

Passed by both Houses



New South Wales

Tattoo Parlours Amendment Bill 2012

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Tattoo Parlours Act 2012 No 32	3
Schedule 2 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	10

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2012

Clerk of the Parliaments



New South Wales

Tattoo Parlours Amendment Bill 2012

Act No , 2012

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

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Tattoo Parlours Amendment Act 2012*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Tattoo Parlours Act 2012 No 32

[1] Section 4 Meaning of “close associate”

Insert at the end of section 4 (1) (b):

, or

- (c) is or will be engaged as a contractor or employed in the business of the applicant or licensee that is or will be carried on under the authority of the licence.

[2] Section 7 Body art tattooists to be licensed

Insert after section 7 (1):

- (1A) An individual must not perform any body art tattooing procedure (whether or not for fee or reward) at premises in respect of which an operator licence is in force unless authorised to do so by a tattooist licence.

Maximum penalty:

- (a) for a first offence, 50 penalty units, and
 - (b) for a second or subsequent offence, 100 penalty units.
- (1B) An individual is not liable to be convicted of an offence under both subsections (1) and (1A) in respect of essentially the same act or omission.

[3] Section 7 (2)

Omit “Subsection (1) does”.

Insert instead “Subsections (1) and (1A) do”.

[4] Section 11 Licence applications

Insert after section 11 (5) (b):

- (b1) in addition to the statement required under section 12, be accompanied by copies of 3 forms of personal identification of an approved kind for each individual identified as a close associate in that statement, and

[5] Section 16 Decision of Director-General in relation to licence application

Omit section 16 (7).

[6] Section 17 Duration of licence

Omit section 17 (1). Insert instead:

- (1) A licence comes into force on the date specified in the licence.

[7] Section 17 (5)

Omit the subsection.

[8] Section 19A

Insert after section 19:

19A Commissioner may require further information

- (1) For the purpose of an investigation by the Commissioner as to whether a licensee continues to be a fit and proper person to hold a licence, or whether it would be contrary to the public interest for the licensee to continue to hold a licence, the Commissioner may, by written notice served on the person concerned, require a licensee, or a close associate of a licensee, to do one or more of the following things:
 - (a) provide, in accordance with directions in the notice, such information as, in the opinion of the Commissioner, is relevant to the investigation specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Commissioner, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Commissioner such authorisations and consents as the Commissioner requires for the purpose of enabling the Commissioner to obtain information (including financial and other confidential information) relevant to the investigation from other persons concerning the licensee and close associates of the licensee.
- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

[9] Section 22A

Insert after section 22:

22A Operator not to permit procedures by unlicensed body art tattooists on licensed premises

It is a condition of an operator licence that the licensee must not permit an individual to perform any body art tattooing procedure at the licensed premises unless the individual is the holder of a tattooist licence.

[10] Section 24 Display of licence information

Omit section 24 (a). Insert instead:

- (a) such document or information as may be prescribed by the regulations is conspicuously displayed at the licensed premises, and

[11] Section 26 Cancellation of licence

Omit section 26 (1). Insert instead:

- (1) The Director-General must cancel a licence if:
 - (a) the applicant does not, within 60 days of being notified of the grant of the licence, collect the licence from the place nominated by the Director-General, or
 - (b) an adverse security determination is made by the Commissioner about the licensee.

Note. Section 27 of the *Crimes (Criminal Organisations Control) Act 2012* provides for the automatic revocation of a licence if an interim control order made with respect to a licensee is confirmed under that Act.

[12] Section 27 Right to seek review from Administrative Decisions Tribunal

Omit “section 17 (5)” from section 27 (1) (a).

Insert instead “section 26 (1) (a)”.

[13] Section 27 (4) (a)

Insert “information identified in the Commissioner’s determination as being from a” after “any”.

[14] Section 27 (4A) and (4B)

Insert after section 27 (4):

- (4A) If the Tribunal considers that information identified in the Commissioner’s determination as being from a criminal intelligence report or other criminal information referred to in

section 19 (3) has not been properly identified as such, the Tribunal must ask the Commissioner whether the Commissioner wishes to withdraw the information from consideration by the Tribunal in its determination of an application.

- (4B) Information that is withdrawn by the Commissioner must not be:
- (a) disclosed to any person, or
 - (b) taken into consideration by the Tribunal in determining an application.

