

# Licensing and Registration (Uniform Procedures) Act 2002 No 28

[2002-28]



New South Wales

## Status Information

### Currency of version

Historical version for 1 July 2020 to 18 October 2020 (accessed 26 November 2024 at 14:16)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Does not include amendments by**
  - [Security Industry Amendment \(Private Investigators\) Act 2016 No 40](#) (not commenced)
  - [Fair Trading Amendment \(Commercial Agents\) Act 2016 No 52](#) (not commenced)
- **See also**
  - [Road Transport Amendment \(Digital Licensing\) Bill 2020](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 16 September 2020

# Licensing and Registration (Uniform Procedures) Act 2002 No 28



New South Wales

## Contents

<b>Long title</b> .....	6
<b>Part 1 Preliminary</b> .....	6
1 Name of Act .....	6
2 Commencement .....	6
2A Notes .....	6
<b>Part 2 Uniform licensing procedures</b> .....	6
<b>Division 1 Preliminary</b> .....	6
3 Application of Part .....	6
4 Definitions .....	7
5 Part binds Crown .....	8
<b>Division 2 Applications</b> .....	8
6 Applications for granting of licences .....	8
7 Applications for amendment of licences .....	9
8 Applications for transfer of licences .....	9
9 Applications for renewal of licences .....	9
10 Applications for restoration of licences .....	9
11 Applications for replacement of licences .....	10
12 Procedure for making applications .....	10
13 Application fees .....	11

<b>Division 3 Determination of applications</b> .....	11
14 Provision of further information and supporting evidence.....	11
15 Advertising of applications .....	12
16 Withdrawal of applications .....	12
17 Period within which applications to be dealt with .....	12
18 Decision on applications.....	13
19 Notice of decision on applications .....	13
20 Issue of licence.....	14
21 Duration of licence .....	15
22 Refund of certain fees .....	15
23 Review of decisions .....	16
<b>Division 4 Administration of licensing schemes</b> .....	16
24 Periodic updating of registered particulars.....	16
25 Periodic administration fees for continuing licences.....	17
26 Evidentiary certificates.....	17
27 Service of notices .....	17
28 Applications sent by facsimile .....	18
29 Recovery of unpaid fees .....	18
30 Exercise of licensing authority’s functions.....	19
31 Application of Electronic Transactions Act 2000 .....	19
<b>Part 3 Uniform registration procedures</b> .....	19
<b>Division 1 Preliminary</b> .....	19
32 Application of Part .....	19
33 Definitions .....	19
34 Part binds Crown .....	21
<b>Division 2 Applications</b> .....	21
35 Applications for granting of registration .....	21
36 Applications for amendment of registration .....	21
37 Applications for transfer of registration .....	22
38 Applications for renewal of registration.....	22
39 Applications for restoration of registration .....	22

40 Applications for replacement of certificates of registration .....	22
41 Procedure for making applications .....	23
42 Application fees .....	23
<b>Division 3 Determination of applications</b> .....	<b>24</b>
43 Provision of further information and supporting evidence .....	24
44 Advertising of applications .....	24
45 Withdrawal of applications .....	25
46 Period within which applications to be dealt with .....	25
47 Decision on applications .....	26
48 Notice of decision on applications .....	26
49 Issue of certificate of registration .....	27
50 Duration of registration .....	28
51 Refund of certain fees .....	29
52 Review of decisions .....	29
<b>Division 4 Administration of registration schemes</b> .....	<b>29</b>
53 Periodic updating of registered particulars .....	29
54 Periodic administration fees for continuing registration .....	30
55 Evidentiary certificates .....	30
56 Service of notices .....	30
57 Applications sent by facsimile .....	32
58 Recovery of unpaid fees .....	32
59 Exercise of registration authority's functions .....	32
60 Application of Electronic Transactions Act 2000 .....	32
<b>Part 4 (Repealed)</b> .....	<b>32</b>
<b>Part 4A Special provisions for ID photographs</b> .....	<b>32</b>
<b>Division 1 Application and interpretation</b> .....	<b>32</b>
80A Application of Part .....	32
80B Interpretation .....	33
<b>Division 2 Photo-access arrangements</b> .....	<b>33</b>
80C Arrangements for the provision of photographs of applicants .....	33

