



New South Wales

# Security Industry Amendment Bill 2008

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Security Industry Act 1997* (*the Principal Act*):

- (a) to provide for visitor permits to enable persons licensed or authorised in other States or Territories to carry on security activities to carry out security activities for special events in this State, and
- (b) to exclude the application of section 12 of the *Criminal Records Act 1991* in relation to licence applications to allow the Commissioner to take any spent conviction into account in determining whether a person should be granted a licence, and
- (c) to require holders of class P1D licences to complete approved training provided by approved master licensees providing dog handling security services.

The Bill also makes related amendments to the *Firearms Act 1996* and the *Security Industry Regulation 2007*.

## 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 a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Security Industry Act 1997* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Firearms Act 1996* and *Security Industry Regulation 2007* set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1      Amendment of Security Industry Act 1997**

**Schedule 1 [8]** inserts proposed Part 3A into the Principal Act to provide that a visitor permit authorises an interstate licensee to carry on security activities specified in the visitor permit during the period of a special event declared by the Commissioner. An interstate licensee must supply evidence that the licensee is authorised or licensed in another State or Territory to carry out the security activities specified in the visitor permit and any additional information required by the Commissioner. The Commissioner may refuse to grant a visitor permit where such evidence or information is not supplied to the Commissioner's satisfaction or if the Commissioner is satisfied that the applicant is not a fit and proper person or that the special event does not require provision of security activities of the kind specified in the application. Proposed section 39F makes it an offence for the holder of a visitor permit to contravene any condition of the visitor permit. **Schedule 1 [1]** inserts a definition of *visitor permit*. **Schedule 1 [2], [3], [6], [7] and [9]** make consequential amendments relating to the creation of visitor permits. **Schedule 1 [10]** inserts a regulation-making power in relation to visitor permits.

**Schedule 1 [4]** inserts proposed section 14 (6) into the Principal Act to exclude the application of section 12 of the *Criminal Records Act 1991* in relation to applications for licences under the Principal Act to allow the Commissioner to take any spent conviction into account in determining whether a person should be granted a licence.

**Schedule 1 [5]** inserts proposed section 23D into the Principal Act to require holders of class P1D licences to complete approved training by an approved master licensee providing dog handling security services.

**Schedule 1 [11]** enables the making of savings and transitional regulations consequential on the enactment of the proposed Act.

**Schedule 1 [12]** inserts savings and transitional provisions relating to the amendments made by Schedule 1 [4] and [5]. Holders of class P1D licences in force immediately before the commencement of proposed section 23D will be required to complete the relevant approved training within such period as the Commissioner

determines. The exclusion of the application of section 12 of the *Criminal Records Act 1991* will not apply to an application for a licence that was not finally determined before the commencement of proposed section 14 (6).

## **Schedule 2     Other amendments**

**Schedule 2.1** amends the *Firearms Act 1996* to apply the Commissioner's power to revoke a firearms licence to a visitor permit that authorises the licensee to carry out security activities of a kind authorised by a PIF licence and to extend the right for police officers to inspect storage of firearms held by security guard employers to holders of a visitor permit authorised under the Principal Act to carry out security activities of a kind authorised by a master licence.

**Schedule 2.2 [1]** amends the *Security Industry Regulation 2007* to exclude from obtaining a security licence those persons who have received a fine of \$500 or more, or a term of imprisonment, or both, for offences relating to prohibited plants or prohibited drugs within the meaning of the *Drug Misuse and Trafficking Act 1985* or prescribed restricted substances within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*. **Schedule 2.2 [2]** prescribes the fee and the information and particulars that must accompany an application for a visitor permit. **Schedule 2.2 [3]** inserts a transitional provision relating to the proposed exclusion in Schedule 2.2 [1].



