

## Tasmanian Bag Check Code of Conduct

I, Andrew Timothy Goldsworthy, in my capacity as Acting Director of Consumer Affairs and Fair Trading, in accordance with sections 38A and 41(8) of the *Security and Investigations Agents Act 2002*, hereby adopt this Code of Conduct for retail staff conducting bag checks.

<b>Title</b>	<b>Tasmanian Retail Bag Check Code of Conduct</b>
<b>Description</b>	<p>This Code of Conduct specifies principles and practices that apply to retail staff conducting bag checks in Tasmanian retail stores, pursuant to powers exercised under the <i>Security and Investigations Agents Act 2002</i>.</p> <p>The licensing exemption provided under section 41 of the Act does not apply to staff who have not attained the age of 18 years.</p>
<b>Version</b>	Version number 1.0
<b>Application</b>	<p>For the purposes of Section 38A(2) the <i>Security and Investigations Agents Act 2002</i>, this Code of Conduct applies from 8 May 2019 until its revocation.</p> <p>This Code is made pursuant to section 11 of the <i>Acts Interpretation Act 1931</i>.</p>
<b>Date of Director's approval</b>	11 June 2019
<b>Commencement date</b>	1 August 2019



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**Acting Director of Consumer Affairs and Fair Trading**

Consumer, Building and Occupational Services

Department of Justice

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### Document Development History

<b>Version</b>	<b>Application Date</b>	<b>Sections amended</b>
1.0	7 June 2019	Original version

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***Security and Investigations Agents Act 2002***

# **Tasmanian Bag Check Code of Conduct**

A Code of Conduct for the checking of bags and  
parcels in retail stores

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## Introduction

Bag checks may be conducted by retailers in an attempt to control theft. While this practice may be necessary, privacy issues need to be considered and the check conducted with a minimum of intrusion.

## Objectives

The purpose of the Bag Check Code of Conduct is to provide principles and practices in relation to bag checks so that shoppers and retailers can approach the situation with knowledge of their rights and obligations. Clearly, not all conflicts will be avoided; however the Bag Check Code of Conduct provides procedures for the control of conflicts when they arise.

The principles and procedures are divided into:

- the legal position which is determined by the general law of contract and must be complied with
- agreed principles which have been adopted following consultation with interest groups, and
- suggested practices as to how the legal position and agreed principles might be met or improved upon.

## Administration

Enquiries regarding the operation of the Bag Check Code of Conduct should be directed to Consumer, Building and Occupational Services (CBOS):

- Visit the [www.cbos.tas.gov.au](http://www.cbos.tas.gov.au)
- Phone 1300 65 44 99

## Complaints

Complaints from consumers about the application of the Code of Conduct should, in the first instance, be directed to the retailer for resolution between the consumer and the retailer.

If the complaints are unable to be resolved between the parties, the consumer may lodge a complaint with the Director of Consumer Affairs and Fair Trading through the CBOS Contact Us Form on the CBOS website at [www.cbos.tas.gov.au](http://www.cbos.tas.gov.au) to be resolved through an informal approach.

## The store's right to conduct bag checks

### Legal Position

A customer who enters a store does so under licence. Retailers are able to set conditions of entry to their store. As such, a shopkeeper can make entry to their store conditional upon showing bags, cartons, parcels and containers for checking.

If special requirements are imposed with regard to items carried into the store without proof of purchase or other matters, these must also be made a condition of entry.

**However, the store does not have the legal authority to forcibly check a bag where the shopper does not comply.**

For clarification, the exemption from a security licence provided under section 41 of the Act, does not apply to store staff who have not attained the age of 18 years. **This means that staff under 18 cannot conduct a bag check, unless they are licensed as a security guard.**

### Agreed Principles

Personal handbags will not be checked unless larger than the size of a sheet of A4 paper (297 mm x 210 mm) or the shopkeeper is certain that the handbag conceals unpaid for goods which are the property of the shopkeeper.

All other bags, cartons, parcels and containers that could reasonably be expected to conceal goods may be checked.

## Notification that the store conducts bag checks

### Legal Position

In order to carry out a bag check, a retailer must notify the customer, through the display of signage at the point of entry to the store of its intention to do so.

If other conditions apply these should also be covered in the notice.

A customer, upon entering a store with a sign displaying the retailer's intention to check bags, accepts that condition of entry.

### Agreed Principles

Signage establishing entry conditions should be prominently displayed at entrances to stores, be written in simple language and should indicate:

- agreeing to checks is a condition of entry, and
- checks are done on bags, parcels, cartons and containers.