80D What the photo-access arrangements can provide for .....	33
80E Functions for the purposes of photo-access arrangements .....	34
80F Participating authorities required to accept photos provided under photo-access arrangements .....	34
<b>Division 3 Security and protection of photographs .....</b>	<b>35</b>
80G Photographs to which Division applies .....	35
80H Keeping and use of photographs .....	35
80I Release of photographs .....	36
80J Access to and alteration of photographs .....	37
80K Application of privacy principles to private sector service providers .....	37
<b>Part 5 Miscellaneous .....</b>	<b>37</b>
81 Amendment of other Acts and statutory rules .....	37
82 Savings, transitional and other provisions .....	37
83 Review of Act .....	37
<b>Schedule 1 Licences to which Part 2 of Act applies .....</b>	<b>38</b>
<b>Schedule 2 Registration to which Part 3 of Act applies .....</b>	<b>40</b>
<b>Schedule 3 (Repealed) .....</b>	<b>40</b>
<b>Schedule 3A Licences and registration to which Part 4A of Act applies ..</b>	<b>40</b>
<b>Schedule 4 Amendment of other Acts and statutory rules .....</b>	<b>41</b>
<b>Schedule 5 Savings, transitional and other provisions .....</b>	<b>43</b>

# Licensing and Registration (Uniform Procedures) Act 2002 No 28



New South Wales

An Act to establish uniform procedures with respect to the administration of licensing and registration schemes; and consequentially to amend various Acts and regulations.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Licensing and Registration (Uniform Procedures) Act 2002*.

### 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation.
- (2) Different days may be appointed for the commencement of Schedules 1, 2 and 3 with respect to matter relating to different Acts or statutory rules or different provisions of the same Act or statutory rule.
- (3) Different days may be appointed for the commencement of a single provision of Schedule 4 for the purpose of commencing the amendments effected by the provision on different days.

### 2A Notes

Notes included in this Act do not form part of this Act.

## Part 2 Uniform licensing procedures

### Division 1 Preliminary

#### 3 Application of Part

- (1) This Part applies to licences arising under a legislative provision referred to in Schedule 1, subject to any modifications or limitations prescribed by or under the relevant licensing legislation.
- (2) A statutory rule that establishes, amends or repeals a licensing scheme may amend

Schedule 1 so as to include, amend or omit any matter arising from the establishment, amendment or repeal of the scheme.

- (3) In the event of an inconsistency between this Part (as applied to a licence arising under a legislative provision referred to in Schedule 1) and the relevant licensing legislation, the relevant licensing legislation prevails to the extent of the inconsistency.
- (4) This Part does not limit or otherwise affect the operation of—
- (a) the *Mutual Recognition Act 1992* of the Commonwealth, or
  - (b) the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

#### 4 Definitions

In this Part—

**advertised application** means an application referred to in section 15(1).

**application** means any application referred to in Division 2.

**continuing licence** means a licence that is not a fixed-term licence.

**discretionary condition**, in relation to a licence, means a condition that the relevant licensing legislation authorises to be imposed on the licence, but does not include a condition—

- (a) that the relevant licensing legislation or this Part imposes, or requires to be imposed, on the licence, or
- (b) that the relevant licensing legislation authorises to be imposed on the licence in consequence of any disciplinary proceedings against the licensee.

**electronic communication** has the same meaning as it has in the *Electronic Transactions Act 2000*, but does not include communication by means of facsimile transmission.

**fixed-term licence** means a licence that, under the relevant licensing legislation, has effect for a fixed period or until a fixed date.

**information technology requirements** includes software requirements.

**licence** includes any permit, approval, certificate, exemption or other such authority, other than a certificate issued in connection with registration under Part 3.

**licensing authority** means the person or body that, under the relevant licensing legislation, is authorised to grant a licence.

