



NSW Police Force

# Grounds for Refusing or Revoking a Provisional, Class 1 or Class 2 Licence

FACT SHEET 6

*This Fact Sheet provides information on the powers and obligations of the Commissioner of Police to refuse or revoke Provisional, Class 1 or Class 2 security licences.*

*The amended Security Industry Act 1997 and the new Security Industry Regulation 2007 provide for additional offences and circumstances for which the Commissioner must or may refuse or revoke a licence.*

## What offences will disqualify me from holding a licence?

The Security Industry Act requires the Commissioner to refuse or revoke a licence if the applicant or licensee has been, whether in NSW or elsewhere:

- convicted within the previous 10 years, or
- found guilty, but with no conviction recorded, within the previous five years,

of an offence prescribed by the regulations.

The prescribed offences are those:

- relating to firearms or weapons, where the offence would disqualify the person from holding a firearms licence
- relating to prohibited drugs, prohibited plants or restricted substances, where the penalty imposed is any term of imprisonment and/or a fine of at least \$500
- involving assault, where the penalty imposed is imprisonment and/or a fine of at least \$200
- involving fraud, dishonesty or stealing, where the maximum penalty is imprisonment for at least three months
- involving robbery
- relating to riot **New**
- relating to affray **New**
- involving stalking or intimidation **New**
- relating to reckless conduct causing death at workplace **New**

- relating to terrorism **New**
- involving organised criminal groups and recruitment. **New**

The Commissioner has no discretion to consider the circumstances of the offence, except in the case of an assault related offence where the court has found the defendant guilty but has not recorded a conviction.

## Can a licence be refused or revoked for any other reason?

The legislation requires the Commissioner to consider and/or make assessments on a number of other matters that provide grounds for refusing or revoking Provisional, Class 1 or Class 2 licences. Some of these require the Commissioner to take action, while others allow the Commissioner discretion in deciding whether to refuse or revoke.

These additional grounds include, but are not limited to, that the applicant or licensee:

- is not a fit and proper person to hold a licence (mandatory grounds for refusal/revocation)
- is not competent, or has not obtained the required qualification/s, to carry on the security activity authorised by the licence (mandatory)
- has been convicted of three or more offences under the Security Industry Act 1997 within a two year period (includes offences dealt with by way of penalty notice) (mandatory) **New**
- has, within the previous ten years, been dismissed as a police officer on integrity grounds (mandatory) or other grounds (discretionary)
- is a police officer, and a conflict of interest exists or would exist (mandatory) **New**
- is not suitable to hold a licence because of involvement in corrupt conduct (mandatory).

The Commissioner may also refuse or revoke a licence if it is not in the public interest for the licence to be held by the applicant or licensee.



## Can I appeal a decision to refuse or revoke my licence?

Applicants and licensees have the right to request, in the first instance, an internal review of the Commissioner's decision. An internal review is conducted by independent officers (i.e. not those who made the original decision).

If the internal review confirms the original decision, the applicant or licensee may lodge an appeal with the Administrative Decisions Tribunal. It should be noted that if the Commissioner is required by the legislation to refuse or revoke a licence (i.e. the grounds are mandatory rather than discretionary), the Tribunal must also uphold that requirement.

## Security Industry Registry

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## Where can I find more information?

The information provided in this Fact Sheet does not limit the grounds for refusal or revocation of a licence. Applicants and licensees should familiarise themselves with the amended Security Industry Act 1997 and the Security Industry Regulation 2007, which are available on the NSW Legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).



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