



New South Wales

Security Industry 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 as follows:

- (a) to expand the range of powers that can be exercised by police officers under the *Security Industry Act 1997* (the **SI Act**) and to authorise those powers to be exercised by other members of the NSW Police Force who are authorised by the Commissioner of Police (the **Commissioner**) to exercise enforcement officer functions,
- (b) to abolish the provisional licensing system under the SI Act and to make provision for class 1 licences to be issued to persons who have not previously held such a licence, subject to certain conditions, including undertaking certain training and assessment,
- (c) to declare that certain provisions of the SI Act and the *Security Industry Regulation 2007* are excluded from the application of section 9 of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth (the **Commonwealth Act**) so that the State provisions will continue to apply to certain organisations providing training, assessment or instruction in relation to security activities,

- (d) to declare that certain provisions of the *Firearms Act 1996* (the ***Firearms Act***) and the *Firearms Regulation 2006* are excluded from the application of section 9 of the Commonwealth Act so that the State provisions will continue to apply to certain organisations providing training, assessment or instruction in relation to use and possession of firearms,
- (e) to provide for the renewal of licences under the SI Act,
- (f) to amend provisions relating to master licences under the SI Act, including:
 - (i) introducing additional subclasses of master licence, and
 - (ii) creating permits allowing master licensees to provide more persons than authorised by their master licence in certain circumstances, and
 - (iii) making it an offence for a master licensee to subcontract the provision of the master licensee's services to carry on certain security activities to another master licensee unless specific conditions are met,
- (g) to remove certain subclasses of class 1 and class 2 licences under the SI Act,
- (h) to abolish the Security Industry Council,
- (i) to make other amendments generally with respect to licences under the SI Act, including the introduction of additional grounds on which the Commissioner must refuse to grant a licence,
- (j) to extend the Commissioner's power under the SI Act to require that an applicant for a licence provide the Commissioner with fingerprints so that it also includes palm prints,
- (k) to create a new provisional pistol licence under the Firearms Act which holders of a class 1F licence under the SI Act who have not previously held such a licence will also be required to hold.

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. A number of the amendments will commence on 1 November 2012. Other amendments (relating to the new enforcement powers given to persons exercising enforcement officer functions, the declaration that certain provisions of the SI Act and regulations are excluded from the application of the Commonwealth Act, a savings and transitional regulation-making power and other matters) will commence on the date of assent to the proposed Act.

Schedule 1 Amendment of Security Industry Act 1997 No 157

Enforcement powers under the SI Act

The proposed amendments provide for the appointment of enforcement officers (which includes both police officers and certain members of the NSW Police Force who have been authorised by the Commissioner to exercise the functions of an enforcement officer) and confer certain powers of investigation on such officers (**Schedule 1 [3] and [73]**).

At present, police officers have the power to apply for a search warrant under the SI Act and have powers of inspection and seizure. The proposed amendments extend those existing powers to other members of the NSW Police Force who are enforcement officers. In addition, the proposed amendments confer power on enforcement officers to enter premises at which a security activity is being carried on, at any reasonable time, without a warrant. The powers exercisable by an enforcement officer upon entry (whether by virtue of a warrant or otherwise) have been clarified and expanded, for example, to include the power to require any person to produce documents or answer any question in relation to them. The amendments also require enforcement officers who are not police officers to be provided with identification cards, which they will be required to produce on request when exercising their functions as an enforcement officer. In addition to powers of entry and search of premises, enforcement officers are also given powers to obtain information and records. This includes, for example, the power to require, by notice in writing, a person to furnish information or records.

Schedule 1 [10] is a consequential amendment. The proposed amendment makes it clear that the SI Act applies to police officers and other members of the NSW Police Force when exercising their powers as enforcement officers under the SI Act. However, police officers and other members of the NSW Police Force will continue to be exempt from licensing and other requirements under the SI Act relating to the carrying on of security activities. **Schedule 1 [75] and Schedule 2.3** are consequential amendments.

Abolition of provisional licensing system

Provisional licences under the SI Act are abolished (**Schedule 1 [22] and [62]**). Currently, provisional licences may be issued to a person to carry out the security activity authorised by the particular subclass of licence, subject to certain supervision requirements. Each provisional licence subclass corresponds to a subclass of class 1 licence, with the provisional licence requiring a licence holder to be supervised by a person who holds the corresponding subclass of a class 1 licence. Under the proposed amendments, a class 1 licence may now be granted to a person who has not, during the 3 years immediately before making an application for the licence, been authorised by a class 1 licence to carry on the relevant security activity. However, it will be a condition of a licence so issued that the licence holder undertake and complete such training, assessment or instruction as may be required by the

Commissioner within 6 months (or such longer period as the Commissioner allows) of the licence being granted (**Schedule 1 [48]**). Current holders of provisional licences will, following the abolition of provisional licences, be taken to hold the corresponding subclass of class 1 licence (**Schedule 1 [79] (proposed clause 28)**), subject to the above condition. However, a period of 12 months (rather than 6 months) will be given to those persons to undertake the requisite training, assessment or instruction.

References to provisional licences have been removed as a consequence of the proposed amendments (**Schedule 1 [1], [8], [14], [16], [36], [42]–[45], [47], [55], [63], [65], [67], [69], [70] and [77], Schedule 2.1 [7] and Schedule 2.4**).

Declaration excluding the operation of the National Vocational Education and Training Regulator Act 2011 of the Commonwealth

The Commonwealth Act provides that a training organisation registered by the National Vocational Education and Training Regulator (*registered training organisation*) which operates in New South Wales is not subject to New South Wales law in relation to certain matters, including the regulation of registered training organisations and investigative powers, sanctions and enforcement relating to such regulation. The application of the Commonwealth Act is, however, subject to any declaration made by New South Wales that a matter is an “excluded matter”, such that the Commonwealth Act will not apply to it.

Accordingly, **Schedule 1 [11]** declares that certain provisions under the SI Act and the regulations relating to registered training organisations providing training, assessment or instruction relating to any security activity and the exercise of ancillary investigative powers, sanctions or enforcement (*State security industry regulation provisions*) constitute an “excluded matter” for the purposes of the relevant section of the Commonwealth Act which makes all registered training organisations immune to New South Wales law. However, the State security industry regulation provisions only constitute an “excluded matter” to the extent that the Commonwealth Act prevents the application of those provisions to registered training organisations which are regulated by the Act. Accordingly, the effect of the declaration is that registered training organisations providing training, assessment or instruction relating to any security activity will not be immune to the State security industry regulation provisions and that both the State security industry regulation provisions and the Commonwealth Act will apply to them.

Renewal of licences

Currently, the SI Act does not allow for the renewal of licences. The proposed amendments give the Commissioner power to renew licences, applications in respect of which may be lodged by a licence holder no earlier than 8 weeks before the expiry of a licence (**Schedule 1 [27]**). The Commissioner may also grant an application for renewal lodged within a period of up to 90 days after the expiry of the licence if the applicant pays a late fee. The current procedures and requirements under the SI Act relating to licence applications will also apply to applications to renew. For example, the Commissioner may refuse an application to renew a licence if satisfied that, if the

applicant were applying for a new licence, the Commissioner would be required under the SI Act to refuse the application. Consequential amendments have also been made to accommodate the new process of renewing licences (**Schedule 1 [28], [31], [32], [35], [37], [38], [49]–[53] and [56]–[59]**). Licences granted prior to the insertion of the provision for renewal of licences may be renewed under that provision (**Schedule 1 [79] (proposed clause 35)**).

