



## Security Industry Amendment Regulation 2012

under the

Security Industry Act 1997

*[The following enacting formula will be included if the Regulation is made:]*  
Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Security Industry Act 1997*.

Minister for Police and Emergency Services

### **Explanatory note**

The object of this Regulation is to make miscellaneous amendments to the *Security Industry Regulation 2007*, including amendments that are consequential on the enactment of the *Security Industry Amendment Act 2012*.

The Regulation also includes amendments:

- (a) to require the holder of a master licence providing persons carrying on security activities involving the use of horses to obtain and maintain certain public liability insurance, and
- (b) to enable the making of guidelines requiring the holder of a master licence who employs class 1 licensees to record particulars of certain incidents involving the licensees in an incident register and to ensure that such class 1 licensees sign on in a register kept at premises where security activities are carried on, and
- (c) to exempt from the application of the *Security Industry Act 1997* certain persons who carry out aircraft security checks, certain persons who check on the admission of persons to venues who might otherwise be subject to the Act as crowd controllers and firearms dealers when selling safes or vaults for firearms, and
- (d) to clarify certain signage requirements, and
- (e) to update various references to offences under other Acts.

This Regulation is made under the *Security Industry Act 1997*, including sections 9 (2), 14 (2), 15 (4), 17 (2) (c), 18, 40A, 48 (2) (i) and 48 (the general regulation-making power).

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Clause 1      Security Industry Amendment Regulation 2012

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## **Security Industry Amendment Regulation 2012**

under the

Security Industry Act 1997

### **1 Name of Regulation**

This Regulation is the *Security Industry Amendment Regulation 2012*.

### **2 Commencement**

This Regulation commences on 1 November 2012 and is required to be published on the NSW legislation website.

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Security Industry Amendment Regulation 2012

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## **Schedule 1      Amendment of Security Industry Regulation 2007**

**[1]    Clause 8**

Omit the clause. Insert instead:

**8    Applications for licences and renewals of licence lodged by post**

An application for a licence, or for renewal of a licence, that is lodged by post must be sent to the following address:

Security Licensing and Enforcement Directorate  
NSW Police Force  
Locked Bag 5099  
Parramatta NSW 2124

**[2]    Clause 9**

Omit the clause. Insert instead:

**9    Composite licences: section 9 (2)**

For the purposes of section 9 (2) of the Act, a class 1 or class 2 licence of any subclass may be combined with a class 1 or class 2 licence of any other subclass or subclasses into a composite licence, but only if the relevant licensee is entitled to hold the other subclass or subclasses of licence.

**[3]    Clause 10**

Omit the clause. Insert instead:

**10   Shortened term for licences**

For the purposes of section 24 (1) of the Act, the period of 1 year is prescribed for a master licence, class 1 or class 2 licence, but only if the applicant for the licence applies for a licence that will be in force for such a period.

**[4]    Clause 11 Term of provisional licence: section 24 (1)**

Omit the clause.

**[5]    Clauses 12–12B**

Omit clause 12. Insert instead:

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## 12 Licence fees

(1) **Class 1 licences—1 year term**

For the purposes of sections 14 (2) (a) and 48 (2) (i) of the Act, the prescribed fee in respect of a class 1 licence that will be in force for a period of 1 year is \$160.

(2) **Class 1 licences—5 year term**

For the purposes of sections 14 (2) (a) and 48 (2) (i) of the Act, the prescribed fee in respect of a class 1 licence that will be in force for a period of 5 years is \$640.

(3) **Master licences—1 year term**

For the purposes of sections 14 (2) (a) and 48 (2) (i) of the Act, the prescribed fees in respect of master licences that will be in force for a period of 1 year are as follows:

- (a) for a class MA licence—\$160,
- (b) for a class MB licence—\$410,
- (c) for a class MC licence—\$1,250,
- (d) for a class MD licence—\$2,800,
- (e) for a class ME licence—\$5,225.

(4) **Master licences—5 year term**

For the purposes of sections 14 (2) (a) and 48 (2) (i) of the Act, the prescribed fees in respect of master licences that will be in force for a period of 5 years are as follows:

- (a) for a class MA licence—\$640,
- (b) for a class MB licence—\$1,640,
- (c) for a class MC licence—\$5,000,
- (d) for a class MD licence—\$11,200,
- (e) for a class ME licence—\$20,900.

