

Tattoo Parlours Regulation 2013

[2013-30]



New South Wales

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New South Wales

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Tattoo Parlours Regulation 2013



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Tattoo Parlours Regulation 2013*.

2 Commencement

- (1) This Regulation commences on the day on which it is published on the NSW legislation website, except as provided by subclause (2).
- (2) Clauses 4 and 8 commence on the day on which Part 2 of the Act commences if Part 2 of the Act has not commenced on or before the day on which this Regulation is published on the NSW legislation website.

3 Definitions

- (1) In this Regulation—

fee unit—see Part 2 of Schedule 1.

tattooing procedures log, in relation to licensed premises, means a tattooing procedures log required to be kept for the premises under clause 22.

the Act means the *Tattoo Parlours Act 2012*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Permits—tattooing shows

3A Definitions

In this Part—

authorised participant of a show has the meaning given by clause 4.

personal details of a person means—

- (a) the full name of the person, and
- (b) the date and place of birth of the person, and
- (c) the residential address of the person and, if the person's postal address is different from that residential address, the person's postal address.

tattooing show or **show** means a body art tattooing show or exhibition.

unsuitable individual means an individual who is—

- (a) under 18 years of age, or
- (b) a controlled member of a declared organisation.

Note—

Controlled members are prohibited from applying for permits—see section 27 of the [Crimes \(Criminal Organisations Control\) Act 2012](#).

4 Certain tattooing shows exempt from licensing requirements

- (1) A tattooing show that is conducted by a person under the authority of a permit granted under this Part is prescribed as a circumstance for the purposes of section 6 (4) (c) of the Act.

Note—

Section 6 (4) (c) of the Act enables the regulations to prescribe circumstances in which a person will not be required to carry on a body art tattooing business under the authority of an operator licence.

- (2) The performance of a body art tattooing procedure at a tattooing show that is conducted by a person (the **permit holder**) under the authority of a permit granted under this Part is prescribed as a circumstance for the purposes of section 7 (2) (b) of the Act if it is performed by—
 - (a) an individual who holds an operator licence for premises at which the individual performs body art tattooing procedures as a self-employed individual, or
 - (b) an individual who is an authorised participant of the show.
- (3) An individual is an **authorised participant** of a show if—
 - (a) the personal details of the individual have been provided to the Secretary by the permit holder for the show at least 14 days before the commencement of the show, and
 - (b) the individual is not an unsuitable individual, and
 - (c) the individual has not, in the previous 12 months, been an authorised participant of more than one other show.

- (4) An individual ceases to be an authorised participant of a show if—
 - (a) the Secretary gives written notice to the permit holder stating that the individual is not to be an authorised participant of the show, or
 - (b) the individual becomes an unsuitable individual, or
 - (c) the permit holder notifies the Secretary in writing that the individual is to no longer be an authorised participant of the show.
- (5) The Secretary may give written notice under subclause (4) (a) at any time.
- (6) The performance of a body art tattooing procedure at premises in respect of which an operator licence is in force that is conducted by an individual who is an authorised participant in a show is prescribed as a circumstance for the purposes of section 7 (2) (b) of the Act if—
 - (a) the individual is not an Australian citizen or Australian resident, and
 - (b) the performance of a body art tattooing procedure for fee or reward is not in breach of any visa condition of the individual, and
 - (c) the individual has not, in the previous 12 months, performed body art tattooing procedures at premises in respect of which an operator licence is in force on more than 31 days in total, and
 - (d) the individual, when performing body art tattooing procedures at any such premises, carries the following documents and promptly produces them if requested to do so by an authorised officer—
 - (i) the individual's passport,
 - (ii) written evidence that the individual is an authorised participant in a show.

5 Authority conferred by permit

A permit granted under this Part authorises the permit holder to conduct a tattooing show (whether on his or her own behalf or on behalf of another person) at the premises specified in the permit, in accordance with the conditions of the permit, for the period specified in the permit.

6 Permit applications

- (1) An application for a permit to conduct a tattooing show is to be made to the Secretary.
- (2) An application for a permit may only be made by an individual.

Note—

See Part 5A of the *Crimes Act 1900* for offences with respect to the making, giving or production of false and misleading applications, information and documentation.