First print



New South Wales

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New South Wales

## Security Industry Amendment Bill 2008

No. , 2008

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### A Bill for

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

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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>Security Industry Amendment Act 2008</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5
<b>3 Amendment of Security Industry Act 1997 No 157</b>	6
The <i>Security Industry Act 1997</i> is amended as set out in Schedule 1.	7
<b>4 Other amendments</b>	8
The Act and regulation specified in Schedule 2 are amended as set out in that Schedule.	9 10
<b>5 Repeal of Act</b>	11
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	12 13
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	14 15



<b>Schedule 1</b>	<b>Amendment of Security Industry Act 1997</b>	1
		2
	(Section 3)	3
<b>[1] Section 3 Definitions</b>		4
	Insert in alphabetical order in section 3 (1):	5
	<i>visitor permit</i> means a visitor permit in force under this Act.	6
<b>[2] Section 7 Offence of carrying on unauthorised security activities</b>		7
	Insert at the end of the section:	8
	(3) The holder of a visitor permit does not commit an offence under this section while acting under and in accordance with the authority conferred by the visitor permit.	9 10 11
<b>[3] Section 10 Master licences</b>		12
	Insert “or is a corporation holding a visitor permit authorising its holder to carry on security activities of a kind authorised by a master licence” after “a master licence” in section 10 (3).	13 14 15
<b>[4] Section 14 Application for licence</b>		16
	Insert after section 14 (5):	17
	(6) Section 12 of the <i>Criminal Records Act 1991</i> does not apply in relation to an application for a licence.	18 19
<b>[5] Section 23D</b>		20
	Insert after section 23C:	21
<b>23D Special conditions—dog handling security services</b>		22
	(1) It is a condition of every master licence that the master licensee must not employ any person to provide dog handling security services unless the master licensee is approved to provide such services.	23 24 25 26
	(2) It is a condition of every class P1D licence that the licensee must, before carrying on any security activity authorised by the licence, successfully complete approved training provided by the licensee’s employer (being a master licensee approved to provide dog handling security services).	27 28 29 30 31
	(3) The Commissioner must revoke a class P1D licence if the Commissioner is satisfied that the licensee has failed to comply with a condition under this section.	32 33 34

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<b>[6] Section 29B Certain licensees must be employed by other licensees or visitor permit holders</b>	1 2
Insert “or the holder of a visitor permit authorising the holder to carry out security activities of a kind authorised by a master licence” after “master licensee” in section 29B (1) (a).	3 4 5
<b>[7] Section 29B (2)</b>	6
Insert “or the holder of a visitor permit authorising the holder to carry out security activities of a kind authorised by a master licence” after “master licensee” in section 29B (2).	7 8 9
<b>[8] Part 3A</b>	10
Insert after Part 3:	11
<b>Part 3A Visitor permits</b>	12
<b>39C Special events</b>	13
(1) The Commissioner may, by order published in the Gazette or on the website maintained by the Security Industry Registry within the NSW Police Force (or both), declare any event or class of events that the Commissioner considers to be of regional, State or national significance to be a special event for the purposes of this Part.	14 15 16 17 18 19
(2) For the purposes of this section, the period of a special event includes such periods immediately before or after a special event as the Commissioner considers necessary.	20 21 22
<b>39D Visitor permits</b>	23
(1) A person may apply to the Commissioner for the grant of a visitor permit to carry on one or more kinds of security activity specified in the application during the period of one or more special events so specified.	24 25 26 27
(2) The application must be in the approved form and be accompanied by the fee, and information and particulars, prescribed by the regulations.	28 29 30
(3) The applicant must supply evidence to the Commissioner’s satisfaction of the following requirements (referred to in this Part as the <i>visitor permit eligibility requirements</i> ):	31 32 33
(a) if the applicant is an individual—that the applicant:	34
(i) is ordinarily resident in another State or Territory, and	35 36