**licensing legislation** means the Act or statutory rule under which a licence is granted.

**objector**, in relation to an advertised application, means a person who has made submissions with respect to the application under section 15.

**principal officer**, in relation to a licensing authority, means the person prescribed by or under the relevant licensing legislation as the principal officer of that authority for the purposes of this Part or, if no such person is prescribed—

- (a) if the authority is a statutory body—
  - (i) in the case of a body corporate that has no members, the person who manages the authority's affairs, or
  - (ii) in the case of a body constituted by one person, that person, or
  - (iii) in the case of a body constituted by more than one person, the person entitled to preside at meetings of those persons, or
- (b) if the authority is the council of a local government area, the general manager of the council, or
- (c) if the authority is a public office, the holder of that office.

**processing fee**, in relation to an application, means any fee prescribed by or under the relevant licensing legislation as a fee to cover—

- (a) the costs incurred by the relevant licensing authority in processing the application, and
- (b) in the case of an advertised application, the costs incurred by the relevant licensing authority in advertising the application.

**registered particulars** means such particulars with respect to a licence as are required by or under the relevant licensing legislation to be registered or recorded by the relevant licensing authority.

## **5 Part binds Crown**

This Part binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

## **Division 2 Applications**

### **6 Applications for granting of licences**

- (1) An application for the granting of a licence may be made to the relevant licensing authority by any individual aged 18 years or more, by any partnership or other association whose members are all individuals aged 18 years or more or by any corporation.



- (2) If the relevant licensing legislation provides for the issuing of different classes of licence, the application must specify the class of licence sought by the applicant.
- (3) If in the case of a fixed-term licence the relevant licensing legislation provides for the issuing of licences for varying terms, the application must specify the term of licence sought by the applicant.

## **7 Applications for amendment of licences**

- (1) This section applies to any licence that, pursuant to the relevant licensing legislation, may be amended.
- (2) An application for the amendment of a licence may be made to the relevant licensing authority by the licensee at any time while the licence is in force.

## **8 Applications for transfer of licences**

- (1) This section applies to any licence that, pursuant to the relevant licensing legislation, may be transferred.
- (2) An application for the transfer of a licence may be made to the relevant licensing authority by the licensee, together with the proposed transferee, at any time while the licence is in force.
- (3) The proposed transferee may be any individual aged 18 years or more, any partnership or other association whose members are all individuals aged 18 years or more or any corporation.

## **9 Applications for renewal of licences**

- (1) An application for the renewal of a fixed-term licence may be made to the relevant licensing authority by the licensee—
  - (a) in the case of a licence having a term of less than 3 months, at any time within 2 weeks before the licence expires, or
  - (b) in the case of a licence having a term of 3 months or more up to 12 months, at any time within 4 weeks before the licence expires, or
  - (c) in the case of a licence having a term of more than 12 months, at any time within 8 weeks before the licence expires.
- (2) If the relevant licensing legislation provides for the issuing of licences for varying terms, the application must specify the term of licence sought by the applicant.

## **10 Applications for restoration of licences**

- (1) An application for the restoration of a licence may be made to the relevant licensing authority by the licensee at any time after the licence expires or is cancelled.

- (2) If in the case of a fixed-term licence the relevant licensing legislation provides for the issuing of licences for varying terms, the application must specify the term of licence sought by the applicant.

### **11 Applications for replacement of licences**

An application for the replacement of a licence may be made to the relevant licensing authority by the licensee if the licence is lost, damaged or destroyed.