- (3) An application for a permit in connection with a tattooing show that is to be conducted by or on behalf of a corporation, partnership or trust must be made by an individual nominated by the corporation, partners or trustees to be the events manager for the purposes of conducting that show at the premises for which the permit is sought.
- (4) An application for a permit may not be made by—
 - (a) an unsuitable individual, or
 - (b) an individual who is not an Australian citizen or Australian resident.
- (5) An application for a permit must—
 - (a) be in the approved form and made in the approved manner, and
 - (b) state the proposed commencement date for the permit and be made at least 28 days before that date, and
 - (c) state the personal details of the applicant, and
 - (d) specify the address of the premises at which it is proposed to conduct the show, and
 - (e) if the show to which the application relates is to be conducted by or on behalf of a corporation, partnership or trust—be accompanied by evidence in the approved form and manner demonstrating that the applicant has been nominated by the corporation, partners or trustees to be the events manager, and
 - (f) be accompanied by the fee for the permit specified in Part 1 of Schedule 1.

7 Decision of Secretary in relation to permit application

- (1) The Secretary may, after considering an application under this Part for a permit, grant the permit or refuse to grant the permit.
- (2) The Secretary may, in such circumstances as the Secretary considers appropriate, treat an application for a permit as having been withdrawn.
- (3) The Secretary is to take the following matters into account when considering whether to grant a permit—
 - (a) whether the applicant has ever applied for a licence under the Act and, if so, any security determinations made by the Commissioner in relation to the application,
 - (b) whether the applicant has ever held a licence under the Act and, if so, his or her licence history (including compliance and complaints history),
 - (c) the body art tattooists that are likely to participate in the proposed show,
 - (d) the applicant's capacity to ensure that participants comply with legislative

requirements applicable in the State relating to the performance of body art tattooing procedures.

- (4) The Secretary must not grant a permit if—
- (a) the Secretary is satisfied that the application for the permit was not duly made, or
 - (b) the applicant is a controlled member of a declared organisation.

Note—

Controlled members are prohibited from applying for permits—see section 27 of the *Crimes (Criminal Organisations Control) Act 2012*.

- (5) A permit may be granted unconditionally or subject to conditions.
- (6) A permit must specify the period during which it is in force (being a period not exceeding 7 days).
- (7) The Secretary may at any time, by notice in writing to the permit holder, revoke the permit or vary the conditions of the permit.
- (8) The Secretary may not grant more than 2 permits to the same individual (or an individual applying on behalf of the same corporation, partnership or trust) in the same calendar year.
- (9) A permit confers no right of property and is incapable of being transferred, assigned or mortgaged, charged or otherwise encumbered.

Note—

A non-transferable licence is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth. See the definitions of **licence** and **personal property** in section 10 of that Act.

7A Requirements on permit holder

A permit holder for a tattooing show must ensure—

- (a) that a written list of the personal details of each authorised participant of the show is held at the show at any time at which the show is open to the public, and
- (b) that the written list is promptly made available to any authorised officer who requests to see the list during any of those times, and
- (c) that no body art tattooing procedure is performed at the show unless the procedure is authorised under a licence or under the authority of the permit.

Maximum penalty—20 penalty units.

8-11 (Repealed)

Part 3 Licensing

Division 1 Applications for licences

12 Additional information and requirements for applications for licences

- (1) The following information and requirements are prescribed for the purposes of section 11 (5) (e) and (f) of the Act for applications for licences—
 - (a) the date and place of birth of the applicant,
 - (b) any other names by which the applicant has previously been known,
 - (c) in the case of an applicant who holds a NSW driver licence or NSW Photo Card—
 - (i) the licence number or Card number, and
 - (ii) the full name of the applicant stated in the application must be the same as that specified on the licence or Card,
 - (d) in the case of an application for an operator licence—the business name of the body art tattooing business carried on or proposed to be carried on at the proposed licensed premises,
 - (e) copies of 3 forms of personal identification of an approved kind.

- (2) In this clause—

NSW driver licence means a driver licence granted by Roads and Maritime Services.

NSW Photo Card means a New South Wales Photo Card issued under the [Photo Card Act 2005](#).