(5) For the purposes of sections 14 (2) (a) and 48 (2) (i) of the Act, in addition to any fee payable under subclauses (1)–(4), an application for a licence is to be accompanied by a finger and palm printing fee of \$40 if the applicant has not had his or her finger prints or palm prints, or both, taken before in relation to a licence under the Act.

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## **12A Licence renewal fees**

### **(1) Class 1 licences—1 year term**

For the purposes of sections 17 (2) (c) and 48 (2) (i) of the Act, the prescribed fee in respect of the renewal of a class 1 licence that will be in force for a period of 1 year is \$140.

### **(2) Class 1 licences—5 year term**

For the purposes of sections 17 (2) (c) and 48 (2) (i) of the Act, the prescribed fee in respect of the renewal of a class 1 licence that will be in force for a period of 5 years is \$560.

### **(3) Master licences—1 year term**

For the purposes of sections 17 (2) (c) and 48 (2) (i) of the Act, the prescribed fees in respect of renewals of master licences that will be in force for a period of 1 year are as follows:

- (a) for a class MA licence—\$140,
- (b) for a class MB licence—\$375,
- (c) for a class MC licence—\$1,200,
- (d) for a class MD licence—\$2,725,
- (e) for a class ME licence—\$5,125.

### **(4) Master licences—5 year term**

For the purposes of sections 17 (2) (c) and 48 (2) (i) of the Act, the prescribed fees in respect of renewals of master licences that will be in force for a period of 5 years are as follows:

- (a) for a class MA licence—\$560,
- (b) for a class MB licence—\$1,500,
- (c) for a class MC licence—\$4,800,
- (d) for a class MD licence—\$10,900,
- (e) for a class ME licence—\$20,500.

## **12B Late fees**

### **(1) Class 1 licences—1 year term**

For the purposes of section 17 (3) of the Act, the prescribed late fee in respect of the renewal of a class 1 licence that will be in force for a period of 1 year is \$20.

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(2) **Class 1 licences—5 year term**

For the purposes of section 17 (3) of the Act, the prescribed late fee in respect of the renewal of a class 1 licence that will be in force for a period of 5 years is \$80.

(3) **Master licences—1 year term**

For the purposes of section 17 (3) of the Act, the prescribed late fees in respect of renewals of master licences that will be in force for a period of 1 year are as follows:

- (a) for a class MA licence—\$20,
- (b) for a class MB licence—\$35,
- (c) for a class MC licence—\$50,
- (d) for a class MD licence—\$75,
- (e) for a class ME licence—\$100.

(4) **Master licences—5 year term**

For the purposes of section 17 (3) of the Act, the prescribed late fees in respect of renewals of master licences that will be in force for a period of 5 years are as follows:

- (a) for a class MA licence—\$80,
- (b) for a class MB licence—\$140,
- (c) for a class MC licence—\$200,
- (d) for a class MD licence—\$300,
- (e) for a class ME licence—\$400.

[6] **Clause 13 Information and particulars to accompany licence application: section 14 (2) (b)**

Omit the heading to clause 13 (1).

Insert instead “**Class 1 and class 2 licence**”.

[7] **Clause 13 (1)**

Omit “class 1, class 2 or provisional licence”.

Insert instead “class 1 or class 2 licence”.

[8] **Clause 13 (1) (b)**

Omit the paragraph.

[9] **Clause 13 (1) (f), (2) (f), (3) (h) and (4) (f)**

Omit “a subsequent licence or” wherever occurring.

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**[10] Clause 13 (1) (g)**

Insert after clause 13 (1) (f):

- (g) evidence satisfying the Commissioner of the applicant's identity.

**[11] Clause 13 (2) (g) and (3) (g)**

Omit the paragraphs.

**[12] Clause 13 (4)**

Omit "the nominated person for the licence" from clause 13 (4) (c).

Insert instead "the name, date and place of birth and residential address of the nominated person for the licence".