[15] Part 4, Division 2, heading

Omit the heading. Insert instead:

Division 2 Powers of entry

[16] Sections 30A–30C

Insert before section 31:

30A Powers of authorised officers to enter premises without warrant

- (1) An authorised officer may at any reasonable time enter any licensed premises, or any other premises that the authorised officer reasonably suspects are being used to perform body art tattooing procedures for fee or reward, for the following purposes:
 - (a) for determining whether there has been compliance with, or a contravention of, this Act or the regulations,
 - (b) generally for administering this Act.
- (2) This section does not confer a power to enter any premises or part of premises that are used only for residential purposes without the permission of the occupier or the authority of a search warrant.

30B Powers of authorised officers to enter premises with warrant

- (1) An authorised officer may apply to an authorised warrants officer for the issue of a search warrant if the authorised officer believes on reasonable grounds that any provision of this Act or the regulations is being or has been contravened on any premises.
- (2) An authorised warrants officer to whom any such application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any authorised officer to enter and search the premises.

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- (3) An authorised officer executing a search warrant issued under this section may:
- (a) enter the premises specified in the warrant, and
 - (b) search the premises for evidence of a contravention of this Act or the regulations, and
 - (c) exercise any other function of an authorised officer under this Part.
- (4) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.
- (5) In this section:
authorised warrants officer means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

30C Powers that can be exercised by authorised officers on entry

- (1) Without limiting section 32, an authorised officer may, at any premises lawfully entered under this Act for a purpose referred to in section 30A (1), do any or all of the following:
- (a) examine any licence, registers, books, records or other documents on the premises,
 - (b) make a copy on the premises of any licence, registers, books, records or other documents and retain that copy,
 - (c) require any person to make a copy on the premises of any licence, registers, books, records or other documents and give that copy to the authorised officer to retain,
 - (d) take such photographs, films, audio, video or other recordings as the authorised officer considers necessary,
 - (e) require any person to produce any licence, registers, books, records or other documents on the premises,
 - (f) require any person to answer any question relating to any licence, registers, books, records or other documents or any other relevant matter,
 - (g) take any licence, registers, books, records or other documents from the premises for the purposes of copying them,
 - (h) seize any licence, registers, books, records or other documents, or any other thing that the authorised officer believes on reasonable grounds is connected with an offence against this Act or the regulations.

- (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.
- (3) Any registers, books, records or other documents taken only for the purpose of copying them must be returned when that copying is completed.

[17] Part 4, Division 3, heading

Insert before section 32:

Division 3 Other enforcement provisions

[18] Section 33

Omit the section. Insert instead:

33 Hindering or obstruction of authorised officer

A person must not, without reasonable excuse:

- (a) obstruct, hinder or interfere with an authorised officer in the exercise of a function under this Act, or
- (b) fail to comply with any requirement made of the person by an authorised officer in the exercise of a function under this Act.

Maximum penalty: 20 penalty units.

[19] Section 41 Regulations

Omit section 41 (2) (c). Insert instead:

- (c) without limiting paragraph (f), the application of, or exemption from, licensing requirements in connection with body art tattooing shows or exhibitions and the short term approval of the performing of body art tattooing procedures (including the issue of permits for those purposes),

[20] Section 41 (2) (e)

Insert "refund," after "waiver,".

[21] Section 41 (2) (g)

Insert after section 41 (2) (f):

- (g) the making, keeping and inspection of records in connection with the carrying on of body art tattooing businesses.

[22] Schedule 1 Savings, transitional and other provisions

Insert after clause 3:

**Part 3 Provisions consequent on enactment of
Tattoo Parlours Amendment Act 2012**

4 Existing applications and licences

- (1) Amendments to sections 16 and 17 by the *Tattoo Parlours Amendment Act 2012* apply in respect of all licences, whether or not granted before the commencement of that Act.
- (2) Amendments to sections 4, 11 and 27 by the *Tattoo Parlours Amendment Act 2012* extend to an application for a licence that was lodged, but not finally determined, before the commencement of that Act.

5 Right to review where licence not granted within 60 days

For the purposes of section 27 (2), an application for a licence lodged before the day that is 6 months after the commencement of the *Tattoo Parlours Amendment Act 2012* is taken to have been lodged on that day.

Tattoo Parlours Amendment Bill 2012

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

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

Schedule 2 Search warrants under other Acts

Insert in alphabetical order:

Tattoo Parlours Act 2012, section 30B