13 Additional grounds for refusing to grant licences

- (1) **Grounds for refusing operator licence applications** For the purposes of section 16 (5) of the Act, the Secretary may refuse to grant an operator licence if satisfied of the existence of any of the following grounds—
 - (a) in the case of an application made in connection with a body art tattooing business that is owned or operated by or on behalf of a corporation—the corporation is a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed,
 - (b) the applicant holds (or has held) a licence, permit or other authority under legislation administered by a relevant Minister that has been suspended, cancelled or revoked,
 - (c) the applicant is disqualified from holding a licence, permit or other authority under legislation administered by a relevant Minister,

- (d) the applicant is, or was at any time in the last 3 years, concerned in the management of, or a director of, an externally-administered body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) except in a case of the voluntary winding up of the body corporate,
- (e) the applicant has been convicted of an offence under section 6 (1) or (3) or 8 (1) of the Act.

(2) **Grounds for refusing tattooist licence applications** For the purposes of section 16 (5) of the Act, the Secretary may refuse to grant a tattooist licence if satisfied of the existence of any of the following grounds—

- (a) the applicant holds (or has held) a licence, permit or other authority under legislation administered by a relevant Minister that has been suspended, cancelled or revoked,
- (b) the applicant is disqualified from holding a licence, permit or other authority under legislation administered by a relevant Minister,
- (c) the applicant has been convicted of an offence under section 7 (1) or (1A) of the Act.

(3) **Definition** In this clause—

relevant Minister means—

- (a) the Minister for Innovation and Better Regulation, or
- (b) the Minister for Police and Emergency Services.

Division 2 Special conditions relating to licences generally

14 Licensee not to sell or dispose of licence

It is a condition of a licence that the licensee must not—

- (a) sell, dispose of, deliver, let out, hire or rent the licence to any other person, or
- (b) permit any other person to use the licence.

Division 3 Special conditions relating to operator licences

15 Surrender of operator licence for premises under long-term closure order

It is a condition of an operator licence that if a closure order has been made under section 29 of the Act with respect to the licensed premises, the licensee must return the licence to the Secretary within 7 business days after the order is made.

16 Notifying Secretary of lost, stolen or destroyed operator licence

It is a condition of an operator licence that the licensee must notify the Secretary in writing that the licence has been lost, stolen or destroyed within 7 business days after the licensee becomes aware that it has been lost, stolen or destroyed.

17 Notifying Secretary of existence of a prescribed licence cancellation circumstance

- (1) It is a condition of an operator licence that the licensee must notify the Secretary in writing that a prescribed licence cancellation circumstance has occurred or exists within 7 business days after the licensee becomes aware that it has occurred or exists.
- (2) A circumstance is a **prescribed licence cancellation circumstance** for the purposes of this clause if it is a circumstance referred to in clause 21 (1) of a kind that, were the Secretary to be satisfied that it had occurred or exists, would enable the Secretary to cancel an operator licence under section 26 (2) (b) of the Act.

18 Particulars to be provided for the purposes of change of particulars special condition: section 22 of Act

The following changes in particulars are required to be included in a notice given for the purposes of the condition imposed on an operator licence by section 22 (1) of the Act—

- (a) if the last time that the particulars were provided was in connection with the application for the licence—any change in the particulars required to be provided in connection with the licence application by or under sections 11 and 12 of the Act occurring since the application was made,
- (b) if the last time that the particulars were provided was in a notice given for the purposes of section 22 (1) of the Act—any change in those particulars occurring since the notice was given.

19 Particulars to be provided for the purposes of changes in staff members special condition: section 23 of Act

- (1) The following particulars in connection with a change in staff employment are required to be included in a notice given for the purposes of the condition imposed on an operator licence by section 23 (1) of the Act in respect of that change—
 - (a) in the case of a new staff member employed to work at the licensed premises—
 - (i) the full name and the residential address of the new staff member, and
 - (ii) the date of birth of the new staff member, and
 - (iii) the date on which the new staff member commenced work at the premises, and
 - (iv) the position in which the new staff member is employed to work,

- (b) in the case of a staff member who has ceased to be employed to work at the licensed premises—
 - (i) the full name of the former staff member, and
 - (ii) the date of birth of the former staff member, and
 - (iii) the date on which the former staff member commenced work at the premises, and
 - (iv) the date on which the former staff member ceased to be employed to work at the premises, and
 - (v) the position in which the former staff member was employed to work immediately before he or she ceased to be a staff member.

20 Display of licensing information certificate required under section 24 (a) of Act

A licensing information certificate issued by the Secretary for the licensed premises is prescribed for the purposes of section 24 (a) of the Act.

