Council or on any other person or persons by or under any Act to make rules of court or regulations with respect to the procedure of a court extend to the making of rules of court for the purposes of this Act.

ENDNOTES

1. General Information

The **Court Security Act 1980** was assented to on 23 December 1980 and came into operation on 23 December 1980: section 1(2).

2. Table of Amendments

This Version incorporates amendments made to the **Court Security Act 1980** by Acts and subordinate instruments.

Prescribed Weapons Act 1989, No. 39/1989

Assent Date: 6.6.89
Commencement Date: 1.9.89: Government Gazette 30.8.89 p. 2210
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 3(Sch. item 38) on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: This information relates only to the provisions amending the **Court Security Act 1980**

Courts and Tribunals (General Amendment) Act 1996, No. 64/1996

Assent Date: 17.12.96
Commencement Date: Pt 6 (ss 19–21) on 1.4.97: Government Gazette 20.3.97 p. 619
Current State: This information relates only to the provisions amending the **Court Security Act 1980**

Firearms Act 1996, No. 66/1996

Assent Date: 17.12.96
Commencement Date: S. 204 on 29.4.97: Government Gazette 24.4.97 p. 912
Current State: This information relates only to the provisions amending the **Court Security Act 1980**

Monetary Units Act 2004, No. 10/2004

Assent Date: 11.5.04
Commencement Date: S. 15(Sch. 1 item 3) on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Court Security Act 1980**

Courts Legislation (Judicial Appointments and Other Amendments) Act 2005, No. 3/2005

Assent Date: 5.4.05
Commencement Date: Ss 17, 18 on 6.4.05: s. 2(1)
Current State: This information relates only to the provision/s amending the **Court Security Act 1980**

Coroners Act 2008, No. 77/2008

Assent Date: 11.12.08
Commencement Date: S. 129(Sch. 2 item 8) on 1.11.09: s. 2
Current State: This information relates only to the provision/s amending the **Court Security Act 1980**

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Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 36) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Court Security Act 1980**

Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012

Assent Date: 18.12.12
Commencement Date: S. 286 on 10.2.13: Special Gazette (No. 32) 6.2.13 p. 2
Current State: This information relates only to the provision/s amending the **Court Security Act 1980**

Courts and Other Justice Legislation Amendment Act 2013, No. 68/2013

Assent Date: 19.11.13
Commencement Date: S. 3 on 1.2.14: Special Gazette (No. 17) 28.1.14 p. 1
Current State: This information relates only to the provision/s amending the **Court Security Act 1980**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 35) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Court Security Act 1980**

3. Explanatory Details

¹ S. 2 def. of *firearm*: Section 5 of the **Prescribed Weapons Act 1989**, No. 39/1989 provided as follows:

5 Sunset provision

This Act and the amendments made by this Act to any other Act continue in force until the day which is 12 months after the day on which this Act comes into operation and no longer and on and after that day any Act amended by this Act has effect as if this Act had not been enacted.