



NSW Police Force

New Offences and Increased Penalties: Information for Master Licence Holders

FACT SHEET 9

This Fact Sheet provides information on new offences and significantly increased penalties under the amended Security Industry Act 1997 and the new Security Industry Regulation 2007 (“the legislation”).

The legislation introduces a range of licence holder responsibilities that will improve the professionalism of the security industry. Licensees have a duty to be aware of and comply with their legal obligations. Other Fact Sheets provide further information on specific obligations.

Which new offences are relevant to Master licence holders?

The majority of offences under the legislation are relevant to all Master licence holders, though some are specific to particular business activities. Each offence represents both a responsibility and a risk for licensees. Master licence holders must ensure not only that they comply with their particular responsibilities, but also that their employees understand and comply with the requirements of the legislation.

The following **new** responsibilities under the legislation will be relevant to many Master licence holders. Failure to comply with these responsibilities is an offence.

- Employers must not permit employees who hold Provisional licences to carry on unsupervised security activities.
- A person must not supervise or monitor a Provisional licence holder unless they hold a Class 1 licence of the corresponding subclass.
- A person who is not eligible to hold a security licence, because of their criminal or related history, must not roster or schedule Provisional, Class 1 or Class 2 licence holders to perform security activities.
- Employers must prepare and implement a Fitness for Work policy that covers the use of alcohol and other drugs by employees.

- A person must not interfere with any security recording that captures an incident involving a licensee that would likely lead to criminal or disciplinary proceedings against that licensee, unless such proceedings have been finalised.

Have any important changes been made to existing offences?

Many of the existing responsibilities and offences under the legislation have been reworded to improve clarity and to address issues that have emerged since the legislation was last revised.

One of the most important changes that Master licence holders need to be aware of relates to the employment of people who are not licensed to perform security activities. Employers were previously prohibited from “knowingly” employing unlicensed people. From 1 September 2007, employers will no longer be able to rely on a defence that they did not know the employee was unlicensed; they must instead prove that they “could not reasonably have been expected to know” the person was unlicensed.

How can I confirm that a person is licensed?

Employers should not rely alone on sighting a person’s photographic security licence as evidence that they are currently licensed.

A Public Register of Licences has been accessible via the Security Industry Registry’s website (www.police.nsw.gov.au/sir) since March 2006. The Register allows a person to identify the status of a licence by entering the licence number.

Master licence holders should use the Register to confirm that all prospective employees are appropriately licensed and should regularly check the status of all existing employees’ licences.



What are the penalties for offences under the legislation?

The maximum penalties for all offences can be found in the legislation, with monetary penalties being represented by a certain number of penalty units. The current value of a penalty unit is \$110.

Police have the option of dealing with most offences by issuing a penalty notice to the offender, which requires the payment of a fine unless the person elects to contest the notice at court. Penalty notice amounts for all relevant offences are shown in Schedule 2 of the Security Industry Regulation 2007.

Licence holders should note that penalties for offences under the legislation have significantly increased. Examples include:

- the maximum penalty for employing an unlicensed person has risen from \$4,400 for all Master licence holders to \$22,000 for corporations and \$11,000 and/or six months imprisonment for individuals
- the maximum penalty for employing more licensed staff than is authorised by a Master licence has risen from \$11,000 for corporations and \$5,500 and/or six months imprisonment for individuals to \$110,000 for corporations and \$55,000 and/or two years imprisonment for individuals.

In addition, the legislation requires the Commissioner of Police to revoke a licence, or refuse to issue a new one, if the licensee has committed three or more offences under the legislation during any two year period.

The NSW Police Force may conduct random and targeted audits of Master licence holders to ensure their compliance with the legislation.

Security Industry Registry

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Where can I find more information?

The information provided in this Fact Sheet is for general guidance only; it does not constitute legal advice. 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).



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