Miscellaneous amendments to master licence provisions

The proposed amendments create new subclasses of master licence which further segment the numbers of persons authorised to be provided by a master licensee under a master licence (**Schedule 1 [17]**). Currently, a different subclass of master licence is required to authorise a master licensee to provide no more than 10 persons, between 11 and 50 persons and more than 50 persons to carry on security activities. The proposed amendments restructure the subclasses so that there is now a separate subclass of master licence to authorise master licensees to provide no more than 3 persons, between 4 and 14 persons, between 15 and 49 persons and 50 or more persons. In addition, the proposed amendments clarify that:

- (a) the number of persons authorised to be provided by the master licence refers to the number of persons provided on any one day. This means that, for example, a master licensee may employ more than the number of persons authorised to be provided under the licence, as long as the master licensee only provides the number of persons authorised to be so provided per day, and
- (b) the number of persons authorised to be provided by the master licence includes persons with whom a master licensee subcontracts or arranges by contract, franchise or otherwise for the purpose of that other person employing or providing persons to carry on a security activity on the master licensee's behalf.

The savings and transitional provisions provide for the conversion of existing subclasses of master licences to the new subclasses (**Schedule 1 [79] (proposed clause 24)**). Consequential amendments are also proposed (**Schedule 1 [2], [5], [9], [12], [13], [18], [41], [46], [71] and [72]**).

In addition, a master licensee will be able to apply to the Commissioner for a temporary excess provision of services permit, which authorises a master licensee to provide more persons than the number authorised by the master licence on a specified day, or on each day within a period, specified in the permit (**Schedule 1 [74]**). A permit may be subject to conditions imposed by the Commissioner and may be revoked if such conditions are contravened. **Schedule 1 [15]** is a consequential amendment which ensures that the holder of a temporary excess provision of services permit does not commit an offence of providing more persons than is authorised under that person's master licence.

The proposed amendments also create a new offence relating to subcontracting undertaken by a master licensee for the provision of security services (**Schedule 1 [68]**). On the commencement of the new offence provision, it will be an offence for a master licensee (*principal*) who has entered into a contract to provide

persons to carry on certain security activities with a client to engage a subcontractor on the principal's behalf unless the client has expressly agreed to the provision of persons by a subcontractor and the principal provides the client with certain particulars (such as the name and master licence number of each subcontractor) before requiring payment from the client. It will also be an offence for a subcontractor to further subcontract to provide persons to carry on a security activity unless the principal expressly agrees to the provision of persons by a further subcontractor and the subcontractor provides the principal with the above mentioned particulars. The maximum penalty for both offences is 200 penalty units (in the case of a corporation) or 100 penalty units or 6 months' imprisonment (in the case of an individual). **Schedule 3** repeals an uncommenced Act that contained an amendment creating a similar offence.

Changes to subclasses of class 1 and 2 licences

Schedule 1 [19]–[21] and [79] (proposed clauses 25–27 and 29–31) provide for certain subclasses of class 1 and class 2 licence to be abolished and taken to be licences of existing subclasses as follows:

- (a) a class 1G licence (which authorises the licensee to patrol, protect or guard any property while carrying on retail loss prevention) will be taken to be a class 1A licence (which authorises the licensee to patrol, protect or guard any property while unarmed (whether static or mobile)),
- (b) the following subclasses of licence will be taken to be a class 2C licence (which, following the proposed amendments, authorises a licensee to sell, install, maintain, repair and service, and provide advice in relation to, security equipment (including electronic security equipment and barrier equipment) and to act as a locksmith):
 - (i) a class 2E licence (which authorises a licensee to protect assets or other property by selling, installing, maintaining, repairing and servicing, and providing advice in relation to, barrier equipment),
 - (ii) a class 2F licence (which authorises a licensee to sell, install, maintain, repair and service, and provide advice in relation to, electronic security equipment).

Miscellaneous provisions relating to licences and carrying on a "security activity"

The proposed amendments also make some general and consequential amendments relating to licences (**Schedule 1 [4], [6], [23]–[26], [39], [40], [54], [60], [61], [64], [66] and [69]**). These include, for example, the following:

- (a) clarification that for the purposes of the SI Act "security equipment" and "security activity" do not include equipment and activity used simply for watching (as opposed to guarding) property,

- (b) the inclusion of further mandatory and discretionary grounds on which the Commissioner is to refuse to grant an application for a licence, including the ground that an applicant has not undertaken and completed the requisite training, assessment (for example, testing) and instruction for the class of licence sought by the applicant or that an applicant has a conviction that is not capable of being spent under section 7 of the *Criminal Records Act 1991*,
- (c) that it is now a condition of every class 1 or 2 licence (including licences granted before the insertion of the new provision) that the licensee undertake the training, assessment and instruction required by the Commissioner to ensure that the licensee has continuing knowledge and competency in relation to the security activity to which the licence relates,
- (d) changes to the mandatory requirements for the form of a licence and the inclusion of some non-mandatory requirements,
- (e) clarifying that the Commissioner may have regard to certain criminal intelligence reports or other criminal information for the purpose of determining whether a licence should be revoked and that the Commissioner's reasons for revoking a licence may be withheld if such reasons would disclose the existence or content of such a report or information,
- (f) making it clear that a licensee is not, in specified circumstances, required to produce, or wear, a licence that has been lost, stolen, destroyed, defaced or mutilated.

Schedule 1 [7] clarifies that the carrying on of a security activity in relation to patrolling, protecting or guarding any property includes, but is not limited to, control room operations, monitoring centre operations, retail loss prevention, or patrolling, protecting or guarding cash, an airport or any other infrastructure.

Abolition of Security Industry Council

Schedule 1 [76] abolishes the Security Industry Council.

Extension of the Commissioner's power to require an applicant for a licence to provide the Commissioner with palm prints

Schedule 1 [29], [30], [33] and [34] extend the Commissioner's power to require fingerprints in connection with a licence application so that palm prints may also be required. The provisions of the SI Act that apply to the use and destruction of fingerprints will also apply to palm prints. **Schedule 1 [79] (proposed clause 34)** validates the previous collection and use of palm prints by the Commissioner, to the extent that the Commissioner's actions would have been valid if the amendments had been in force.

Savings and transitional provisions

Schedule 1 [78] allows for regulations containing provisions of a savings or transitional nature to be made. **Schedule 1 [79]** makes savings and transitional provisions consequent on the commencement of the proposed amendments.

Schedule 2 Amendment of other legislation

Provisional pistol (business/employment) licences

The proposed amendments to the Firearms Act introduce a new kind of category H (business/employment) pistol licence which is to be issued to a person who has never previously held such a licence (*provisional pistol (business/employment) licence*) (**Schedule 2.1 [1], [4] and [5]**). The term of a provisional pistol (business/employment) licence is 12 months (unless sooner surrendered, revoked or the licence otherwise ceases to be in force) (**Schedule 2.1 [6]**). The Commissioner is only able to issue such a licence if certain employment arrangements are in place (**Schedule 2.1 [4]**).

Schedule 2.1 [2] makes a declaration and excludes provisions of the Commonwealth Act in relation to certain provisions relating to training, assessment or instruction in relation to the use and possession of firearms similarly to the declaration and exclusion described above in relation to the security industry.

In addition to the general conditions imposed on licences by the Firearms Act, a provisional pistol (business/employment) licence is subject to further specific conditions outlined in the proposed provision which relate to the licensee's required employment arrangements, as well as requirements relating to the licensee's training, supervision and so on. For example, it will be a condition of a provisional pistol (business/employment) licence that, for the first 6 months of the term of the licence, a licensee is required to be under the direct supervision of a natural person who has continuously held, for a period of more than 12 months, both a category H (business/employment) licence and a class 1F licence issued under the SI Act. If this condition is contravened by the licensee, the master licensee who is the employer of the licensee will be guilty of an offence, the maximum penalty for which is 200 penalty units (in the case of a corporation) or 100 penalty units (in the case of an individual).

