



New South Wales

# Tattoo Parlours Amendment Bill 2012

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to confer additional powers on authorised officers in relation to entry to premises and the conduct of searches for the purposes of ensuring compliance with the *Tattoo Parlours Act 2012* (*the principal Act*), and
- (b) to expand the definition of *close associate* of an applicant for a licence or a licensee to include certain contractors and employees, and
- (c) to prohibit persons, other than licensed tattooists, from performing body art tattooing procedures on licensed premises, and
- (d) to make further provision with respect to licences, the information that must accompany an application for a licence, the display of information by licensed tattooists and operators and the conditions that apply to licences, and
- (e) to make provision with respect to the handling of criminal intelligence material provided to the Administrative Decisions Tribunal (*the Tribunal*) by the Commissioner of Police (*the Commissioner*), and

- (f) to allow the Commissioner to require a licensee or close associate of a licensee to provide certain information in connection with investigations for security determinations about licensees, and
- (g) to make provision for the making and keeping of records in relation to body art tattooing businesses, and
- (h) to make other minor amendments.

## 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 the date of assent to the proposed Act.

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

**Schedule 1 [1]** expands the definition of *close associate* of an applicant for a licence or a licensee to include a person who is or will be an employee, or is or will be a contractor, in respect of the business carried on pursuant to the licence. The principal Act allows the Director-General to require certain information to be provided relating to close associates of an applicant or licensee and allows the Commissioner to have regard to information relating to close associates of an applicant or licensee when making a security determination.

**Schedule 1 [2]** provides that it is an offence for a person to perform a body art tattooing procedure (whether or not for fee or reward) at licensed premises unless the person is authorised to do so under a tattooist licence. **Schedule 1 [3]** makes a consequential amendment.

**Schedule 1 [4]** provides that an application for a licence must be accompanied by copies of 3 forms of personal identification (of a kind approved by the Director-General) in respect of each individual identified as being a close associate of the applicant.

**Schedule 1 [6]** provides that a tattooist licence or operator licence comes into force on the date specified in the licence rather than on the date on which the licence is collected by the licensee.

**Schedule 1 [8]** allows the Commissioner to require a licensee or a close associate of a licensee to provide information for the purpose of investigating and determining whether a licensee continues to be a fit and proper person to hold a licence or whether it would be contrary to the public interest for the licensee to continue to hold the licence.

**Schedule 1 [9]** provides that it is a condition of an operator licence that the licensee must not permit an individual to perform any body art tattooing procedure at the licensed premises unless the individual is licensed to do so.

**Schedule 1 [10]** allows for the making of regulations that specify the document or information that a licensee under an operator licence is required to display in licensed premises. It is a condition of a licence that a licensee must comply with the Act and the regulations.

**Schedule 1 [11]** provides that the Director-General must cancel a licence if the licensee does not collect the licence within 60 days of being notified of the grant of the licence. This is in addition to the existing requirement that the Director-General must cancel a licence if an adverse security determination is made by the Commissioner about the licensee. **Schedule 1 [5], [7] and [12]** make consequential amendments.

**Schedule 1 [14]** allows the Commissioner to withdraw from a security determination information from a criminal intelligence report or other criminal information that has been included in the determination if the Tribunal determines that the information is not information that the Tribunal is prevented from disclosing in the reasons for its decision. The amendment provides that, in such a case, the Tribunal is to give the Commissioner an opportunity to withdraw the information before making its decision. If the Commissioner withdraws information, the Tribunal is not to consider that information in its decision and must not disclose that information to any person. **Schedule 1 [13]** makes a consequential amendment.

**Schedule 1 [16]** inserts proposed sections 30A–30C. **Schedule 1 [15] and [17]** make consequential amendments.

**Proposed section 30A** permits an authorised officer to enter licensed premises, or other premises on which the officer reasonably suspects body art tattooing procedures are being performed, for the purpose of ensuring compliance with the principal Act.

**Proposed section 30B** permits an authorised officer to obtain a warrant to enter premises and conduct a search of the premises for evidence of a breach of the principal Act if there are reasonable grounds for believing that a provision of the principal Act has been contravened.