**[13] Clause 14 Application for class 1, class 2 or provisional licences—  
written references: section 14 (3) (b)**

Omit the clause.

**[14] Clause 15 Competencies: section 15 (1) (c)**

Omit the clause.

**[15] Clause 16 Grounds for refusal to grant licence: section 15 (4)**

Omit "unless the Commissioner is satisfied that the person took all reasonable steps to avoid the liquidation or administration." from clause 16 (1) (b).

Insert instead:

unless:

- (i) the winding up of the corporation was voluntary, or
- (ii) the Commissioner is satisfied that the person took all reasonable steps to avoid the liquidation or administration.

**[16] Clause 16 (3)**

Omit the subclause.

**[17] Clause 16 (4)**

Omit "is convicted of". Insert instead "has committed".

**[18] Clause 16 (6)**

Omit the subclause. Insert instead:

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**(6) Discretionary grounds for refusal**

For the purposes of section 15 (4) of the Act, the Commissioner may refuse to grant an application for a master licence if the applicant, or a close associate of the applicant, has, within the period of 3 years before the application for the licence was made been found guilty of an offence under:

- (a) the *Fair Trading Act 1987* that relates to a contravention of section 44, 46, 49, 50, 53 or 55 of that Act as in force before that section was repealed by the *Fair Trading Amendment (Australian Consumer Law) Act 2010*, or
- (b) the *Trade Practices Act 1974* of the Commonwealth that relates to a contravention of section 51AA–51AC, 52, 53, 53B, 55, 55A, 58 or 60 of that Act as in force before that section was repealed by the *Trade Practices Amendment (Australian Consumer Law) Act (No 2) 2010* of the Commonwealth, or
- (c) Chapter 4 of the *Australian Consumer Law* that relates to a contravention of section 18, 20, 21, 22, 29, 31, 33, 34, 36 or 50 of that Law.

**[19] Clause 18 Offences and civil penalties that disqualify applicants**

Insert “or for the renewal of a master licence” after “application for a master licence” wherever occurring in clause 18 (1) (f) and (2).

**[20] Clause 18 (1) (f)**

Insert “or the *Fair Work Act 2009* of the Commonwealth” after “jurisdiction”.

**[21] Clause 18 (2)**

Omit “a civil penalty imposed under section 357 of the *Industrial Relations Act 1996*”.

Insert instead “each relevant civil penalty”.

**[22] Clause 18 (3)**

Insert after clause 18 (2):

- (3) In this clause:

***relevant civil penalty*** means each of the following:

- (a) a civil penalty imposed under section 357 of the *Industrial Relations Act 1996*,
- (b) a pecuniary penalty imposed under section 224 of the *Australian Consumer Law* that relates to a contravention



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of section 18, 20, 21, 22, 29, 31, 33, 34, 36 or 50 of that Law,

- (c) a pecuniary penalty imposed under section 546 of the *Fair Work Act 2009* that relates to a contravention of that Act.

**[23] Clause 19 Direct supervision: section 29A**

Omit the clause.

**[24] Clause 21 Requirement to notify change of licence particulars**

Omit “in writing”.

Insert instead “electronically, by post or in any other approved manner”.

**[25] Clause 22 Notification of lost etc licences**

Insert “or become illegible” after “mutilated”.

**[26] Clause 22 (2) (a) and (b)**

Omit the paragraphs. Insert instead:

- (a) oral notice of the occurrence has been given, either in person or by telephone, to a police officer at a police station or to the Police Assistance Line (131 444) and a Computerised Operational Policing System Event reference number has been issued to the licensee, or
- (b) notice of the occurrence has been given in any other manner approved by the Commissioner.

**[27] Clause 23 Application for replacement licence**

Insert “or become illegible” after “mutilated” in clause 23 (1).

**[28] Clause 23 (2)**

Omit “Security Industry Registry”.

Insert instead “Security Licensing and Enforcement Directorate”.

**[29] Clause 25 Application for variation of licence**

Omit “class 1, class 2 or provisional licence”.

Insert instead “class 1 or class 2 licence”.

**[30] Clause 27 Pending application for subsequent licence**

Omit the clause.