Schedule 2.1 [3] makes it clear that a genuine reason of business or employment includes work undertaken voluntarily but only if such work relates to the static guarding of premises.

Consequential amendments have also been made to other legislation (**Schedule 2.1 [1], 2.2 and 2.4**).

First print



New South Wales

Security Industry Amendment Bill 2012

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New South Wales

Security Industry Amendment Bill 2012

No. , 2012

A Bill for

An Act to amend the *Security Industry Act 1997* to make further provision for the licensing and regulation of persons in the security industry; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Security Industry Amendment Act 2012</i> .	3
2 Commencement	4
(1) This Act commences on the date of assent to this Act, except as provided by subsection (2).	5 6
(2) Schedule 1 (other than Schedule 1 [3], [10], [11], [25], [26], [39], [40], [54], [61], [69], [70], [73], [75], [76] and [78]), Schedule 2 (other than Schedule 2.1 [2] and 2.3) and Schedule 3 commence on 1 November 2012.	7 8 9 10

Schedule 1	Amendment of Security Industry Act	1
	1997 No 157	2
[1]	Section 3 Definitions	3
	Omit “or P1F” from paragraph (b) of the definition of <i>armed security guard</i> in section 3 (1).	4 5
[2]	Section 3 (1), definition of “employ”	6
	Omit the definition.	7
[3]	Section 3 (1)	8
	Insert in alphabetical order:	9
	<i>enforcement officer</i> means:	10
	(a) a police officer, or	11
	(b) any other member of the NSW Police Force who is authorised by the Commissioner in writing to exercise the functions of an enforcement officer under this Act.	12 13 14
[4]	Section 3 (1)	15
	Insert in alphabetical order:	16
	<i>providing persons</i> includes employing or subcontracting another person (or arranging by contract, franchise or otherwise with another person) for the purpose of that other person employing or providing persons.	17 18 19 20
	<i>renewed licence</i> means a licence that is renewed under section 17.	21 22
	<i>temporary excess provision of services permit</i> means a temporary excess provision of services permit in force under section 40A.	23 24 25
[5]	Section 3 (1), definition of “security equipment” and sections 4 (1) (c), (d) (ii), (e) (ii) and (i) and 11	26 27
	Omit “or watching”, “, watch” and “, watching” wherever occurring.	28
[6]	Section 3 (1A)	29
	Insert after section 3 (1):	30
	(1A) In this Act, a reference to a class of licence includes a reference to a subclass of that class of licence.	31 32

[7] Section 4 Carrying on a “security activity”	1
Omit “in any one or more of the following circumstances” from section 4 (1) (c).	2 3
Insert instead “including, but not limited to, in any one or more of the following circumstances”.	4 5
[8] Section 4 (1) (l)	6
Omit the paragraph.	7
[9] Section 4 (1) (m)	8
Omit the paragraph. Insert instead:	9
(m) providing persons to carry on any security activity referred to in this section,	10 11
[10] Section 6 Application of Act	12
Omit section 6 (2) and (2A). Insert instead:	13
(2) Any person who is employed in any of the following capacities does not carry on a security activity while, and to the extent that, the person is performing official duties in that capacity or in the course of that employment:	14 15 16 17
(a) a police officer or other member of the NSW Police Force,	18
(b) a police officer of the Commonwealth, another State or a Territory,	19 20
(c) a member of the armed forces of the Commonwealth,	21
(d) a special constable appointed under Part 4 of the <i>Police (Special Provisions) Act 1901</i> and employed by the Commissioner.	22 23 24
(2A) A person does not carry on a security activity while, and to the extent that, the person is performing official duties in the course of his or her employment by or in any of the following:	25 26 27
(a) the New South Wales Crime Commission,	28
(b) the Australian Crime Commission,	29
(c) the Police Integrity Commission,	30
(d) the Independent Commission Against Corruption,	31

(e)	the Department of Attorney General and Justice as a correctional officer (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i>) or a juvenile justice officer,	1 2 3 4
(f)	any other agency responsible for the enforcement of criminal laws of the State, of the Commonwealth or of another State or Territory.	5 6 7
[11]	Section 6A	8
	Insert after section 6:	9
	6A Application of Commonwealth National Vocational Education and Training Regulator Act 2011	10 11
(1)	In this section: <i>Commonwealth Act</i> means the <i>National Vocational Education and Training Regulator Act 2011</i> of the Commonwealth. <i>State security industry regulation provisions</i> means the provisions of this Act and the regulations:	12 13 14 15 16
(a)	regulating organisations providing training, assessment or instruction in relation to any security activity, and	17 18
(b)	providing for the approval by or under this Act of training, assessment or instruction provided by organisations, and	19 20
(c)	providing for the exercise of investigative powers, sanctions and enforcement by or under this Act in relation to such matters.	21 22 23
(2)	The State security industry regulation provisions are declared to be an excluded matter for the purposes of section 10 of the Commonwealth Act in relation to section 9 (Immunity from State and Territory laws) of the Commonwealth Act to the extent only that that section prevents the application of the State security industry regulation provisions to an NVR registered training organisation (within the meaning of the Commonwealth Act) providing training, assessment or instruction in relation to security activities regulated by this Act.	24 25 26 27 28 29 30 31 32
(3)	This section is taken to have had effect from 1 July 2011.	33
[12]	Section 7 Offence of carrying on unauthorised security activities	34
	Omit “employ or” from section 7 (1).	35

[13] Section 7 (1) (b)	1
Omit the paragraph. Insert instead:	2
(b) the person provides no more persons on any one day than the number of persons authorised by the master licence.	3 4
[14] Section 7 (2)	5
Omit the subsection. Insert instead:	6
(2) A person must not carry on a security activity (other than providing persons to carry on security activities) unless the person is the holder of a class 1 licence or class 2 licence that authorises the person to carry on the security activity.	7 8 9 10
Maximum penalty: 500 penalty units or imprisonment for 2 years, or both.	11 12
[15] Section 7 (4)	13
Insert after section 7 (3):	14
(4) The holder of a temporary excess provision of services permit granted under section 40A does not commit an offence under subsection (1) while acting under and in accordance with the authority conferred by the temporary excess provision of services permit.	15 16 17 18 19
[16] Section 9 Classes of licences	20
Omit section 9 (1) (d).	21
[17] Section 10 Master licences	22
Omit section 10 (1) (b)–(d). Insert instead:	23
(b) class MB—authorises the holder to provide no more than 3 persons on any one day to carry on security activities, each of whom must be the holder of a class 1 or class 2 licence,	24 25 26 27
(c) class MC—authorises the holder to provide between 4 and 14 persons on any one day to carry on security activities, each of whom must be the holder of a class 1 or class 2 licence,	28 29 30 31