### **12 Procedure for making applications**

- (1) An application may be made in writing or by means of electronic communication.
- (2) An application with respect to a partnership or other association may be made on its behalf by any duly authorised member or employee.
- (3) An application with respect to a corporation may be made on its behalf by any director or by any duly authorised employee.
- (4) If made in writing, an application—
  - (a) must contain such information as is required by the relevant application form or as is otherwise required by or under the relevant licensing legislation, and
  - (b) must be signed—
    - (i) by the applicant, and
    - (ii) in the case of an application for the transfer of a licence, by the proposed transferee, and
  - (c) must be lodged with, or sent to, the relevant licensing authority.
- (5) If made by means of electronic communication, an application—
  - (a) must contain such information as is required by the relevant application form or as is otherwise required by or under the relevant licensing legislation, and
  - (b) must be authenticated, as required by the relevant licensing authority—
    - (i) by the applicant, and
    - (ii) in the case of an application for the transfer of a licence, by the proposed transferee, and
  - (c) must be lodged with the relevant licensing authority in accordance with that authority's information technology requirements for the receipt of electronic communications.
- (6) A single application may be made to the same licensing authority in relation to more

than one licence.

### **13 Application fees**

- (1) An applicant must make provision, as required by the relevant licensing authority, for paying any fees payable under the relevant licensing legislation in connection with the application.
- (2) In the case of an application made by means of electronic communication, any processing fee that is otherwise payable in respect of the application—
  - (a) is to be reduced by \$5, or
  - (b) is to be reduced by 10 per cent, and rounded to the nearest whole dollar,whichever results in the greater reduction.

## **Division 3 Determination of applications**

### **14 Provision of further information and supporting evidence**

- (1) The relevant licensing authority may serve notice on an applicant requiring the applicant to provide—
  - (a) such information further to the original information contained in the application, and
  - (b) such documentary or other evidence (such as a photograph of the applicant) in support of the original or further information,as the authority may require to enable it to deal with the application.

**Note—**

Part 4A makes special provision for photographic identification for some licences.

- (2) In particular, the relevant licensing authority may require an applicant to provide—
  - (a) details of any offence for which the applicant has been convicted or found guilty in this State or elsewhere (together with details of any penalty imposed for the offence), and
  - (b) details of any criminal proceedings pending against the applicant in this State or elsewhere.
- (3) If the applicant fails to comply with the requirements of a notice referred to in subsection (1) within 14 days after the notice is served, the relevant licensing authority may refuse the application without dealing with it any further.
- (4) The refusal of an application under this section entitles the applicant to a refund of fees under section 22 but not to a right of review under section 23.

### **15 Advertising of applications**

- (1) This section applies to any application that, pursuant to the relevant licensing legislation, is required to be advertised.
- (2) Notice of such an application must be published in at least one daily newspaper circulating throughout New South Wales—
  - (a) by the applicant, or
  - (b) by the relevant licensing authority,as the relevant licensing legislation requires.
- (3) The notice must indicate—
  - (a) that any person may make submissions to the relevant licensing authority with respect to the application, and
  - (b) the procedure by which, and the date before which, any such submission must be lodged.
- (4) The date referred to in subsection (3)(b) may be any date occurring not earlier than 14 days, and not later than 28 days, after the date on which notice is first published under this section.

### **16 Withdrawal of applications**

- (1) An applicant may withdraw an application at any time before a licence is issued under section 20.
- (2) The withdrawal of an application under this section entitles the applicant to a refund of fees under section 22.

### **17 Period within which applications to be dealt with**

- (1) For the purpose of enabling an applicant to exercise any rights of appeal or review, a licensing authority is taken to have made a decision to refuse the application if it has failed to determine the application within 28 days after the application is made.
- (2) A licensing authority's failure to determine an application within the period referred to in subsection (1) does not prevent the authority from continuing to deal with the application after that period has expired.
- (3) In calculating a period referred to in subsection (1), the following periods are to be excluded—
  - (a) any period between—
    - (i) the date on which a request for further information or supporting evidence is

- made under section 14, and
- (ii) the date on which that further information or supporting evidence is furnished,
- (b) any period between—
- (i) the date on which a notice is published under section 15 with respect to the application, and
  - (ii) the date fixed by the notice as the date by which any submission with respect to the application must be lodged,
- (c) in the case of an application that the relevant licensing authority is required to refer to some other person or body for consideration, whether under the relevant licensing legislation or otherwise, any period (not exceeding 14 days) between—
- (i) the date on which the authority refers the application to that other person or body, and
  - (ii) the date on which the authority receives a response to that reference from that other person or body,
- (d) in the case of an application with respect to a person whom the relevant licensing authority has referred for assessment (whether or not to some other person or body) in connection with the determination of the application, any period between—
- (i) the date on which the authority refers the applicant for assessment, and
  - (ii) the date on which the authority obtains or receives the results of the assessment.