Division 4 Cancellation of licences

21 Additional grounds for cancelling operator licences

- (1) Each of the following circumstances are prescribed for the purposes of section 26 (2) (b) of the Act in relation to operator licences—
 - (a) the Secretary is satisfied that the licensee holds (or has held) a licence, permit or other authority under legislation administered by a relevant Minister that has been suspended, cancelled or revoked,
 - (b) the Secretary is satisfied that the licensee is disqualified from holding a licence, permit or other authority under legislation administered by a relevant Minister,
 - (c) in the case of a body art tattooing business that is owned or operated by or on behalf of a corporation—the Secretary is satisfied that the corporation is a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed,
 - (d) the Secretary is satisfied that—
 - (i) a prohibition order under Part 3 of the *Public Health Act 2010* in connection with the carrying out of skin penetration procedures is in force in respect of the licensed premises, or
 - (ii) a person has been convicted of an offence against the *Public Health Act 2010* or the regulations under that Act in connection with the carrying out of skin penetration procedures at the licensed premises,

(e) the Secretary is satisfied that a closure order made under section 29 of the Act is in force in respect of the licensed premises.

(2) In this clause—

relevant Minister means—

(a) the Minister for Innovation and Better Regulation, or

(b) the Minister for Police and Emergency Services.

Division 5 Keeping of records

22 Tattooing procedures log to be kept for licensed premises

- (1) The licensee under an operator licence must ensure that a tattooing procedures log in the approved form is kept for each calendar year (or part of a calendar year) during which the operator licence remains in force.
- (2) The licensee under an operator licence (or, in the case of a former operator licence, the former licensee) must keep the tattooing procedures log for the licensed premises (or former licensed premises) for a period of 3 years after the end of the calendar year (or part of the calendar year) to which the log relates.
- (3) A person who contravenes a provision of this clause is guilty of an offence.

Maximum penalty—20 penalty units.

23 Tattooists to make contemporaneous entries in tattooing procedures log for licensed premises

An individual who performs a body art tattooing procedure (whether or not for a fee or reward) on another individual at licensed premises must ensure that a contemporaneous record is made in the tattooing procedures log for the premises of the following particulars concerning the procedure—

- (a) the date or dates on which the procedure was performed,
- (b) the full name and tattooist licence number of the individual performing the procedure,
- (c) the amount (if any) charged for performing the procedure, the method of payment and receipt number (if any) for the payment.

Maximum penalty—20 penalty units.

24 Manner in which records for licensed premises to be kept

- (1) The licensee under an operator licence must ensure that any record (whether in written or electronic form) that the licensee keeps in connection with the carrying on of a body art tattooing business at the licensed premises—

(a) is kept in the English language and in a manner that permits the record to be readily accessible by an authorised officer for inspection, and

(b) is kept at the licensed premises at all times.

Maximum penalty—20 penalty units.

(2) In this clause—

record, in connection with a body art tattooing business, includes any record that is required to be kept or made under the Act or this Regulation.

Division 6 Offences relating to licences

25 Misuse of licences

A person must not—

(a) make any representation, or cause or allow any representation to be made, to the effect that the person is a licensee if the person does not hold a licence, or

(b) forge or steal a licence, or

(c) deface, damage, alter or destroy a licence without the permission of the Secretary, or

(d) have another person's licence in his or her possession without a reasonable excuse.

Maximum penalty—40 penalty units (in the case of a corporation) and 20 penalty units (in any other case).

Part 4 Miscellaneous

26 Fees

(1) The fees payable for the purposes of section 11 (5) (e) of the Act and clauses 6 (5) (f) and 27 are the fees specified in Part 1 of Schedule 1.

(2) The amount of the fee payable is the amount specified under the heading "Total" in Part 1 of Schedule 1 in relation to the application concerned.

(3) If an application for a licence or a permit—

(a) is refused by the Secretary (other than on the ground of an adverse security determination made by the Commissioner), or

(b) is granted by the Secretary but is subsequently withdrawn by the applicant before the licence or permit concerned takes effect, or

(c) is treated by the Secretary as having been withdrawn,

the fee that has been paid in connection with the application is to be refunded to the applicant, except for any amount specified under the heading “Processing component” in Part 1 of Schedule 1 (which is taken to be a fee to cover the costs incurred by the Secretary in processing the application concerned).