	(d) class MD—authorises the holder to provide between 15 and 49 persons on any one day to carry on security activities, each of whom must be the holder of a class 1 or class 2 licence,	1 2 3 4
	(e) class ME—authorises the holder to provide 50 or more persons on any one day to carry on security activities, each of whom must be the holder of a class 1 or class 2 licence.	5 6 7
[18]	Section 10 (3)	8
	Omit “employing or”.	9
[19]	Section 11 Class 1 licences	10
	Omit section 11 (1) (g).	11
[20]	Section 12 Class 2 licences	12
	Omit section 12 (1) (c). Insert instead:	13
	(c) class 2C—authorises the licensee to sell, install, maintain, repair and service, and provide advice in relation to, security equipment (including electronic security equipment and barrier equipment) and to act as a locksmith,	14 15 16 17 18
[21]	Section 12 (1) (e) and (f)	19
	Omit the paragraphs.	20
[22]	Section 12A Provisional licences	21
	Omit the section.	22
[23]	Section 14 Application for licence	23
	Omit section 14 (3)–(5).	24
[24]	Section 15 Restrictions on granting licence—general suitability criteria	25
	Omit section 15 (1) and (2). Insert instead:	26
	(1) The Commissioner must refuse to grant an application for a licence if the Commissioner is not satisfied that the applicant:	27 28
	(a) is a fit and proper person to hold the class of licence sought by the applicant, or	29 30
	(b) is of or above the age of 18, or	31
	(c) has the competencies and experience approved by the Commissioner, or	32 33

(d)	has undertaken and completed the requisite training, assessment and instruction for the class of licence sought by the applicant, or	1 2 3
(e)	is competent to carry on the security activity to which the proposed licence relates, or	4 5
(f)	is an Australian citizen or a permanent Australian resident.	6
(2)	For the purposes of subsection (1) (d), the requisite training, assessment and instruction for a class of licence is training, assessment and instruction in relation to the carrying on of security activities under a licence of that class:	7 8 9 10
(a)	that is of a kind approved, and to a standard required, by the Commissioner, and	11 12
(b)	is provided by such persons or organisations as are approved by the Commissioner for the purposes of this section.	13 14 15
(2A)	The Commissioner may impose conditions with respect to the provision of training, assessment and instruction by any person or organisation approved by the Commissioner for the purposes of this section.	16 17 18 19
(2B)	A person or organisation approved by the Commissioner for the purposes of this section must comply with any conditions imposed by the Commissioner under subsection (2A). Maximum penalty:	20 21 22 23
(a)	in the case of a corporation—100 penalty units, or	24
(b)	in the case of an individual—50 penalty units.	25
(2C)	The Commissioner must also refuse to grant an application for a licence if the applicant has supplied information that is (to the applicant’s knowledge) false or misleading in a material particular in, or in connection with, the application.	26 27 28 29
[25]	Section 16 Restrictions on granting licence—criminal and other related history	30 31
	Insert after section 16 (1):	32
(2)	Without limiting subsection (1), the Commissioner may refuse to grant an application for a licence if the Commissioner is satisfied that the applicant has a conviction that is not capable of becoming spent.	33 34 35 36

	Note. Under section 7 of the <i>Criminal Records Act 1991</i> , certain convictions are not capable of becoming spent. For example, convictions for which a prison sentence of more than 6 months has been imposed, convictions for certain sexual offences and convictions prescribed by the <i>Criminal Records Regulation 2004</i> .	1 2 3 4 5
[26]	Section 16 (5)	6
	Insert “(2),” after “(1),”.	7
[27]	Section 17	8
	Insert after section 16A:	9
	17 Renewal of licence	10
	(1) An application for the renewal of a licence may be lodged with the Commissioner by the holder of the licence no earlier than 8 weeks before the licence ceases (otherwise than by revocation) to be in force (its <i>expiry</i>).	11 12 13 14
	(2) The application is to be:	15
	(a) in the approved form, and	16
	(b) lodged electronically, by post or in any other approved manner, and	17 18
	(c) accompanied by a fee prescribed by the regulations.	19
	Note. See sections 18, 21 and 24 in relation to the grant, conditions and terms of renewed licences.	20 21
	(3) Subsection (1) does not prevent the Commissioner from granting an application for the renewal of a licence lodged no later than 90 days after its expiry on payment of the late fee prescribed by the regulations.	22 23 24 25
	(4) The Commissioner may refuse an application to renew a licence if the Commissioner is satisfied that, if the applicant were applying for a new licence, the application would be required by this Act to be refused.	26 27 28 29
	Note. For example, under section 15 (1) of this Act the Commissioner must refuse an application for a new licence if the Commissioner is not satisfied that the applicant is a fit and proper person to hold the licence or is not competent to carry on the security activity to which the licence relates.	30 31 32 33 34
	(5) For the purposes of subsection (4), section 15 (6) and (7) apply to an application for renewal of a licence in the same way as they apply to an application for a licence.	35 36 37
	(6) Without limiting section 18, the Commissioner may request an applicant for the renewal of a licence to demonstrate, in the manner required by the Commissioner and to the satisfaction of	38 39 40

	the Commissioner, continuing knowledge and competency in relation to the security activity authorised by the licence before renewal of the licence is granted.	1 2 3
(7)	Without limiting section 21 (3), the Commissioner may grant an application for renewal of a licence on the condition that the applicant undertake and complete to the satisfaction of the Commissioner any requisite training, assessment or instruction required by the Commissioner to ensure the licensee has continuing knowledge and competency in relation to the security activity authorised by the licence.	4 5 6 7 8 9 10
(8)	Section 15 (2) and (2A) apply to the requisite training, assessment and instruction under subsection (7) required in relation to an application for the renewal of a licence in the same way as they apply to an application for a licence.	11 12 13 14
(9)	A licence may be renewed under this section on more than one occasion.	15 16
(10)	Section 12 of the <i>Criminal Records Act 1991</i> does not apply in relation to an application for the renewal of a licence.	17 18
[28]	Section 18 Investigation of licence and renewal applications	19
	Insert “or for the renewal of a licence” after “licence” in section 18 (1).	20
[29]	Section 18 (2) (a)	21
	Insert “or palm prints, or both,” after “fingerprints”.	22
[30]	Section 18 (2) (b)	23
	Omit “been fingerprinted”.	24
	Insert instead “provided fingerprints or palm prints”.	25
[31]	Section 18 (3) (a)	26
	Insert “or for the renewal of a licence” after “licence”.	27
[32]	Section 18 (3) (b)	28
	Insert “or renew” after “grant”.	29
[33]	Section 18 (4)	30
	Insert “, palm print” after “fingerprint”.	31
[34]	Section 18 (5) (a)	32
	Insert “or palm prints” after “fingerprints”.	33

[35] Section 20 Commissioner may require further information	1
Insert “or for the renewal of a licence” after “applicant for a licence” in section 20 (1).	2 3
[36] Section 20 (1) (b1)	4
Omit “or a provisional licence”.	5
[37] Section 20 (4) and (8)	6
Insert “or for the renewal of a licence” after “licence” wherever occurring.	7
[38] Section 21	8
Omit the section. Insert instead:	9
21 Grant and conditions of licence and renewal of licence	10
(1) The Commissioner may, after considering an application for the grant or renewal of a licence:	11 12
(a) grant a licence to, or renew the licence of, the person making the application and nominate a place where the person is to collect the licence or renewed licence, or	13 14 15
(b) refuse to grant a licence or to renew the licence.	16
(2) A licence confers no right of property and is incapable of being transferred, assigned or mortgaged, charged or otherwise encumbered.	17 18 19
(3) A licence is subject:	20
(a) to such conditions as may be imposed by the Commissioner (whether at the time the licence is granted or renewed or at any later time), and	21 22 23
(b) to such other conditions as are imposed by this Act or prescribed by the regulations.	24 25
(4) A licence is granted or renewed subject to the condition that the person making the application collect the licence or renewed licence from the place nominated by the Commissioner under subsection (1) (a) within 60 days of being notified of the grant or renewal.	26 27 28 29 30