**Proposed section 30C** permits an authorised officer to exercise certain functions while conducting a search of premises that have been lawfully entered in accordance with the principal Act for the purpose of determining whether a provision of the principal Act has been or is being contravened.

**Schedule 1 [18]** provides that it is an offence to obstruct or hinder an authorised officer who is exercising functions under the principal Act in the course of determining whether a contravention of that Act has occurred, or to fail to comply with a reasonable request made by such an officer in exercising such a function.

**Schedule 1 [19], [20] and [21]** expand the general regulation-making power under the principal Act to allow for the making of regulations with respect to the following:

- (a) the application of and exemptions from the licence requirements of the Act, including the issue of short term permits to perform body art tattooing procedures, and the conduct of body art tattooing shows or exhibitions,
- (b) the refund of fees paid under the Act, in addition to the existing power to make regulations relating to the waiver, reduction and postponement of such fees,
- (c) the making, keeping and inspection of records relating to body art tattooing businesses.

**Schedule 1 [22]** inserts transitional provisions consequent on the enactment of both the principal Act and proposed Act.

**Schedule 2      Amendment of Law Enforcement  
(Powers and Responsibilities) Act 2002  
No 103**

**Schedule 2** makes an amendment consequent on the insertion of proposed section 30B in the *Tattoo Parlours Act 2012* by Schedule 1 [16].

First print



New South Wales

# Tattoo Parlours Amendment Bill 2012

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New South Wales

# Tattoo Parlours Amendment Bill 2012

No. , 2012

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## **A Bill for**

An Act to amend the *Tattoo Parlours Act 2012* to make further provision with respect to the licensing and regulation of body art tattooing businesses and body art tattooists.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Tattoo Parlours Amendment Act 2012</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5

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<b>Schedule 1</b>	<b>Amendment of Tattoo Parlours Act 2012</b>	1
	<b>No 32</b>	2
<b>[1]</b>	<b>Section 4 Meaning of “close associate”</b>	3
	Insert at the end of section 4 (1) (b):	4
	, or	5
	(c) is or will be engaged as a contractor or employed in the	6
	business of the applicant or licensee that is or will be	7
	carried on under the authority of the licence.	8
<b>[2]</b>	<b>Section 7 Body art tattooists to be licensed</b>	9
	Insert after section 7 (1):	10
	(1A) An individual must not perform any body art tattooing procedure	11
	(whether or not for fee or reward) at premises in respect of which	12
	an operator licence is in force unless authorised to do so by a	13
	tattooist licence.	14
	Maximum penalty:	15
	(a) for a first offence, 50 penalty units, and	16
	(b) for a second or subsequent offence, 100 penalty units.	17
	(1B) An individual is not liable to be convicted of an offence under	18
	both subsections (1) and (1A) in respect of essentially the same	19
	act or omission.	20
<b>[3]</b>	<b>Section 7 (2)</b>	21
	Omit “Subsection (1) does”.	22
	Insert instead “Subsections (1) and (1A) do”.	23
<b>[4]</b>	<b>Section 11 Licence applications</b>	24
	Insert after section 11 (5) (b):	25
	(b1) in addition to the statement required under section 12, be	26
	accompanied by copies of 3 forms of personal	27
	identification of an approved kind for each individual	28
	identified as a close associate in that statement, and	29
<b>[5]</b>	<b>Section 16 Decision of Director-General in relation to licence application</b>	30
	Omit section 16 (7).	31

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<b>[6] Section 17 Duration of licence</b>	1
Omit section 17 (1). Insert instead:	2
(1) A licence comes into force on the date specified in the licence.	3
<b>[7] Section 17 (5)</b>	4
Omit the subsection.	5
<b>[8] Section 19A</b>	6
Insert after section 19:	7
<b>19A Commissioner may require further information</b>	8
(1) For the purpose of an investigation by the Commissioner as to whether a licensee continues to be a fit and proper person to hold a licence, or whether it would be contrary to the public interest for the licensee to continue to hold a licence, the Commissioner may, by written notice served on the person concerned, require a licensee, or a close associate of a licensee, to do one or more of the following things:	9 10 11 12 13 14 15
(a) provide, in accordance with directions in the notice, such information as, in the opinion of the Commissioner, is relevant to the investigation specified in the notice,	16 17 18
(b) produce, in accordance with directions in the notice, such records as, in the opinion of the Commissioner, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,	19 20 21 22 23
(c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),	24 25
(d) furnish to the Commissioner such authorisations and consents as the Commissioner requires for the purpose of enabling the Commissioner to obtain information (including financial and other confidential information) relevant to the investigation from other persons concerning the licensee and close associates of the licensee.	26 27 28 29 30 31
(2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.	32 33 34