26A Secretary’s power to waive, reduce, postpone or refund fees

The Secretary may waive, reduce, postpone or refund, in whole or part, a fee payable or paid under the Act or this Regulation if the Secretary is satisfied it is appropriate because—

- (a) the person who is to pay or has paid the fee is suffering financial hardship, or
- (b) special circumstances exist.

Example of ‘special circumstances’—

circumstances involving a natural disaster or recovery from a natural disaster

27 Replacement of licence

The Secretary may, on the payment of the fee specified in Part 1 of Schedule 1, issue a replacement licence to a person if satisfied that the person is the holder of a licence that has been lost, stolen, damaged, destroyed or defaced.

28 Penalty notice offences and penalties

- (1) For the purposes of section 35 of the Act—
 - (a) each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and
 - (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of Schedule 2.
- (2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

29 Transitional provisions in relation to pending applications for licences

- (1) In this clause, the **relevant day** means the day on which Part 2 (Offences relating to unlicensed body art tattooing) of the Act commences.
- (2) If an application for an operator licence has been made (but not determined by the Chief Executive) before the relevant day in relation to the carrying on of a body art tattooing business at premises, sections 6 and 8 of the Act are taken not to apply in relation to the carrying on of that business at those premises until—
 - (a) if the business for which the licence is sought was not an existing business that

was being carried on at the premises when the application was made—the day on which the Chief Executive notifies the applicant that the licence has been granted or refused or the application has been treated as being withdrawn (as the case requires), or

- (b) if the business for which the licence is sought was an existing business that was being carried on at the premises when the application was made—
- (i) in the case where the Chief Executive grants the licence—the day on which the Chief Executive notifies the applicant that the licence has been granted, or
- (ii) in the case where the Chief Executive refuses to grant the licence or treats the application as having been withdrawn—7 days after the day on which the Chief Executive notifies the applicant that the licence has been refused or the application has been treated as being withdrawn (as the case requires).
- (3) If an application for a tattooist licence has been made (but not determined by the Chief Executive) before the relevant day, sections 7 and 8 are taken not to apply in relation to the applicant (or the employment of the applicant) until the day on which the Chief Executive notifies the applicant that the licence has been granted or refused or the application has been treated as being withdrawn (as the case requires).

30 (Repealed)

Schedule 1 Fees

(Clauses 26 and 27)

Part 1 Fees payable

Item	Column 1	Column 2	Column 3	Column 4
	Type of fee	Fixed component (in fee units)	Processing component (in fee units)	Total (in fee units)
1	Application for permit for body art tattooing show	4.34	2.17	6.51
2	Application for tattooist licence	2.02	5.57	7.59
3	Application for operator licence	6.01	16.69	22.70
4	Application for replacement of licence	N/A	0.46	0.46
5	Application for renewal of tattooist licence	2.02	5.17	7.19
6	Application for renewal of operator licence	6.01	16.29	22.30

Part 2 Adjustment of fees for inflation

1 Definitions

In this Part—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for purposes of Regulation

(1) For the purposes of this Regulation, a **fee unit** is—

- (a) in the financial year 2017-18—\$100, and
- (b) in each subsequent financial year—the amount calculated as follows—

$$\$100 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

Editorial note—

Fee unit amount calculated under this clause—

Financial year	Fee unit amount
2018-19	\$102.07
2019-20	\$103.41
2020-21	\$105.48

3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit (including the amount of a component of a fee) is to be rounded to the nearest dollar (and an amount of 50 cents is to be rounded down).

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to—
- (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.
- (2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.

Schedule 2 Penalty notice offences

(Clause 28)

Column 1	Column 2
Provision	Penalty
Offences under the Act	
Section 6 (1)	\$1,100 (in the case of a corporation) \$550 (in any other case)
Section 6 (3)	\$1,100 (in the case of a corporation) \$550 (in any other case)
Section 7 (1) or (1A)	\$550 (in the case of a first offence) \$1,100 (in the case of a second or subsequent offence)
Section 8 (1)	\$1,100 (in the case of a corporation) \$550 (in any other case)
Section 10 (5)	\$550
Section 11 (6)	\$550
Section 25 (2)	\$550
Section 26 (7)	\$550
Section 30 (1)	\$1,100 (in the case of a corporation) \$550 (in any other case)
Section 32	\$550
Offences under this Regulation	
Clause 7A	\$550

Clause 22 (3)	\$550
Clause 23	\$550
Clause 24 (1)	\$550