[39] Section 21A	1
Insert after section 21:	2
21A Continuing training, assessment and instruction	3
(1) It is a condition of every class 1 or class 2 licence that the licensee undertake and complete, to the satisfaction of the Commissioner, such training, assessment and instruction as may be required by the Commissioner to ensure the licensee has continuing knowledge and competency in relation to the security activity authorised by the licence.	4 5 6 7 8 9
(2) Subsection (1) extends to licences granted before the commencement of this section.	10 11
[40] Section 22 Form of licence	12
Omit section 22 (2). Insert instead:	13
(2) A licence must:	14
(a) contain the name of the licensee, and	15
(b) specify the class (or subclass) of licence, and	16
(c) contain the number of the licence, and	17
(d) contain such other details as may be prescribed by the regulations.	18 19
(3) In addition, the Commissioner may determine that a particular class or subclass of licence is:	20 21
(a) to contain a recent photograph of the person to whom it is granted (such photograph being obtained in accordance with arrangements determined by the Commissioner), or	22 23 24
(b) to bear the signature of the licensee,	25
or both.	26
[41] Section 23 Master licence—condition relating to provision of certain persons	27 28
Omit “employ or”.	29
[42] Section 23AA Special conditions—authority to carry firearms	30
Omit “or P1F” wherever occurring.	31
[43] Section 23A Special conditions—uniforms must be worn when carrying firearms	32 33
Omit “or P1F” wherever occurring.	34

[44]	Section 23B Special conditions—storage of firearms in certain residential premises	1 2
	Omit “or P1F” wherever occurring.	3
[45]	Section 23C Special conditions—class P1F licences	4
	Omit the section.	5
[46]	Section 23D Special conditions—dog handling security services	6
	Omit “employ any person to provide” from section 23D (1).	7
	Insert instead “provide any person to carry out”.	8
[47]	Section 23D (2) and (3)	9
	Omit the subsections.	10
[48]	Section 23E	11
	Insert after section 23D:	12
	23E Special conditions—class 1 licences	13
	A class 1 licence that is granted on application by a person who has not, during the 3 years immediately before the application, been authorised by a class 1 licence to carry on the security activity to which the proposed licence relates is subject to the condition that the person undertake and complete, to the satisfaction of the Commissioner, such training, assessment or instruction as may be required by the Commissioner, within 6 months (or such longer period as the Commissioner allows) of the grant of the licence.	14 15 16 17 18 19 20 21 22
[49]	Section 24 Term of licence	23
	Insert “other than a renewed licence” after “licence” in section 24 (1A).	24
[50]	Section 24 (1B)	25
	Insert after section 24 (1A):	26
	(1B) The renewal of a licence comes into force:	27
	(a) if the application for renewal is lodged under section 17 before its expiry and the Commissioner grants the application—on the expiry of the licence, or	28 29 30
	(b) if the application for renewal is lodged after its expiry—on the day the Commissioner grants the application for renewal of the licence.	31 32 33

Security Industry Amendment Bill 2012

Schedule 1 Amendment of Security Industry Act 1997 No 157

[51] Section 24 (2)	1
Omit the subsection.	2
[52] Section 24 (3)	3
Omit the subsection. Insert instead:	4
(3) Despite subsection (1), if the person who made the application for a licence or for the renewal of a licence (the <i>applicant</i>) fails to collect the licence in accordance with the condition set out in section 21 (4):	5
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(a) the licence does not come into force and is taken to have not been granted or renewed, and	9
	10
(b) for the purposes of section 18 (5), the applicant is taken to be a person who was an applicant for, but was never granted, a licence.	11
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[53] Section 26 Revocation of licence	14
Insert “or the renewal of the licence” after “licence” in section 26 (1) (b) (i).	15
[54] Section 26 (5) and (6)	16
Insert after section 26 (4):	17
(5) For the purpose of determining whether a licence should be revoked under subsection (1A), the Commissioner may have regard to any criminal intelligence report or other criminal information held in relation to the licensee that:	18
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	21
(a) is relevant to the activities carried on under the class of licence held by the licensee, or	22
	23
(b) causes the Commissioner to conclude that improper conduct is likely to occur if the licensee continues to hold the licence, or	24
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(c) causes the Commissioner not to have confidence that improper conduct will not occur if the licensee continues to hold the licence.	27
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	29
(6) The Commissioner is not, under this or any other Act or law, required to give any reasons for revoking a licence if the giving of those reasons would disclose the existence or content of any criminal intelligence report or other criminal information as referred to in subsection (5).	30
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[55] Section 27 Variation of licence	1
Omit “class 1, class 2 or provisional licence” from section 27 (1).	2
Insert instead “class 1 or class 2 licence”.	3
[56] Section 29 Right to seek review from Administrative Decisions Tribunal	4
Insert after section 29 (1) (a):	5
(a1) the refusal or failure of the Commissioner to renew a licence (other than by operation of section 24 (3)),	6 7
[57] Section 29 (2)	8
Insert “or renewal” after “grant”.	9
[58] Section 29 (2)	10
Insert “or renewed” after “granted”.	11
[59] Section 29 (3)	12
Omit “or to revoke”. Insert instead “, to renew a licence or to revoke”.	13
[60] Section 29 (3) (a)	14
Omit “section 15 (6)”. Insert instead “section 15 (6), 17 (5) or 26 (5)”.	15
[61] Section 29, note	16
Omit the note at the end of the section. Insert instead:	17
Note. Sections 15 (7), 17 (5) and 26 (6) of this Act provide that the Commissioner is not, under this or any other Act or law, required to give any reasons for not granting or renewing a licence or revoking a licence if the giving of those reasons would disclose the existence or content of any criminal intelligence report or other criminal information referred to in section 15 (6) or 26 (5). Accordingly, Part 2 of Chapter 5 of the <i>Administrative Decisions Tribunal Act 1997</i> does not apply to any decision to refuse to grant (or renew) or revoke a licence based on such information to the extent that it would require disclosure of the existence or content of any criminal intelligence report or other criminal information.	18 19 20 21 22 23 24 25 26 27 28
[62] Section 29A Offence of permitting employee who is provisional licensee to carry on unsupervised security activity	29 30
Omit the section.	31
[63] Section 29B Certain licensees must be employed by other licensees or visitor permit holders	32 33
Omit section 29B (2).	34

[64] Section 35 Licence to be produced on demand	1
Insert at the end of the section:	2
(2) Subsection (1) does not require a licensee to produce a licence that has been lost, stolen, destroyed, defaced or mutilated during the period in which the licensee is waiting for the issue of a replacement licence after notifying the Commissioner of that occurrence, and applying for a replacement licence within 14 days after giving that notification, in accordance with the regulations.	3 4 5 6 7 8 9
[65] Section 36 Licence to be worn by licensee	10
Omit “class 1, class 2 or provisional licence” from section 36 (1).	11
Insert instead “class 1 or class 2 licence”.	12
[66] Section 36 (3)	13
Insert after section 36 (2):	14
(3) Subsection (1) does not require a licensee to wear a licence that has been lost, stolen, destroyed, defaced or mutilated during the period in which the licensee is waiting for the issue of a replacement licence after notifying the Commissioner of that occurrence, and applying for a replacement licence within 14 days after giving that notification, in accordance with the regulations.	15 16 17 18 19 20 21
[67] Section 38 Prohibition of delegation of functions	22
Omit section 38 (2).	23
[68] Section 38A	24
Insert after section 38:	25
38A Prohibition on unauthorised subcontracting	26
(1) A master licensee (the <i>principal</i>) who enters into a contract to provide persons to carry on any relevant security activity with a person (the <i>client</i>) on or after the commencement of this section must not engage another master licensee (the <i>subcontractor</i>) to provide those persons on behalf of the principal unless:	27 28 29 30 31
(a) the client has expressly agreed in the contract to the provision of the persons by a subcontractor, and	32 33