Supplementary signage should indicate the shopkeeper's commitment to the Bag Check Code of Conduct, particularly in regard to the checking of personal handbags.

The Bag Check Code of Conduct Summary Statement will be incorporated into any literature that the store manager provides to customers on receipt of enquiries.

All trained staff to display a visible indication that they have completed the required training.

### Suggested Practices

The key to avoiding disputes is to provide customers with as much information as possible in the first instance. It is suggested:

- where possible signage should make reference to the Bag Check Code of Conduct
- in areas with a large non-English speaking population, consideration be given to the translation of signage and the Summary Statement as appropriate, and
- supplementary signage includes displaying the Summary Statement or having it readily available.

## Procedure for conducting bag checks

**Legal Position** A person who forcibly conducts a bag check against a customer's will may be liable for assault.

**Agreed Principles** Bag checks must not be conducted by employees who have not yet attained the age of 18.

Requests should be courteously made so as to minimise the degree of intrusion.

The employee or shopkeeper should request that the customer personally opens the bag. There should be no direct physical interference by the employee or the shopkeeper.

Where a view of the bag is obstructed by a large parcel, coat or similar item, the employee or shopkeeper may request the customer to remove the obstruction but should not touch the obstructing item.

## Procedure for dealing with disputes

### Legal Position

A shopper can refuse to allow a bag check.

In that situation a shopkeeper may ask the shopper to leave the store and not return unless prepared to comply with the store's conditions for entry. In so doing, the shopkeeper is terminating the licence agreement.

Even where a shopkeeper is absolutely certain property has been stolen from the store, they cannot forcibly search a shopper or their bags.

This Code of Conduct does not authorise a shopkeeper to forcibly detain a shopper.

### Agreed Principles

An employee should not under any circumstances enter into a dispute with a customer over a request to check bags or a suspected theft.

Under no circumstances must an employee attempt to forcibly restrain the customer or interfere with the bag(s).

If any dispute arises the employee should immediately summon the store manager.

The manager will explain the conditions under which the customer entered the store. If the customer again refuses to offer the bags for checking, the manager may ask the customer to leave the store and not return or call Tasmania Police.

## Staff training

### Agreed Principles

Retail personnel involved with carrying out bag checks in accordance with the Code of Conduct must be given a copy of the Code.

Retail personnel involved with carrying out bag checks in accordance with the Code of Conduct must be provided with training during induction, or before undertaking this task.

Training must include information on the Code and instructions on how to appropriately deal with difficult situations arising from carrying out bag checks.

All trained staff to display a visible indication that they have completed the required training.

### Suggested Practices

In addition to providing retail personnel with a copy of the Code of Conduct and providing training on the Code during induction, the most efficient means of ensuring understanding of the Bag Check Code of Conduct to relevant employees will depend on the size and structure of the business.

Mechanisms that should be considered include:

- special staff training sessions
- internal memoranda, and
- display of the Bag Check Code of Conduct or an appropriate staff instruction on notice boards.

## Alternative measures

### Suggested Practices

It is recommended that, where practical, additional measures to bag checks, e.g. camera surveillance, electronically sensitised price tags, mirrors, security guards, bag check services. be considered.

# **Bag Check Code of Conduct Summary Statement Rights and Obligations of Customers**

This statement is a summary of the rights and obligations of customers under the Tasmanian *Bag Check Code of Conduct* issued by the Director of Consumer Affairs and Fair Trading.

## **Rights**

- You have the right to know before entry that the store conducts bag checks.
- You have the right to refuse interference with your person or with your bags. Checking means that store personnel can look, but not touch. You can be asked to assist during the check, e.g. by removing any obstruction to visual inspection.
- A shopkeeper shall not check a personal handbag unless it is larger than the size of a sheet of A4 paper (i.e. 297mm x 210mm) or they are certain that the handbag conceals goods which have not been paid for and are the property of the shopkeeper.

## **Obligations**

- Having entered a store knowing that bag checks are conducted, you have accepted the store's right to ask you to open your bags for checking.

## **Important notes**

- If you refuse a check of your bags you can be asked to leave the store and not return.
- Other bags, cartons, parcels and containers that could reasonably be expected to conceal goods may be checked.
- If you feel that the *Bag Check Code of Conduct* has been breached you should contact the management of the retailer.
- If the retailer is unable to resolve your issues then contact Consumer, Building and Occupational Services (CBOS) at [www.cbos.tas.gov.au](http://www.cbos.tas.gov.au) or on 1300 65 44 99.

**THIS NOTICE IS TO BE PRINTED ON A SHEET OF A4 PAPER**