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**[31] Clause 28 Special licence conditions—fingerprints and palm prints: section 21 (3) (b)**

Insert “or palm prints, or both,” after “fingerprints” wherever occurring.

**[32] Clause 28 (2)**

Insert “or palm print” after “fingerprint”.

**[33] Clause 30 Training**

Omit the clause.

**[34] Clause 32 Requirement to display licence number**

Omit the clause. Insert instead:

**32 Requirement to display licence number**

- (1) It is a condition of a master licence that a licensee conducting a business in the security industry must not, on any premises or vehicle used for carrying out security activities, use or display the licensee’s name, the business name under which the business is carried on, any logo or other symbol representing the business or any words indicating that the premises or vehicle are used in connection with any security activity authorised by the master licence unless the number of the master licence is also displayed in accordance with this clause on the premises or vehicle.
- (2) The number of the master licence must be displayed on a sign as follows:
  - (a) “Master Lic.”, “Lic. No”, “M/L” or other approved abbreviation must be followed by the licence number,
  - (b) the letters and numbers must be in Arial font or otherwise must be clearly legible and must be a minimum height of:
    - (i) for signage on premises—30 mm, or
    - (ii) for signage in or on vehicles—15 mm,
  - (c) the letters and numbers must be of a colour that contrasts with the background of the sign.
- (3) This clause does not have effect until the end of the period of 3 months beginning on the commencement of this clause.

**[35] Clause 34 Requirement to notify changes relating to close associates**

Omit the clause. Insert instead:

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## **34 Requirement to notify changes relating to close associates**

- (1) It is a condition of a master licence that the licensee must notify the Commissioner in writing:
  - (a) of any change in the particulars relating to close associates included in an application under clause 13 (2) (a) (ii) or (3) (d), and
  - (b) the name, date and place of birth and residential address of any person who subsequently becomes a close associate of the licensee.
- (2) The notification must be made within 14 days after the change occurs or the person becomes a close associate.

## **[36] Clause 35 Public liability insurance**

Insert “, the use of horses” after “use of firearms”.

## **[37] Clauses 36–37A**

Omit clauses 36 and 37. Insert instead:

## **36 Records required to be kept by master licensees**

- (1) It is a condition of a master licence that the licensee must keep the following records in a manner and form approved by the Commissioner:
  - (a) the full name, residential address and licence number and subclass of each class 1 or class 2 licensee provided by the holder of the master licence,
  - (b) the expiry date of the licence held by each class 1 or class 2 licensee provided by the holder of the master licence,
  - (c) in relation to each occasion on which the holder of the master licence is engaged to provide security services to be performed by a class 1 or class 2 licensee employed by the holder of the master licence:
    - (i) the name and address of the person engaging those services, and
    - (ii) the address of the location at which the services are provided, and
    - (iii) the date on and time at which the services are provided, and
    - (iv) details of the services provided, and
    - (v) the name of, and the number of the licence held by, the class 1 or class 2 licensee who provided the services, and

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- (d) details of any contract or agreement to provide security services as required by the Commissioner.
- (2) If the holder of a master licence provides any person to perform a mobile patrol service, it is a condition of the licence that the holder of the licence must ensure that:
  - (a) a record of each patrol visit is kept, and
  - (b) such a record contains details of the name and licence number of the licensee who undertook the patrol visit.
- (3) Each record required to be kept under this clause must be kept for at least 3 years.

### **36A Copies of licences**

It is a condition of a master licence that the holder of the licence keep a copy of the licence:

- (a) in the case of a licensee providing a mobile patrol service—at any place of business at which the holder of the master licence's records are kept other than the principal place of business, or
- (b) in any other case—on premises at which security activities are being carried on by persons provided under the relevant master licence.