(b)	the principal provides the requisite subcontracting particulars in relation to any subcontractor engaged by the principal to the client before requiring payment by the client for the work of such a subcontractor.	1 2 3 4
	Maximum penalty:	5
(a)	in the case of a corporation—200 penalty units, or	6
(b)	in the case of an individual—100 penalty units or imprisonment for 6 months, or both.	7 8
(2)	A subcontractor providing persons on behalf of the principal must not engage another master licensee (<i>further subcontractor</i>) to provide any of the persons to carry on security activities that the principal has engaged the subcontractor to provide unless:	9 10 11 12
(a)	the principal has expressly agreed in the contract with the subcontractor to the provision of the persons by a further subcontractor, and	13 14 15
(b)	the subcontractor provides the requisite subcontracting particulars in relation to any further subcontractor engaged by the subcontractor to the principal before requiring payment by the principal for the work of the further subcontractor.	16 17 18 19 20
	Maximum penalty:	21
(a)	in the case of a corporation—200 penalty units, or	22
(b)	in the case of an individual—100 penalty units or imprisonment for 6 months, or both.	23 24
(3)	The regulations may exempt any principal or class of principals or relevant security activity from the operation of subsection (1) (b) in such circumstances as may be specified in the regulations.	25 26 27 28
(4)	In this section:	29
	<i>relevant security activity</i> does not include the provision of a restricted security keying system.	30 31
	<i>requisite subcontracting particulars</i> , in relation to a subcontractor or further subcontractor, means:	32 33
(a)	the name and master licence number of the subcontractor or further subcontractor, and	34 35
(b)	any other particulars prescribed by the regulations.	36
[69]	Section 38B Supervising or monitoring licensees	37
	Omit the section.	38

[70] Section 38C	1
Omit the section. Insert instead:	2
38C Rostering or scheduling of licensed persons to carry on security activities and monitoring of their performance	3
	4
A person (the <i>relevant person</i>) must not, for fee or reward, roster or schedule the carrying on of any security activity by a person who holds a class 1 or class 2 licence, or monitor the performance of such a person in carrying on a security activity, if the relevant person is not eligible to hold a licence because of section 16.	5
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Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.	10
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[71] Section 39	12
Omit the section. Insert instead:	13
39 Master licensee not to provide unlicensed persons	14
(1) Without limiting the operation of section 30, the holder of a master licence must not provide any person to carry on any security activity if that person is not the holder of a licence that authorises the person to carry on a security activity of that kind.	15
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Maximum penalty:	19
(a) in the case of a corporation—1,000 penalty units, or	20
(b) in the case of an individual—500 penalty units or imprisonment for 2 years, or both.	21
	22
(2) It is a defence in proceedings for an offence under this section if the master licensee satisfies the court that the master licensee did not know, and could not reasonably have been expected to know, that the person provided by the master licensee did not hold a licence that authorised the person to carry on a security activity of the kind concerned.	23
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[72] Section 39B Master licensee to have “fitness for work” policy	29
Omit “employ or” and “employed or”.	30

[73] Part 3B	1
Insert after Part 3A:	2
Part 3B Enforcement	3
Division 1 Powers of entry and search of premises	4
39I Powers of enforcement officers to enter premises without warrant	5
(1) An enforcement officer may enter any premises at which a security activity (or an activity ancillary to the carrying on of a security activity) is being carried on, or at which the enforcement officer reasonably believes such an activity is being carried on, at any reasonable time for the following purposes:	6
(a) for determining whether there has been compliance with, or a contravention of, this Act or the regulations,	7
(b) generally for administering this Act.	8
(2) This section does not confer a power to enter any premises or part of premises that is used only for residential purposes without the permission of the occupier or the authority of a search warrant.	9
39J Powers of enforcement officers to enter premises with warrant	10
(1) An enforcement officer may apply to an authorised officer for the issue of a search warrant if the enforcement officer believes on reasonable grounds that any provision of this Act or the regulations is being or has been contravened on any premises.	11
(2) An authorised 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 enforcement officer to enter and search the premises.	12
(3) An enforcement officer executing a search warrant issued under this section may:	13
(a) enter the premises specified in the warrant, and	14
(b) search the premises for evidence of a contravention of this Act or the regulations, and	15
(c) exercise any other function of an enforcement officer under this Part.	16
(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.	17

(5)	In this section:	1
	<i>authorised officer</i> has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	2
		3
39K	Powers that can be exercised by enforcement officers on entry	4
(1)	An enforcement officer may, at any premises lawfully entered under this Act for a purpose referred to in section 39I, do any or all of the following:	5
	(a) examine any registers, books, records or other documents on the premises,	6
	(b) make a copy on the premises of any registers, books, records or other documents and retain that copy,	7
	(c) require any person to make a copy on the premises of any registers, books, records or other documents and give that copy to the enforcement officer to retain,	8
	(d) take such photographs, films, audio, video or other recordings as the enforcement officer considers necessary,	9
	(e) require any person to produce any registers, books, records or other documents on the premises,	10
	(f) require any person to answer any question relating to any registers, books, records or other documents or any other relevant matter,	11
	(g) take any registers, books, records or other documents from the premises for the purposes of copying them,	12
	(h) seize any registers, books, records or other documents, or any other thing that the enforcement officer believes on reasonable grounds is connected with an offence against this Act or the regulations.	13
(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.	14
(3)	Any registers, books, records or other documents taken only for the purpose of copying them must be returned when that copying is completed.	15
39L	Obstruction	16
(1)	A person must not:	17
	(a) obstruct, hinder or interfere with an enforcement officer in the exercise of a function under this Part, or	18
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(b)	fail, without reasonable excuse, to comply with any requirement made of the person by an enforcement officer in the exercise of a function under this Part.	1 2 3
	Maximum penalty: 100 penalty units.	4
(2)	A person is not guilty of an offence of failing to comply with a requirement made of the person by an enforcement officer unless the person was warned on that occasion that a failure to comply is an offence.	5 6 7 8
39M	Identification of certain enforcement officers	9
(1)	Every enforcement officer, who is not a police officer, is to be provided with an identification card as an enforcement officer by the Commissioner.	10 11 12
(2)	In the course of exercising the functions of an enforcement officer under this Act, an enforcement officer who is not a police officer must, if requested to do so by any person affected by the exercise of any such function, produce to the person the officer's identification card.	13 14 15 16 17
Division 2	Power to obtain information or records	18
39N	Application of Division	19
	This Division applies whether or not a power of entry under this Part is being or has been exercised.	20 21
39O	Requirement to provide information and records	22
(1)	An enforcement officer may, by notice in writing given to a person, require the person to furnish to the officer such information or records (or both) as the officer requires by the notice for the following purposes:	23 24 25 26
(a)	for determining whether there has been compliance with, or a contravention of, this Act or the regulations,	27 28
(b)	generally for administering this Act.	29
(2)	A notice under this section must specify the manner in which information or records are required to be furnished and a reasonable time by which the information or records are required to be furnished.	30 31 32 33