### **18 Decision on applications**

- (1) A licensing authority may make either of the following decisions with respect to an application—
  - (a) a decision to grant the application, either unconditionally or subject to such conditions as are authorised or required by the relevant licensing legislation,
  - (b) a decision to refuse the application.
- (2) Before making its decision with respect to an advertised application, the licensing authority must have regard to such submissions as have been made in accordance with section 15.

### **19 Notice of decision on applications**

- (1) A licensing authority must cause notice of its decision under section 18 on an application to be served on the applicant and (in the case of an advertised application

to which any objection has been made) on each objector within 14 days after the decision is made.

- (2) If the decision is that the application is to be granted but the relevant licensing legislation requires payment of any fee in connection with the licence before it is issued under section 20, the notice must indicate the amount of the fee to be paid.
- (3) As soon as practicable after an applicant or (in the case of an advertised application to which any objection has been made) an objector so requests, the relevant licensing authority must cause notice of the reasons for its decision to be served on the applicant or objector.
- (4) Subsection (3) does not apply to any decision in respect of which there is a right of administrative review by the Civil and Administrative Tribunal under section 23.

## **20 Issue of licence**

- (1) A licensing authority that grants an application must issue to the applicant an original or replacement licence, as the case requires.
- (2) The licence is to be issued—
  - (a) if the relevant licensing legislation requires payment of any fee in connection with the licence before it is issued, on payment of the fee, or
  - (b) in any other case, when notice of the licensing authority's decision is served on the applicant as referred to in section 19.
- (3) A licence—
  - (a) must be in a form approved by the licensing authority, and
  - (b) must include the following particulars—
    - (i) a unique identifier,
    - (ii) the name of the licensee,
    - (iii) the kind of licence it is, whether by reference to the provision of the relevant licensing legislation or otherwise,
    - (iv) the authority conferred by the licence and (in the case of a licence that is subject to discretionary conditions) a statement to that effect,
    - (v) the date on which the licence comes into force and (in the case of a fixed-term licence) the date on which the licence expires, and
  - (c) may include such other particulars as the licensing authority considers appropriate to include in the licence.

- (4) A licence may indicate the kind of licence it is, and the authority it confers, by reference to words, codes or symbols prescribed for that purpose by the relevant licensing legislation.
- (5) A single document may contain one or more licences together with one or more certificates of registration under Part 3.

## **21 Duration of licence**

- (1) Subject to subsection (2), a licence comes into force—
  - (a) on the date on which it is issued, or
  - (b) on such other date (whether earlier or later) as is specified in the licence.
- (2) A renewed (but not a restored) licence comes into force on the date following the expiry date of the licence it renews.
- (3) A licence that comes into force before the date on which it is issued has effect in relation to the period before that date for the purposes only of this Act and the relevant licensing legislation.
- (4) Unless sooner cancelled, a fixed-term licence remains in force for such period as is specified in the licence.
- (5) If an application for renewal of a licence is made before the date on which the licence would otherwise expire, the licence remains in force, for the purposes only of this Act and the relevant licensing legislation, until the date on which the applicant is notified of the relevant licensing authority's decision on the application.
- (6) Subsection (5) does not affect any requirements (such as requirements as to insurance) that must be complied with by a licensee under the relevant licensing legislation.
- (7) Without limiting any other circumstances in which a licence may be cancelled, a licence is taken to be cancelled for the purposes of this section if the licensee surrenders the licence to the relevant licensing authority together with a notice to the effect that the licensee intends that the licence be cancelled.
- (8) Subject to subsection (7), nothing in this section authorises the suspension or cancellation of a licence.

## **22 Refund of certain fees**

All fees paid in connection with an application that is refused (other than any processing fee) are to be refunded to the applicant.