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<b>[9] Section 22A</b>	1
Insert after section 22:	2
<b>22A Operator not to permit procedures by unlicensed body art tattooists on licensed premises</b>	3
	4
It is a condition of an operator licence that the licensee must not permit an individual to perform any body art tattooing procedure at the licensed premises unless the individual is the holder of a tattooist licence.	5
	6
	7
	8
<b>[10] Section 24 Display of licence information</b>	9
Omit section 24 (a). Insert instead:	10
(a) such document or information as may be prescribed by the regulations is conspicuously displayed at the licensed premises, and	11
	12
	13
<b>[11] Section 26 Cancellation of licence</b>	14
Omit section 26 (1). Insert instead:	15
(1) The Director-General must cancel a licence if:	16
(a) the applicant does not, within 60 days of being notified of the grant of the licence, collect the licence from the place nominated by the Director-General, or	17
	18
	19
(b) an adverse security determination is made by the Commissioner about the licensee.	20
	21
<b>Note.</b> Section 27 of the <i>Crimes (Criminal Organisations Control) Act 2012</i> provides for the automatic revocation of a licence if an interim control order made with respect to a licensee is confirmed under that Act.	22
	23
	24
<b>[12] Section 27 Right to seek review from Administrative Decisions Tribunal</b>	25
Omit “section 17 (5)” from section 27 (1) (a).	26
Insert instead “section 26 (1) (a)”.	27
<b>[13] Section 27 (4) (a)</b>	28
Insert “information identified in the Commissioner’s determination as being from a” after “any”.	29
	30
<b>[14] Section 27 (4A) and (4B)</b>	31
Insert after section 27 (4):	32
(4A) If the Tribunal considers that information identified in the Commissioner’s determination as being from a criminal intelligence report or other criminal information referred to in	33
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	section 19 (3) has not been properly identified as such, the Tribunal must ask the Commissioner whether the Commissioner wishes to withdraw the information from consideration by the Tribunal in its determination of an application.	1 2 3 4
	(4B) Information that is withdrawn by the Commissioner must not be:	5
	(a) disclosed to any person, or	6
	(b) taken into consideration by the Tribunal in determining an application.	7 8
<b>[15]</b>	<b>Part 4, Division 2, heading</b>	9
	Omit the heading. Insert instead:	10
	<b>Division 2 Powers of entry</b>	11
<b>[16]</b>	<b>Sections 30A–30C</b>	12
	Insert before section 31:	13
	<b>30A Powers of authorised officers to enter premises without warrant</b>	14
	(1) An authorised officer may at any reasonable time enter any licensed premises, or any other premises that the authorised officer reasonably suspects are being used to perform body art tattooing procedures for fee or reward, for the following purposes:	15 16 17 18 19
	(a) for determining whether there has been compliance with, or a contravention of, this Act or the regulations,	20 21
	(b) generally for administering this Act.	22
	(2) This section does not confer a power to enter any premises or part of premises that are used only for residential purposes without the permission of the occupier or the authority of a search warrant.	23 24 25
	<b>30B Powers of authorised officers to enter premises with warrant</b>	26
	(1) An authorised officer may apply to an authorised warrants officer for the issue of a search warrant if the authorised officer believes on reasonable grounds that any provision of this Act or the regulations is being or has been contravened on any premises.	27 28 29 30
	(2) An authorised warrants officer to whom any such application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any authorised officer to enter and search the premises.	31 32 33 34