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(ii)	is licensed or otherwise authorised in that State or Territory to carry on the activity or activities of the kind proposed to be authorised by the visitor permit,	1 2 3
(b)	if the applicant is a corporation—that:	4
(i)	the applicant’s registered office and, if the address of that office is not the address of its principal place of business, its principal place of business is in another State or Territory, and	5 6 7 8
(ii)	the applicant is licensed or otherwise authorised in that State or Territory to carry on the activity or activities of the kind proposed to be authorised by the visitor permit.	9 10 11 12
(4)	The Commissioner may require the applicant to verify any relevant information by a statutory declaration or to provide proof of identity (or both) and may require the applicant to provide additional information or particulars.	13 14 15 16
(5)	The Commissioner may carry out all such investigations and enquiries as the Commissioner considers necessary to enable the Commissioner to consider the application properly.	17 18 19
(6)	Without limiting subsection (5), the Commissioner may have regard to any criminal intelligence report or other criminal information held (whether in this State or elsewhere) in relation to the applicant.	20 21 22 23
(7)	Section 12 of the <i>Criminal Records Act 1991</i> does not apply in relation to an application for a visitor permit.	24 25
<b>39E</b>	<b>Grant and authority conferred by visitor permit</b>	26
(1)	The Commissioner may, after considering an application for a visitor permit:	27 28
(a)	grant the permit, or	29
(b)	refuse to grant the permit.	30
(2)	The Commissioner may refuse to grant a visitor permit if:	31
(a)	the applicant fails to supply evidence to the Commissioner’s satisfaction that the applicant satisfies the visitor permit eligibility requirements or any additional information or particulars required under section 39D (4), or	32 33 34 35 36
(b)	the Commissioner is satisfied that the applicant is not a fit and proper person to hold a visitor permit, or	37 38

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(c)	the Commissioner considers that the special event to which the application relates does not warrant or require provision of security activities of the kind specified in the application.	1 2 3 4
(3)	A visitor permit is to be in a form approved by the Commissioner.	5
(4)	A visitor permit authorises the holder of the permit to carry on each kind of security activity specified in the permit during the period of each special event specified in the permit.	6 7 8
(5)	A visitor permit is subject:	9
(a)	to such conditions as may be imposed by the Commissioner (whether at the time the permit is granted or at any later time), and	10 11 12
(b)	to such other conditions as are imposed by this Act or prescribed by the regulations.	13 14
<b>39F</b>	<b>Contravention of visitor permit conditions</b>	15
	A holder of a visitor permit must not contravene any condition of the visitor permit.	16 17
	Maximum penalty:	18
(a)	in the case of a corporation—200 penalty units, or	19
(b)	in the case of an individual—100 penalty units or imprisonment for 6 months, or both.	20 21
<b>39G</b>	<b>Revocation of visitor permit</b>	22
	The Commissioner may revoke a visitor permit:	23
(a)	if the permit was granted on the basis of false or misleading information, or	24 25
(b)	if the holder of the permit contravenes a condition of the permit, or	26 27
(c)	if the holder of the permit ceases to satisfy the visitor permit eligibility requirements, or	28 29
(d)	for any other reason prescribed by the regulations.	30
<b>39H</b>	<b>Visitor permit to be produced on demand</b>	31
	The holder of a visitor permit must produce the visitor permit for inspection on demand by:	32 33
(a)	a police officer or any other member of the NSW Police Force, or	34 35

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	(b) any person with whom the holder has dealings when carrying on a security activity.	1
	Maximum penalty: 50 penalty units.	2
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<b>[9]</b>	<b>Section 41 Payment of fees charged by unauthorised persons</b>	4
	Insert “or visitor permit” after “licence” in section 41 (1).	5
<b>[10]</b>	<b>Section 48 Regulations</b>	6
	Insert after section 48 (2) (i):	7
	(j) any matter relating to visitor permits.	8
<b>[11]</b>	<b>Schedule 2 Savings and transitional provisions</b>	9
	Insert at the end of clause 1 (1):	10
	<i>Security Industry Amendment Act 2008</i>	11
<b>[12]</b>	<b>Schedule 2, Part 5</b>	12
	Insert after clause 16 of Schedule 2:	13
	<b>Part 5 Provisions consequent on enactment of Security Industry Amendment Act 2008</b>	14
		15
<b>17</b>	<b>Definition</b>	16
	In this Part, <i>amending Act</i> means the <i>Security Industry Amendment Act 2008</i> .	17
		18
<b>18</b>	<b>Special condition—class P1D licences</b>	19
(1)	Section 23D (2), as inserted by the amending Act, extends to a licence in force immediately before the commencement of the insertion as if it required the licensee to successfully complete the approved training referred to in that section within such period after the commencement as is determined by the Commissioner and notified to the licensee.	20
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(2)	Section 23D (3) does not operate to require the Commissioner to revoke a licence referred to in subclause (1) unless the licensee fails to successfully complete the approved training within the period determined by the Commissioner.	26
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**19 Applications for licences**

Section 14 (6), as inserted by the amending Act, does not apply to or in respect of an application for a licence that was lodged but was not finally determined before the commencement of that subsection.