## 23 Review of decisions

- (1) An applicant who is aggrieved by the relevant licensing authority's decision to refuse the application, or to grant the application subject to discretionary conditions, may apply for a review of the decision—
  - (a) to the extent to which the relevant licensing legislation provides the applicant with a right of appeal or review, in accordance with the right so provided, or
  - (b) to the extent to which the relevant licensing legislation does not provide the applicant with such a right, to the Civil and Administrative Tribunal (with the review being an administrative review under the [Administrative Decisions Review Act 1997](#)).
- (2) An objector who is aggrieved by the relevant licensing authority's decision to grant an advertised application, either generally or because the authority has failed to impose particular discretionary conditions, may apply for a review of the decision—
  - (a) to the extent to which the relevant licensing legislation provides the objector with a right of appeal or review, in accordance with the right so provided, or
  - (b) to the extent to which the relevant licensing legislation does not provide the objector with such a right, to the Civil and Administrative Tribunal (with the review being an administrative review under the [Administrative Decisions Review Act 1997](#)).
- (3) The parties to proceedings before the Civil and Administrative Tribunal on an administrative review arising under subsection (1)(b) or (2)(b) include, in the case of an advertised application in respect of which any objection has been duly made under section 15, any objector who, in accordance with the procedural rules (within the meaning of the [Civil and Administrative Tribunal Act 2013](#)), gives notice to the Tribunal of the objector's wish to become a party to the application for the review.

## Division 4 Administration of licensing schemes

### 24 Periodic updating of registered particulars

- (1) It is a condition of a licence (whether fixed-term or continuing) that the licensee must notify the relevant licensing authority, within 14 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.
- (2) It is a condition of a continuing licence that the licensee must notify the relevant licensing authority, within 14 days after each anniversary of the date on which the licence was issued, that the licensee's registered particulars have not changed since the more recent of the following—
  - (a) the date on which the licence was issued,



(b) the date on which the licensee last gave notice under this section.

## **25 Periodic administration fees for continuing licences**

- (1) It is a condition of a continuing licence that the licensee must, within 14 days after each anniversary of the date on which the licence was issued, pay to the relevant licensing authority a licence administration fee of an amount prescribed by or under the relevant licensing legislation.
- (2) If payment is made by means of electronic communication, the licence administration fee otherwise payable—
  - (a) is to be reduced by \$5, or
  - (b) is to be reduced by 10 per cent, and rounded to the nearest whole dollar,whichever results in the greater reduction.

## **26 Evidentiary certificates**

- (1) A certificate that is issued by a licensing authority and that states that, on a specified date or during a specified period—
  - (a) a specified person was or was not a licensee under a specified licence or under a licence of a specified kind, or
  - (b) a specified person's licence was or was not in specified terms, or
  - (c) a specified person's licence was or was not subject to specified conditions, or
  - (d) a specified person's licence was or was not suspended or cancelled,is admissible in legal proceedings as evidence of the matters so stated.
- (2) This section is in addition to any provision of the relevant licensing legislation with respect to evidentiary certificates.

## **27 Service of notices**

- (1) Any notice that a licensing authority is authorised or required by this Part to serve on a person may be served—
  - (a) in the case of an individual—
    - (i) by delivering it personally to the individual, or
    - (ii) by sending it by post, addressed to the individual at the address recorded in the register as the individual's residential address, business address or address for service of notices, or
    - (iii) by leaving it with a person apparently aged 16 years or more at the address

recorded in the register as the individual's residential address or business address, or

- (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the individual at the address recorded in the register as the individual's address for service of electronic communications or facsimile transmissions, in accordance with the individual's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions, or

(b) in the case of a corporation—

- (i) by delivering it personally to a person concerned in the corporation's management, or
- (ii) by sending it by post, addressed to the corporation at the address recorded in the register as the corporation's business address or address for service of notices, or
- (iii) by leaving it with a person apparently aged 16 years or more at the address recorded in the register as the corporation's business address, or
- (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the corporation at the address recorded in the register as the corporation's address for service of electronic communications or facsimile transmissions, in accordance with the corporation's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions.