39P	Provisions relating to requirement under section 39O to furnish records	1 2
(1)	A notice under section 39O may only require a person to furnish existing records that are in the person's possession or that are within the person's power to obtain lawfully.	3 4 5
(2)	The person to whom any record is furnished under section 39O may take copies of it.	6 7
(3)	If any record required to be furnished under section 39O is in electronic, mechanical or other form, the record must, unless the notice otherwise provides, be furnished in written form.	8 9 10
39Q	Power of enforcement officers to require answers and record evidence	11 12
(1)	An enforcement officer may require a person whom the enforcement officer suspects on reasonable grounds to have knowledge of matters in respect of which information is reasonably required for a purpose referred to in section 39O to answer questions in relation to those matters.	13 14 15 16 17
(2)	The Commissioner may require a corporation to nominate a director or officer of the corporation who is authorised to represent the corporation for the purpose of answering questions under this section.	18 19 20 21
(3)	An enforcement officer may, by notice in writing, require a person to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.	22 23 24 25 26
(4)	The place and time at which a person may be required to attend under subsection (3) is to be:	27 28
	(a) a place or time nominated by the person, or	29
	(b) if the place and time nominated is not reasonable in the circumstances or a place and time is not nominated by the person, a place and time nominated by the enforcement officer that is reasonable in the circumstances.	30 31 32 33
(5)	An enforcement officer may cause any questions and answers to questions given under this section to be recorded if the officer has informed the person who is to be questioned that the record is to be made.	34 35 36 37
(6)	A record may be made using sound recording apparatus or audio visual apparatus, or any other method determined by the enforcement officer.	38 39 40

(7)	A copy of any such record must be provided by the enforcement officer to the person who is questioned as soon as practicable after it is made.	1 2 3
(8)	A record may be made under this section despite the provisions of any other law.	4 5
[74]	Section 40A	6
	Insert after section 40:	7
40A	Temporary excess provision of services permits	8
(1)	A master licensee may apply to the Commissioner for the grant of a permit (a <i>temporary excess provision of services permit</i>) authorising the holder of the permit to provide more persons than the number of persons authorised by the master licence on any specified day or on each day within a period specified in the permit.	9 10 11 12 13 14
(2)	The application must be in the approved form and be accompanied by the fee and any information and particulars prescribed by the regulations.	15 16 17
(3)	The Commissioner may, after considering an application for a temporary excess provision of services permit:	18 19
	(a) grant the permit, or	20
	(b) refuse to grant the permit.	21
(4)	A permit is to be in the approved form.	22
(5)	A permit is subject to such conditions as may be imposed by the Commissioner (whether at the time the permit is granted or at any later time).	23 24 25
(6)	The Commissioner may revoke a permit if the holder contravenes any condition to which the permit is subject.	26 27
[75]	Sections 42 and 42A	28
	Omit the sections.	29
[76]	Section 43A Security Industry Council	30
	Omit the section.	31
[77]	Section 47 Certificate and other evidence	32
	Omit section 47 (1) (c).	33

[78] Schedule 2 Savings and transitional provisions	1
Insert at the end of clause 1 (1):	2
<i>Security Industry Amendment Act 2012</i>	3
[79] Schedule 2, Part 8	4
Insert after Part 7:	5
Part 8 Provisions consequent on enactment of Security Industry Amendment Act 2012	6
	7
23 Definitions	8
In this Part:	9
<i>amending Act</i> means the <i>Security Industry Amendment Act 2012</i> .	10
<i>converted licence</i> means a licence that is taken by the operation of this Part to be a licence of a different class or subclass of licence.	11
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24 Conversion of certain existing subclasses of master licence to new subclasses of master licence	14
	15
On the commencement of this clause, a master licence that, immediately before the amendment made to section 10 (1) by the amending Act, was:	16
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(a) a class MB licence—is taken to be, and to have the authority conferred by, a class MC licence granted under this Act (as amended by the amending Act), and	19
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	21
(b) a class MC licence—is taken to be, and to have the authority conferred by, a class MD licence granted under this Act (as amended by the amending Act), and	22
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	24
(c) a class MD licence—is taken to be, and to have the authority conferred by, a class ME licence granted under this Act (as amended by the amending Act).	25
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	27
25 Conversion of existing class 1G licence to new class 1A licence	28
On the commencement of this clause, a licence that was a class 1G licence immediately before the repeal of section 11 (1) (g) by the amending Act is taken to be, and to have the authority conferred by, a class 1A licence.	29
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26	Conversion of existing class 2E licence to class 2C licence	1
	On the commencement of this clause, a licence that was a class 2E licence immediately before the repeal of section 12 (1) (e) by the amending Act is taken to be, and to have the authority conferred by, a class 2C licence.	2 3 4 5
27	Conversion of existing class 2F licence to class 2C licence	6
	On the commencement of this clause, a licence that was a class 2F licence immediately before the repeal of section 12 (1) (f) by the amending Act is taken to be, and to have the authority conferred by, a class 2C licence.	7 8 9 10
28	Conversion of existing provisional licences to class 1 licences	11
(1)	On the commencement of this clause, a licence that, immediately before the repeal of section 12A by the amending Act, was:	12 13
(a)	a class P1A licence—is taken to be, and to have the authority conferred by, a class 1A licence granted under this Act, and	14 15 16
(b)	a class P1B licence—is taken to be, and to have the authority conferred by, a class 1B licence granted under this Act, and	17 18 19
(c)	a class P1C licence—is taken to be, and to have the authority conferred by, a class 1C licence granted under this Act, and	20 21 22
(d)	a class P1D licence—is taken to be, and to have the authority conferred by, a class 1D licence granted under this Act, and	23 24 25
(e)	a class P1E licence—is taken to be, and to have the authority conferred by, a class 1E licence granted under this Act, and	26 27 28
(f)	a class P1F licence—is taken to be, and to have the authority conferred by, a class 1F licence granted under this Act, and	29 30 31
(g)	a class P1G licence—is taken to be, and to have the authority conferred by, a class 1A licence granted under this Act.	32 33 34
(2)	The holder of a licence referred to in subclause (1) is taken to be a person who has not previously been authorised by a class 1 licence to carry on the security activity to which the licence relates and, accordingly, is subject to section 23E as inserted by the amending Act.	35 36 37 38 39

(3)	The holder must comply with the conditions set out in section 23E within 12 months of the commencement of that section.	1 2 3
29	Duration of converted licence	4
(1)	A licence converted by the operation of this Part to another class or subclass of licence remains in force (unless sooner surrendered, suspended or revoked) until the end of the period that it would have remained in force under section 24 but for the conversion.	5 6 7 8 9
(2)	The holder of a converted licence may renew the converted licence in accordance with section 17.	10 11
30	Form of converted licence	12
(1)	Section 22 (2) (b), as inserted by the amending Act, does not apply to a converted licence.	13 14
(2)	The Commissioner may reissue any converted licence with such alterations or endorsements as the Commissioner considers appropriate having regard to the provisions and operation of the amending Act.	15 16 17 18
31	References to converted licences	19
(1)	A reference in any Act (other than this Act) or statutory instrument, or in any other instrument, or in any contract or agreement, to a licence of a particular class or subclass of licence is to be construed as a reference to the class or subclass of the licence as converted by the operation of this Part.	20 21 22 23 24
(2)	The conditions to which a converted licence is subject are, subject to the regulations, taken to be conditions imposed by the Commissioner under this Act (as amended by the amending Act) applicable to the class or subclass of the licence on conversion and any such condition may be varied or revoked in accordance with this Act.	25 26 27 28 29 30
32	Proceedings for abolished offences relating to provisional licensees	31 32
	Any proceedings for an offence under a provision of this Act repealed by the amending Act that have been commenced but not finally determined before the repeal of the provision may continue to be dealt with as if the provision had not been repealed.	33 34 35 36 37

