

GUIDELINE

Security provider services in First Nations communities –an exemption pathway

OBJECTIVE

This guideline (the Guideline) has been developed in consultation with First Nations communities and other stakeholders to provide an option for persons, living in discrete communities, to be exempt from the requirement to be a licensed as a crowd controller/security officer under the *Security Providers Act 1993* (SP Act), where the SP Act would otherwise prevent a licence being issued.

Such an exemption would be subject to strict conditions, including that the person would need the written endorsement of nominated community stakeholders and that the exemption would be limited to duties associated with a certain premises within the discrete community.

The Guideline:

- (a) supports the close partnership between First Nations people and the Queensland Government to promote, support and advance discrete communities and local residents;
- (b) recognises the rights of First Nations people for self-determination, economic participation and access to employment opportunities in their communities; and
- (c) acknowledges the institutionalised disadvantage of First Nations people in their communities, which historically may have led to an over-representation in the justice system and in some cases, an adverse criminal history.

LOCAL THRIVING COMMUNITIES

The provision of local security support in discrete communities set out in the Guideline, is designed to complement the **Local Thriving Communities Action Plan 2022–24**¹. The Guideline supports the principles of self-determination, local decision-making and close consultation between First Nations communities and government, to co-design solutions to address service delivery shortfalls and promote local employment. The Guideline assists in achieving the best outcomes for First Nations communities.



¹ Local Thriving Communities Action Plan 2022–24, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts.

LEGISLATION—SP ACT AND REGULATION

Security Providers Act 1993

“5 Who is a crowd controller

- (1) A crowd controller is a person who, for reward, is at a public place principally for keeping order in or about the public place, including, for example, by doing any of the following—
 - (a) screening the entry of persons into the place
 - (b) monitoring or controlling the behaviour of persons in the place
 - (c) removing persons from the place.”

“7 Who is a security officer

- (1) A security officer is a person who, for reward, guards, patrols or watches another person’s property...”

“11(5) A person is not an appropriate person to hold a licence if the person—

- (a) has, within 10 years of applying for the licence, been convicted of a disqualifying offence for which a conviction was recorded.

“54 Regulation-making power

- (1) The Governor in Council may make regulations for the purposes of this Act.
- (2) A regulation may be made—
 - (a) ...
 - (b) authorising the chief executive to approve that a crowd controller or security officer need not hold the appropriate licence for a specified activity, event or place...”

Security Providers Regulation 2008

“26 Exemptions from holding licence—Act, s 54(2)(b)

The chief executive may approve that a crowd controller or security officer need not hold the appropriate licence for a specified activity, event or place...”

“restricted area” Liquor Act 1992

Section 173G (1) A regulation may declare an area to be a restricted area. (Sched. 1A to 1S)

ELIGIBILITY

This Guideline applies only to persons:

- (a) who reside in one of the 19 communities listed in the Liquor Regulation 2002 as a “restricted area” in Schedules 1A to 1S; and
- (b) where the lack of local security officer and/or crowd controller licence holders in the community is a direct barrier to the social and economic opportunities and participation of First Nations people within the community.

The exemption would not apply to all criminal histories. Some past offences are serious and cannot be considered for exemption², including:

- homicide
- involvement in the death of a person
- violence against others
- physical assault
- rape and sexual assault
- stalking
- domestic and family violence
- weapons offences
- drug trafficking

However an exemption will be considered despite a person having past criminal convictions³, including:

- stealing
- fraud
- receiving stolen property

² Matters listed in chapters 9, 20, 22, 28, 28A, 29, 30, 32, 33, 33A, 38 and 39 of the Criminal Code are unlikely to be considered for exemption.

³ Matters listed in chapters 9A, 16, 36, 37, 40, 41, 42A, 46, 49, 52, 56 of the Criminal Code are likely to be considered for exemption.

EXEMPTION PROCESS

A person from a discrete community who has a criminal history that disqualifies them from holding a licence under the SP Act, may make a written application to the Office of Fair Trading (OFT) to be exempt from having to hold a licence.

The application can be submitted to www.portal.lgft.justice.qld.gov.au or GPO Box 3111 Brisbane 4001 and must include the following:

1. the written endorsement of the Chair of the local decision making body⁴, advising of the unanimous support of all members of the body
2. the written endorsement of the local Community Justice Group
3. the written endorsement of the local liquor licensee or permit holder, if applicable
4. evidence of completing the approved training course (see www.qld.gov.au/fairtrading).

Following an assessment of the application, the criminal history of the applicant and the endorsement of the local stakeholders, the OFT will seek the endorsement, or otherwise, of the Queensland Police Service (QPS). If endorsed by the QPS, the OFT may consider it appropriate to issue an exemption, which will be subject to the following conditions:

- maintain currency of the approved training course
- a specified term, but no longer than twelve (12) months
- limiting the scope of the exemption to a particular premises or community
- while acting as a security provider, the exempt person is subject to all requirements of a licensee under the SP Act including ongoing training requirements
- the continued support and endorsement of the exempt person by local stakeholders.

The exempted person will be issued with an 'Exemption Certificate' by the OFT and will be registered as an exempt person on the OFT security provider register and will appear on the public OFT website portal. The exempt person will be subject to ongoing monitoring through the Queensland Police Service and be subject to a renewal process, as approved by the OFT.

The OFT recognises that a person residing in a remote community may wish to apply for a SP Act licence if they have a criminal history that does not automatically disqualify them from obtaining a licence. In such situations it is open to the OFT to ask the applicant to seek the community stakeholder support, as outlined above, to further support the merits of their application.

⁴ This may include a Community Safety Committee, or any other local decision-making body or similar entity (however it may be titled or referred to), which is authorised by the local community to engage directly with government on community priorities relating to service design, delivery, investment and evaluation.



ONGOING ASSESSMENT

Any exemption is contingent on the ongoing support of the local stakeholders, the suitable conduct of the exempt person and the currency of the exempted person's training. Should the OFT become aware of any adverse information that significantly affects the suitability of the exempt person, the OFT may ask the exempt person to show cause as to why the exemption should not be withdrawn.

The exempt person will have 28 days from receipt of the show cause, in which to provide submissions to the OFT. The OFT may then make a decision to take no further action, impose further conditions on the exemption or withdraw the exemption approval.

APPEAL OF A DECISION

An applicant or an exempt person aggrieved by a decision under this guideline may apply for a judicial review in the Supreme Court under the *Judicial Review Act 1991*.

CONTACT

Should you require further clarification contact:

Office of Fair Trading
13 QGOV (13 74 68)
www.qld.gov.au/fairtrading

APPLICATION FOR EXEMPTION PROCESS

Applicant seeks exemption

Applicant gets written endorsement from local decision-making body/Community Justice Group/licensee endorsement

Completion of approved training

Application lodged with the Office of Fair Trading

OFT seeks endorsement from Queensland Police

Commissioner considers exemption application

EXEMPTION APPROVED

EXEMPTION NOT APPROVED

Queensland Police advised of approval including reasons if not originally endorsed by all stakeholders

Right to judicial review