- (2) In the case of joint applicants or joint licensees, any notice that under this Part is required to be served on an applicant or licensee is taken to have been served on all of them when it is served on any one of them.
- (3) This section does not affect any other Act or law with respect to the service of notices or other documents.

## **28 Applications sent by facsimile**

- (1) The facsimile copy of an application sent by facsimile transmission is taken to be in writing and has the same effect as the original and, for that purpose, a facsimile signature on the facsimile copy has the same effect as an original signature.
- (2) This section does not apply to any document that accompanies an application.

## **29 Recovery of unpaid fees**

Any fee payable in connection with a licence or an application for a licence may be recovered by the relevant licensing authority as a debt in any court of competent

jurisdiction.

### **30 Exercise of licensing authority's functions**

A licensing authority's functions under this Part may be exercised on its behalf—

- (a) by the principal officer of the licensing authority, or
- (b) by such other person as the licensing authority may authorise in that regard.

### **31 Application of [Electronic Transactions Act 2000](#)**

Subject to the provisions of the relevant licensing legislation—

- (a) any question as to the time and place of dispatch or receipt of an electronic communication made for the purposes of this Part is to be decided in accordance with section 13 of the [Electronic Transactions Act 2000](#), and
- (b) any question as to whether the purported originator of an electronic communication made for the purposes of this Part is bound by that communication is to be decided in accordance with section 14 of the [Electronic Transactions Act 2000](#).

## **Part 3 Uniform registration procedures**

### **Division 1 Preliminary**

#### **32 Application of Part**

- (1) This Part applies to registration under a legislative provision referred to in Schedule 2, subject to any modifications or limitations prescribed by or under the relevant registration legislation.
- (2) A statutory rule that establishes, amends or repeals a registration scheme may amend Schedule 2 so as to include, amend or omit any matter arising from the establishment, amendment or repeal of the scheme.
- (3) In the event of an inconsistency between this Part (as applied to registration arising under a legislative provision referred to in Schedule 2) and the relevant registration legislation, the relevant registration legislation prevails to the extent of the inconsistency.
- (4) This Part does not limit or otherwise affect the operation of—
  - (a) the [Mutual Recognition Act 1992](#) of the Commonwealth, or
  - (b) the [Trans-Tasman Mutual Recognition Act 1997](#) of the Commonwealth.

#### **33 Definitions**

In this Part—

**advertised application** means an application referred to in section 44(1).

**application** means any application referred to in Division 2.

**certificate of registration** means a certificate referred to in section 49.

**continuing registration** means registration that is not fixed-term registration.

**discretionary condition**, in relation to registration, means a condition that the relevant registration legislation authorises to be imposed on registration, but does not include a condition—

- (a) that the relevant registration legislation or this Part imposes, or requires to be imposed, on registration, or
- (b) that the relevant registration legislation authorises to be imposed on registration in consequence of any disciplinary proceedings against the registered person.

**electronic communication** has the same meaning as it has in the [Electronic Transactions Act 2000](#), but does not include communication by means of facsimile transmission.

**fixed-term registration** means registration that, under the relevant registration legislation, has effect for a fixed period or until a fixed date.

**information technology requirements** includes software requirements.

**objector**, in relation to an advertised application, means a person who has made submissions with respect to the application under section 44.

**principal officer**, in relation to a registration authority, means the person prescribed by or under the relevant registration legislation as the principal officer of that authority for the purposes of this Part or, if no such person is prescribed—

- (a) if the authority is a statutory body—
  - (i) in the case of a body corporate that has no members, the person who manages the authority's affairs, or
  - (ii) in the case of a body constituted by one person, that person, or
  - (iii) in the case of a body constituted by more than one person, the person entitled to preside at meetings of those persons, or
- (b) if the authority is the council of a local government area, the general manager of the council, or
- (c) if the authority is a public office, the holder of that office.