33	Restriction on granting licence to applicant providing false or misleading information	1 2
	Section 15 (2C), as inserted by the amending Act, applies to applications that have been made but not yet determined by the Commissioner before the insertion of that subsection.	3 4 5
34	Investigation of licence applications—taking of palm prints	6
	Anything done or omitted to be done by the Commissioner that would have been validly done or omitted had the amendments made to section 18 of this Act by the amending Act been in force at the time that the thing was done or omitted, is taken to have been validly done or omitted.	7 8 9 10 11
35	Licence renewals	12
	Section 17, as inserted by the amending Act, extends to licences granted before the insertion of that section.	13 14

Schedule 2	Amendment of other legislation	1
2.1	Firearms Act 1996 No 46	2
[1]	Section 4 Definitions	3
	Insert in alphabetical order in section 4 (1):	4
	<i>approved</i> means approved by the Commissioner from time to time.	5 6
	<i>approved master licensee</i> means a holder of a master licence under the <i>Security Industry Act 1997</i> who provides uniformed armed security services and is approved by the Commissioner for the purposes of this definition.	7 8 9 10
	<i>category H (business/employment) licence</i> means a category H licence that is issued for the purposes of business or employment.	11 12
	<i>provisional pistol (business/employment) licence</i> means a category H (business/employment) licence of the kind referred to in section 16C.	13 14 15
[2]	Section 6AA	16
	Insert after section 6:	17
6AA	Application of Commonwealth National Vocational Education and Training Regulator Act 2011	18 19
	(1) In this section:	20
	<i>Commonwealth Act</i> means the <i>National Vocational Education and Training Regulator Act 2011</i> of the Commonwealth.	21 22
	<i>State firearms regulation provisions</i> means the provisions of this Act and the regulations:	23 24
	(a) regulating organisations providing training, assessment or instruction in relation to possession or use of firearms, and	25 26
	(b) providing for the approval by or under this Act of training, assessment or instruction provided by organisations, and	27 28
	(c) providing for the exercise of investigative powers, sanctions and enforcement by or under this Act in relation to such matters.	29 30 31
	(2) The State firearms regulation provisions are declared to be an excluded matter for the purposes of section 10 of the Commonwealth Act in relation to section 9 (Immunity from State and Territory laws) of the Commonwealth Act to the extent only that that section prevents the application of the State firearms regulation provisions to an NVR registered training organisation	32 33 34 35 36 37

	(within the meaning of the Commonwealth Act) providing training, assessment or instruction in relation to the use and possession of firearms regulated by this Act.	1 2 3
	(3) This section is taken to have had effect from 1 July 2011.	4
[3]	Section 16 Category H licences—restrictions on issue	5
	Insert after section 16 (1):	6
	(1A) For the purposes of subsection (1), <i>business or employment</i> includes work undertaken voluntarily but only with respect to the static guarding of approved premises.	7 8 9
[4]	Section 16 (4) and (5)	10
	Insert after section 16 (3):	11
	(4) The Commissioner must not issue a category H (business/employment) licence (other than a provisional pistol (business/employment) licence) to a person who has never held such a licence unless:	12 13 14 15
	(a) the person has previously been issued with a provisional pistol (business/employment) licence, and	16 17
	(b) the provisional pistol (business/employment) licence has expired.	18 19
	(5) The Commissioner must not issue a provisional pistol (business/employment) licence to a person unless:	20 21
	(a) the person indicates that he or she intends to be employed by an approved master licensee specified in the application for the licence for the term of the licence, and	22 23 24
	(b) the approved master licensee has verified to the satisfaction of the Commissioner that the master licensee intends the employment to continue for the term of the licence.	25 26 27 28
[5]	Section 16C	29
	Insert after section 16B:	30
16C	Provisional pistol (business/employment) licences	31
	(1) A category H (business/employment) licence that is issued to a person who has never held such a licence is to be issued as a provisional pistol (business/employment) licence.	32 33 34

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- (2) Without limiting section 19, a provisional pistol (business/employment) licence is subject to the following conditions:
- (a) the licensee must, before possessing or using a pistol, complete to the satisfaction of the Commissioner an approved firearms training course conducted by the employer,
 - (b) the licensee must, in addition to the training referred to in paragraph (a), complete:
 - (i) such further training within 3 months of being granted the licence as is determined by the Commissioner, and
 - (ii) such other training as may be required by the Commissioner during the term of the licence,
 - (c) the licensee must hold a class 1F licence issued under section 11 of the *Security Industry Act 1997*,
 - (d) for the first 6 months of the term of the licence, the licensee must not possess or use a pistol unless the licensee is under the direct supervision of a natural person who has continuously held, for a period of more than 12 months:
 - (i) a category H (business/employment) licence that is not a provisional pistol (business/employment) licence, and
 - (ii) a class 1F licence under the *Security Industry Act 1997*.
- Note.** The licence may also be subject to other conditions—see section 19.
- (3) The Commissioner must revoke a provisional pistol (business/employment) licence if the Commissioner is satisfied that the licensee has failed to comply with a condition under this section.
- (4) If the holder of a provisional pistol (business/employment) licence contravenes the condition referred to in subsection (2) (d), the person who is (at the time of the contravention) the master licensee who is the employer of the licensee is guilty of an offence.
- Maximum penalty:
- (a) in the case of a corporation—200 penalty units, or
 - (b) in the case of an individual—100 penalty units.

(5) If:	1
(a) the holder of a provisional pistol (business/employment) licence applies for a category H (business/employment) licence before the term of the provisional pistol (business/employment) licence expires, and	2 3 4 5
(b) the application has not been dealt with by the time the provisional pistol (business/employment) licence expires, the authority conferred by the provisional pistol (business/employment) licence continues until such time as the person is notified of the issue of, or refusal of, the category H (business/employment) licence.	6 7 8 9 10 11
(6) A provisional pistol (business/employment) licence is automatically revoked if the licensee ceases to be employed during the term of the licence by the approved master licensee specified in the application for the licence as required by section 16 (5).	12 13 14 15 16
[6] Section 21 Term of licence	17
Omit section 21 (3). Insert instead:	18
(3) The following types of licence continue in force for a period of 12 months from the time the licence is issued unless the licence is sooner surrendered or revoked or otherwise ceases to be in force:	19 20 21 22
(a) provisional pistol (business/employment) licence,	23
(b) probationary pistol licence.	24
[7] Section 24 Revocation of licence	25
Omit “P1F licence” wherever occurring in section 24 (1A).	26
Insert instead “1F licence”.	27
2.2 Firearms Regulation 2006	28
[1] Clause 3, definition of “security guard”	29
Omit “or P1F”.	30
[2] Clause 8 Term of licence	31
Insert “, a provisional pistol (business/employment) licence” after “Act” in clause 8 (1).	32 33
[3] Clause 83 Additional requirements relating to security guards	34
Omit “or P1F” from clause 83 (1) (b).	35

2.3 Law Enforcement (Powers and Responsibilities) Act 2002	1
No 103	2
Schedule 2 Search warrants under other Acts	3
Omit “section 42” from the matter relating to the <i>Security Industry Act 1997</i> .	4
Insert instead “Part 3B”.	5
2.4 Weapons Prohibition Regulation 2009	6
Schedule 1 Persons exempt from requirement for permit	7
Omit “, 1F or P1F” from clause 3 (1) (i).	8
Insert instead “or 1F”.	9

**Schedule 3 Repeal of Security Industry Amendment
Act 2005 No 63**

The *Security Industry Amendment Act 2005* is repealed.

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