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<b>Schedule 2</b>	<b>Other amendments</b>	1
	(Section 4)	2
<b>2.1</b>	<b>Firearms Act 1996 No 46</b>	3
<b>[1]</b>	<b>Section 24 Revocation of licence</b>	4
	Insert “or a visitor permit authorising the licensee to carry out security activities of a kind authorised by a P1F licence” after “class P1F licence” in section 24 (1A) (b).	5 6 7
<b>[2]</b>	<b>Section 24 (1A) (b)</b>	8
	Insert “or visitor permit” after “the P1F licence”.	9
<b>[3]</b>	<b>Section 42A Inspections of storage of firearms held by security guard employers</b>	10 11
	Insert after section 42A (3):	12
	(4) A reference in this section to a master licensee under the <i>Security Industry Act 1997</i> includes a reference to the holder of a visitor permit authorised under that Act to carry out security activities of a kind authorised by a master licence.	13 14 15 16
<b>2.2</b>	<b>Security Industry Regulation 2007</b>	17
<b>[1]</b>	<b>Clause 18 Offences and civil penalties that disqualify applicants</b>	18
	Omit “ <i>Poisons and Therapeutic Goods Regulation 2002</i> , in respect of which the maximum penalty imposed is imprisonment for 6 months or more, or a penalty of \$2,200 or more, or both” from clause 18 (1) (b).	19 20 21
	Insert instead “ <i>Poisons and Therapeutic Goods Regulation 2008</i> , in respect of which the maximum penalty imposed is any term of imprisonment, or a penalty of \$500 or more, or both”.	22 23 24
<b>[2]</b>	<b>Part 3A</b>	25
	Insert after Part 3:	26
	<b>Part 3A Visitor permits</b>	27
<b>38A</b>	<b>Fee to accompany permit application</b>	28
	For the purposes of section 39D (2) of the Act, the prescribed fee to accompany an application for a visitor permit is as follows:	29 30

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(a)	if the applicant is an individual—\$40,	1
(b)	if the applicant is a corporation—\$100.	2
<b>38B</b>	<b>Information and particulars to accompany permit application</b>	<b>3</b>
(1)	<b>Visitor permit—individuals</b>	<b>4</b>
	For the purposes of section 39D (2) of the Act, an application for a visitor permit that is made by an individual must include the following information:	5
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		7
(a)	the applicant’s name and residential address,	8
(b)	the applicant’s date of birth,	9
(c)	particulars of the licence or other authority in the applicant’s State or Territory of residence authorising the applicant to carry on the activity or activities of the kind proposed to be authorised by the visitor permit.	10
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(2)	<b>Visitor permit—corporations</b>	<b>14</b>
	For the purposes of section 39D (2) of the Act, an application for a visitor permit that is made by a corporation must include the following information:	15
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(a)	the name of the applicant,	18
(b)	the applicant’s Australian Business Number and Australian Company Number and each business name (within the meaning of the <i>Business Names Act 2002</i> ) under which the applicant carries on business,	19
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		22
(c)	the address of the applicant’s registered office and, if that address is not the address of its principal place of business, the address of its principal place of business,	23
		24
		25
(d)	the security activities in respect of which the applicant proposes to carry on business under the visitor permit,	26
		27
(e)	particulars of the licence or other authority of the other State or Territory authorising the corporation to carry on the activity or activities of the kind proposed to be authorised by the visitor permit.	28
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<b>[3] Clause 47A</b>	1
Insert after clause 47:	2
<b>47A Offences and civil penalties that disqualify applicants</b>	3
Clause 18 (1) (b), as amended by the <i>Security Industry Amendment Act 2008</i> , applies only to an offence committed after the commencement of that amendment.	4
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	6