



New South Wales

Security Industry Amendment Bill 2022

Explanatory note

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

Overview of Bill

The objects of this Bill are—

- (a) to make miscellaneous amendments to—
 - (i) the *Security Industry Act 1997*, and
 - (ii) the *Security Industry Regulation 2016*, and
- (b) to insert new offences into the *Tattoo Parlours Act 2012*.

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.

Schedule 1 Amendment of Security Industry Act 1997 No 157

Schedule 1[2] updates the definition of *providing persons* to carry on a security activity in the *Security Industry Act 1997* (the *principal Act*) to extend the definition to a person who acts through another person.

Schedule 1[3] permits the regulations under the principal Act to prescribe activities that are not security activities. This enables the exclusion of health screening at a hospital which is prescribed by Schedule 2[2].

Schedule 1[4]–[6] update the definition of *crowd controller*, expand the places at which crowd controller functions are exercised and clarify that controlling or monitoring the behaviour of persons is only a function of a crowd controller if it is done to maintain order.

Schedule 1[7] inserts a definition of *sell* to clarify what is covered by the security activity of selling security and other equipment.

Schedule 1[9] authorises the Commissioner of Police (the *Commissioner*) to exempt persons from the requirement to hold a licence to carry on a security activity or to provide persons to carry on a security activity. **Schedule 1[8]** makes a consequential amendment.

Schedule 1[10] clarifies that the holder of a master licence class MA must be an individual.

Schedule 1[11] and [12] remove the minimum number of persons covered by master licences so that the licences apply to a maximum number of persons only.

Schedule 1[13] provides that every master licence authorises the holder to also be able to carry on the activities authorised by a class 2B licence, which relates to selling, acting as an agent for or brokering the sale of security equipment or security services. **Schedule 1[14]** makes a consequential amendment.

Schedule 1[15] combines the licence for the security activities of patrol, protect or guard property while unarmed and act as a crowd controller. These were previously separate licence classes.

Schedule 1[16] introduces a new class of licence for the security activity of patrol, protect or guard cash-in-transit. **Schedule 1[17]** makes a consequential amendment that makes clear that certain other licences do not authorise the licensee to patrol, protect or guard cash-in-transit.

Schedule 1[18] amends the grounds for refusing an application for a licence to include being a registrable person under the *Child Protection (Offenders Registration) Act 2000* who has reporting obligations under that Act. It also updates references to visa categories. **Schedule 1[19]** makes a consequential amendment.

Schedule 1[20] permits the Commissioner to prohibit a person from making an application for a licence for 2 years if the person makes an application for a licence and in considering the application the Commissioner is not satisfied the person is a fit and proper person or considers granting the licence would be contrary to the public interest.

Schedule 1[21] and [25] update requirements around the provision of fingerprints, palm prints and photographs for the purposes of licences to take account of the role of Service NSW.

Schedule 1[26] provides that the holder of a master licence must not provide an ineligible person to carry on prescribed work. A person is an ineligible person if the person is not eligible to hold a licence because of criminal or related history or because the person has had a licence refused or revoked on grounds of public interest or the person not being a fit or proper person. *Prescribed work* means work in the cash-in-transit sector of the security industry, work involving access to operational information or rostering or monitoring activities carried on under a class 1 or class 2 licence. **Schedule 1[43]** makes an equivalent preventing an ineligible person from carrying on prescribed work.

Schedule 1[26] also imposes requirements on the holder of a master licence to ensure that—

- (a) when providing persons to carry on a security activity with a dog, the holder has the Commissioner's approval, and
- (b) when entering an arrangement with another person for the provision of persons to carry on security activities, the other person has an appropriate licence or permit.

Schedule 1[29] clarifies when a licence comes into force.

Schedule 1[30], [31], [33], [34], [36], [37], [41], [44] and [45] update penalties for various offences against the principal Act.

Schedule 1[32] introduces a tiered penalty system for breaches of licence conditions. **Schedule 1[1], [22]–[24], [27] and [28]** make consequential amendments.

Schedule 1[35] provides that an electronic advertisement for a security activity carried on by a licensee is not required to contain the licence number of the licensee if the number is readily and freely able to be accessed from the advertisement by direct electronic link.

Schedule 1[39], [40] and [42] remove a requirement that the written agreement of a client who has entered a contract with the holder of a master licence be in the original contract. The written agreement can now be in a separate document. **Schedule 1[38]** omits redundant words.

Schedule 1[46] and [47] move offences of obstruction or failing to comply with requirements of enforcement officers into a new Part 3C and increase the penalty for the offences. The proposed amendments also introduce offences of altering, damaging or destroying records, providing false or misleading information, conspiracy and inducing the commission of certain offences.

Schedule 1[48] permits the Commissioner to make information publicly available about an offence committed under the principal Act or the revocation of a licence.

Schedule 1[49] provides for a reduced maximum monetary penalty for offences committed against the principal Act or the regulations if the offence is committed by the holder of a master licence class MA or class MB.

Schedule 1[50] increases the maximum penalty for an offence created by the regulations under the principal Act.

Schedule 1[51] inserts a number of saving and transitional provisions consequent on the amendments made to the principal Act by the proposed Act.

Schedule 2 Amendment of Security Industry Regulation 2016

Schedule 2[2] provides that the conduct of health screening, including health screening conducted as a condition of entry to a venue, is not a security activity. **Schedule 2[1]** makes a consequential amendment.

Schedule 2[3] enables the Commissioner to exempt a person who is not an Australian citizen or a permanent Australian resident from the requirement to hold a class 2A security licence (Security Consultant) if the Commissioner is satisfied the person has specialised skills or experience not readily available in Australia.

Schedule 2[4], [6] and [7] make amendments consequential on the tiered penalty system for breaches of licence conditions introduced by Schedule 1[32].

Schedule 2[5] updates a note.

Schedule 2[8]–[11] update penalties for various offences against the regulations.

Schedule 2[12] exempts a person employed as a medical practitioner at a hospital from the operation of the *Security Industry Act 1997*.

Schedule 3 Amendment of Tattoo Parlours Act 2012 No 32

Schedule 3 introduces new offences into the *Tattoo Parlours Act 2012* of altering, damaging or destroying records, providing false or misleading information, conspiracy and inducing the commission of certain offences. These are in line with the new offences inserted in the *Security Industry Act 1997* by Schedule 1[47].