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(3)	An authorised officer executing a search warrant issued under this section may:	1
	(a) enter the premises specified in the warrant, and	2
	(b) search the premises for evidence of a contravention of this Act or the regulations, and	3
	(c) exercise any other function of an authorised officer under this Part.	4
(4)	Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies to a search warrant issued under this section.	5
(5)	In this section:	6
	<i>authorised warrants officer</i> means an authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	7
<b>30C</b>	<b>Powers that can be exercised by authorised officers on entry</b>	8
(1)	Without limiting section 32, an authorised officer may, at any premises lawfully entered under this Act for a purpose referred to in section 30A (1), do any or all of the following:	9
	(a) examine any licence, registers, books, records or other documents on the premises,	10
	(b) make a copy on the premises of any licence, registers, books, records or other documents and retain that copy,	11
	(c) require any person to make a copy on the premises of any licence, registers, books, records or other documents and give that copy to the authorised officer to retain,	12
	(d) take such photographs, films, audio, video or other recordings as the authorised officer considers necessary,	13
	(e) require any person to produce any licence, registers, books, records or other documents on the premises,	14
	(f) require any person to answer any question relating to any licence, registers, books, records or other documents or any other relevant matter,	15
	(g) take any licence, registers, books, records or other documents from the premises for the purposes of copying them,	16
	(h) seize any licence, registers, books, records or other documents, or any other thing that the authorised officer believes on reasonable grounds is connected with an offence against this Act or the regulations.	17

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(2)	The power to seize anything connected with an offence includes a power to seize anything that will provide evidence of the commission of an offence.	1 2 3
(3)	Any registers, books, records or other documents taken only for the purpose of copying them must be returned when that copying is completed.	4 5 6
<b>[17]</b>	<b>Part 4, Division 3, heading</b>	7
	Insert before section 32:	8
	<b>Division 3      Other enforcement provisions</b>	9
<b>[18]</b>	<b>Section 33</b>	10
	Omit the section. Insert instead:	11
	<b>33    Hindering or obstruction of authorised officer</b>	12
	A person must not, without reasonable excuse:	13
	(a) obstruct, hinder or interfere with an authorised officer in the exercise of a function under this Act, or	14 15
	(b) fail to comply with any requirement made of the person by an authorised officer in the exercise of a function under this Act.	16 17 18
	Maximum penalty: 20 penalty units.	19
<b>[19]</b>	<b>Section 41 Regulations</b>	20
	Omit section 41 (2) (c). Insert instead:	21
	(c) without limiting paragraph (f), the application of, or exemption from, licensing requirements in connection with body art tattooing shows or exhibitions and the short term approval of the performing of body art tattooing procedures (including the issue of permits for those purposes),	22 23 24 25 26 27
<b>[20]</b>	<b>Section 41 (2) (e)</b>	28
	Insert “refund,” after “waiver.”	29
<b>[21]</b>	<b>Section 41 (2) (g)</b>	30
	Insert after section 41 (2) (f):	31
	(g) the making, keeping and inspection of records in connection with the carrying on of body art tattooing businesses.	32 33 34

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<b>[22] Schedule 1 Savings, transitional and other provisions</b>	1
Insert after clause 3:	2
<b>Part 3 Provisions consequent on enactment of Tattoo Parlours Amendment Act 2012</b>	3 4
<b>4 Existing applications and licences</b>	5
(1) Amendments to sections 16 and 17 by the <i>Tattoo Parlours Amendment Act 2012</i> apply in respect of all licences, whether or not granted before the commencement of that Act.	6 7 8
(2) Amendments to sections 4, 11 and 27 by the <i>Tattoo Parlours Amendment Act 2012</i> extend to an application for a licence that was lodged, but not finally determined, before the commencement of that Act.	9 10 11 12
<b>5 Right to review where licence not granted within 60 days</b>	13
For the purposes of section 27 (2), an application for a licence lodged before the day that is 6 months after the commencement of the <i>Tattoo Parlours Amendment Act 2012</i> is taken to have been lodged on that day.	14 15 16 17

Tattoo Parlours Amendment Bill 2012

Schedule 2      Amendment of Law Enforcement (Powers and Responsibilities) Act 2002  
No 103

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<b>Schedule 2</b>	<b>Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	1 2 3
	<b>Schedule 2 Search warrants under other Acts</b>	4
	Insert in alphabetical order:	5
	<i>Tattoo Parlours Act 2012</i> , section 30B	6