



New South Wales

# Tattoo Parlours Amendment Bill 2017

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Tattoo Parlours Act 2012* (the *principal Act*) as follows:

- (a) to enable licences under the principal Act to be renewed rather than requiring an application to be made for a new licence when the licence expires,
- (b) to provide that the privilege against self-incrimination does not excuse a person who is required to furnish records or information to police and other authorised officers, or to answer questions, under the principal Act from furnishing that information or those records or from answering those questions,
- (c) to make a number of other amendments of a minor, administrative or consequential nature.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Tattoo Parlours Act 2012 No 32

### Close associates

**Schedule 1 [2]** requires an application for the renewal of an operator licence to be accompanied by a statement containing details of any close associates of the applicant.

**Schedule 1 [7], [19] and [20]** provide that the Commissioner of Police is, if the Secretary refers an application for a licence or for the renewal of a licence to the Commissioner, to inquire into and determine, and report to the Secretary on, whether a close associate of the applicant or the licensee is a fit and proper person. **Schedule 1 [1]** amends the definition of *adverse security determination* so that it includes such determinations. **Schedule 1 [18]** is a consequential amendment.

**Schedule 1 [21] and [22]** provide that the Commissioner of Police may, in making such a determination, consider information relating to spent convictions, criminal charges or offences and may, by notice in writing served on the close associate, request further information or records that is, in the opinion of the Commissioner, relevant to the investigation.

**Schedule 1 [38]** extends the grounds on which an application for administrative review may be made to include an adverse security determination by the Commissioner of Police about a close associate of the applicant for review.

### **Licence renewals**

**Schedule 1 [3]** provides for the making of applications for the renewal of operator licences and tattooist licences instead of requiring an application for a new licence to be made when the licence expires. The amendment also provides that an existing licence will remain in force until an application for renewal is determined. **Schedule 1 [17]** substitutes section 17 of the principal Act to remove the current provision that prevents licences from being renewed.

**Schedule 1 [11]–[14] and [16]** extend existing provisions relating to the granting of licences by the Secretary so that they apply to licence renewals. **Schedule 1 [4], [8] and [12]** extend provisions under section 27 of the principal Act to allow administrative review of licence renewal applications.

**Schedule 1 [4]** also provides for the Secretary to investigate applications for the renewal of licences and to refer such applications to the Commissioner of Police. **Schedule 1 [9]** provides that such referrals are required only if the application includes changes relating to the close associates of the applicant or the premises where the licensee carries on business. **Schedule 1 [5], [6] and [8]** are consequential amendments.

**Schedule 1 [10]** enables the Secretary or the Commissioner of Police to require further information in relation to an application for the renewal of a licence.

**Schedule 1 [35]** provides the refusal or failure of the Secretary to renew a licence granted to a person will be administratively reviewable by NCAT. **Schedule 1 [37]** provides that, for the purposes of applying for such an administrative review, an application for the renewal of a licence is taken to have been refused if the licence is not renewed within 60 days after the application is made.

### **Disclosure of criminal intelligence information**

**Schedule 1 [23]–[25]** provide that the Commissioner of Police and the Secretary are not required to give reasons for a determination or licence decision that is based on any criminal intelligence report or other criminal information held by the Commissioner. **Schedule 1 [39]** ensures that NCAT does not disclose any such report or information except with the approval of the Commissioner of Police. **Schedule 1 [40] and [41]** are consequential amendments.

### **Change of particulars relating to licences**

**Schedule 1 [27]** makes it a condition of a tattooist licence that the licensee must give written notice to the Secretary of a change in any of the particulars in respect of the licence, and of the appropriate new particulars, within 14 business days of the change occurring. The same requirement applies currently to operator licences only. **Schedule 1 [30]** requires the notice to be accompanied by copies of 3 forms of personal identification for each individual identified as a close associate in that notice. **Schedule 1 [26], [28] and [29]** are consequential amendments.

### **Grounds for cancellation of licence**

**Schedule 1 [31]** requires the Secretary to cancel a licence if the licensee or a close associate of the licensee fails to comply with a requirement by the Commissioner of Police under section 19A of the principal Act to provide further information in connection with an investigation of the licensee's suitability to continue to hold a licence.

**Schedule 1 [32]** provides that the Secretary may cancel a licence if the licensee does not, within 60 days of being notified of the grant of the licence, collect the licence from the place nominated by the Secretary. **Schedule 1 [33]** provides that, if the Secretary cancels a licence for non-collection, the Secretary is not required to suspend the licence first nor seek reasons from the licensee as to why it should not be cancelled and **Schedule 1 [36]** provides that the decision to cancel a licence on the ground of non-collection is not administratively reviewable. **Schedule 1 [34]** removes a superfluous cross-reference.

### **Miscellaneous amendments**

**Schedule 1 [15]** makes it clear that if development consent or approval under the *Environmental Planning and Assessment Act 1979* is required to use premises for the purposes of carrying on a body art tattooing business the Secretary may refuse to grant or renew the licence if that consent or approval is not in force.

**Schedule 1 [42]** enables an authorised officer to make inquiries and examinations while on premises that have been lawfully entered by the officer under the principal Act.

**Schedule 1 [43]** contains provisions that will apply when a person is required under section 19A or 30C of the principal Act to furnish information or records or answer questions in connection with the powers of an authorised officer. Self-incrimination is not an excuse from such a requirement, however any information or records furnished or answer given by a natural person is not admissible in evidence against the person in criminal proceedings (except proceedings for an offence under section 33 of the principal Act) if the person objected at the time that it might incriminate the person or the person was not warned that the person may object to furnishing the information or records, or to answering the question, on the ground that it might incriminate the person.

**Schedule 1 [44]** updates the provision relating to the issuing of penalty notices under the principal Act.

**Schedule 1 [45]** updates the manner in which documents under the principal Act may be served.

**Schedule 1 [46]** provides that a pending application for a new licence to replace an existing licence that is due to expire is to be treated as an application for the renewal of the existing licence under proposed section 13A.