### **37 Incident registers**

- (1) A reference in this clause to any guidelines prepared by the Commissioner is a reference to the guidelines:
  - (a) made publicly available by the Commissioner, and
  - (b) in force as at the commencement of this Regulation.
- (2) The Commissioner may prepare guidelines with respect to:
  - (a) the registers (if any) to be kept by master licensees with respect to particulars of incidents occurring while class 1 licensees provided by the master licensees are performing their duties (*incident registers*), and
  - (b) the types of incidents to be recorded in incident registers, and
  - (c) the period within which any such incident must be recorded, and
  - (d) the manner and form in which, and places at which, incident registers are to be kept, and

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- (e) giving the Firearms Registry of the NSW Police Force notification of the occurrence of specified incidents that are required to be recorded in such incident registers.
- (3) If the guidelines require a master licensee to keep an incident register or give any notification in connection with the carrying on of a security activity by any class 1 licensee provided by the master licensee, the master licensee must keep an incident register and give that notification in compliance with those guidelines.  
Maximum penalty:
  - (a) in the case of a corporation—5 penalty units, or
  - (b) in the case of an individual—2 penalty units.
- (4) The requirement to keep a register under this clause is in addition to the requirement under clause 36 to keep records.

### **37A Sign-on register**

- (1) It is a condition of a master licence the holder of which provides holders of class 1 or class 2 licences to carry out security services at premises on a recurrent basis that the master licensee ensure that on each day that the provided holders carry out security services at those premises the provided holders complete an attendance register kept in the approved manner before commencing, and immediately following, cessation of the carrying of security activities, at the premises.
- (2) It is a condition of a class 1 or class 2 licence held by a person who is provided by a master licensee to carry on security services at any premises on a recurrent basis that on each day that the holder of the class 1 or class 2 licence carries on such security activities he or she completes an attendance register kept in the approved manner before commencing, and immediately following, cessation of the carrying of security activities, at the premises.

### **[38] Part 3B**

Insert after clause 38B:

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## **Part 3B Temporary excess provision of services permit**

### **38C Fee to accompany permit application**

For the purposes of section 40A of the Act, the prescribed fee to accompany an application for a temporary excess provision of services permit is \$150 for each specified day, or each day within a specified period, for which authorisation to provide more persons than the number authorised by a master licence is sought by the applicant.

#### **[39] Clause 39 Inspection of records and register**

Omit the clause.

#### **[40] Clause 41 Procedures for duplicating restricted keys**

Omit the clause.

#### **[41] Clause 42 Security Industry Council: Section 43A (2)**

Omit the clause.

#### **[42] Clause 45**

Omit the clause. Insert instead:

##### **45 Approval of organisations providing requisite training, assessment and instruction**

- (1) A list of persons or organisations approved from time to time by the Commissioner for the purposes of section 15 of the Act is to be published on the website maintained by the Security Licensing and Enforcement Directorate within the NSW Police Force.
- (2) The Commissioner is to give notice in writing to any person or organisation affected by removal of that person or organisation from the list of approved persons or organisations.

#### **[43] Clause 47A Offences and civil penalties that disqualify applicants**

Insert after clause 47A (2):

- (3) Clauses 16 (6) and 18, to the extent that their application is varied by an amendment made by the *Security Industry Amendment Regulation 2012*, does not extend to an offence of which a person is convicted or found guilty or to a pecuniary penalty imposed in respect of a contravention that occurred before the commencement of the amendment.

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**[44] Clause 47B**

Insert after clause 47A:

**47B Public liability insurance: horses**

The amendment made to clause 35 by the *Security Industry Amendment Regulation 2012* does not have effect in relation to a master licensee who has public liability insurance cover complying with clause 35 as in force immediately before the commencement of the amendment until 3 months after the commencement.

**[45] Schedule 1 Exempt persons**

Insert after clause 8:

- 9** Persons who, to the extent only that they inspect, examine, scan or otherwise carry out administrative checks in relation to the entry of persons to premises (whether licensed or not) for the purpose of a function, sporting or other event or entertainment, but only to the extent to which the persons act in that capacity.

**[46] Schedule 1, clauses 27 and 28**

Insert after clause 26:

- 27** Persons who are employed by providers of domestic air services or international air services (within the meaning of the *Aviation Transport Security Regulations 2005* of the Commonwealth) and who conduct pre-flight searches of aircraft for security purposes, but only to the extent to which the persons act in that capacity.
- 28** Firearms dealers (within the meaning of the *Firearms Act 1996*) and who sell equipment referred to in section 4 (1) (e) of the *Security Industry act 1997* (being a safe or vault for firearms), but only to the extent to which the dealers act in that capacity.