**processing fee**, in relation to an application, means any fee prescribed by or under the

relevant registration legislation as a fee to cover—

- (a) the costs incurred by the relevant registration authority in processing the application, and
- (b) in the case of an advertised application, the costs incurred by the relevant registration authority in advertising the application.

**registered particulars** means such particulars with respect to registration as are required by or under the relevant registration legislation to be registered or recorded by the relevant registration authority.

**registration** includes any enrolment, accreditation or other such authority.

**registration authority** means the person or body that, under the relevant registration legislation, is authorised to grant registration.

**registration legislation** means the Act or statutory rule under which registration is granted.

### **34 Part binds Crown**

This Part binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

## **Division 2 Applications**

### **35 Applications for granting of registration**

- (1) An application for the granting of registration may be made to the relevant registration authority by any individual aged 18 years or more, by any partnership or other association whose members are all individuals aged 18 years or more or by any corporation.
- (2) If the relevant registration legislation provides for the granting of different classes of registration, the application must specify the class of registration sought by the applicant.
- (3) If in the case of fixed-term registration the relevant registration legislation provides for the granting of registration for varying terms, the application must specify the term of registration sought by the applicant.

### **36 Applications for amendment of registration**

- (1) This section applies to registration that, pursuant to the relevant registration legislation, may be amended.
- (2) An application for the amendment of registration may be made to the relevant registration authority by the registered person at any time while registration is in

force.

### **37 Applications for transfer of registration**

- (1) This section applies to registration that, pursuant to the relevant registration legislation, may be transferred.
- (2) An application for the transfer of registration may be made to the relevant registration authority by the registered person, together with the proposed transferee, at any time while registration is in force.
- (3) The proposed transferee may be any individual aged 18 years or more, any partnership or other association whose members are all individuals aged 18 years or more or any corporation.

### **38 Applications for renewal of registration**

- (1) An application for the renewal of fixed-term registration may be made to the relevant registration authority by the registered person—
  - (a) in the case of registration having a term of less than 3 months, at any time within 2 weeks before registration expires, or
  - (b) in the case of registration having a term of 3 months or more up to 12 months, at any time within 4 weeks before registration expires, or
  - (c) in the case of registration having a term of more than 12 months, at any time within 8 weeks before registration expires.
- (2) If the relevant registration legislation provides for the granting of registration for varying terms, the application must specify the term of registration sought by the applicant.

### **39 Applications for restoration of registration**

- (1) An application for the restoration of registration may be made to the relevant registration authority by the registered person at any time after registration expires or is cancelled.
- (2) If in the case of fixed-term registration the relevant registration legislation provides for the granting of registration for varying terms, the application must specify the term of registration sought by the applicant.

### **40 Applications for replacement of certificates of registration**

An application for the replacement of a certificate of registration may be made to the relevant registration authority by the registered person if the certificate is lost, damaged or destroyed.

#### **41 Procedure for making applications**

- (1) An application may be made in writing or by means of electronic communication.
- (2) An application with respect to a partnership or other association may be made on its behalf by any duly authorised member or employee.
- (3) An application with respect to a corporation may be made on its behalf by any director or by any duly authorised employee.
- (4) If made in writing, an application—
  - (a) must contain such information as is required by the relevant application form or as is otherwise required by or under the relevant registration legislation, and
  - (b) must be signed—
    - (i) by the applicant, and
    - (ii) in the case of an application for the transfer of registration, by the proposed transferee, and
  - (c) must be lodged with, or sent to, the relevant registration authority.
- (5) If made by means of electronic communication, an application—
  - (a) must contain such information as is required by the relevant application form or as is otherwise required by or under the relevant registration legislation, and
  - (b) must be authenticated, as required by the relevant registration authority—
    - (i) by the applicant, and
    - (ii) in the case of an application for the transfer of registration, by the proposed transferee, and
  - (c) must be lodged with the relevant registration authority in accordance with that authority's information technology requirements for the receipt of electronic communications.
- (6) A single application may be made to the same registration authority in relation to more than one form of registration.

#### **42 Application fees**

- (1) An applicant must make provision, as required by the relevant registration authority, for paying any fees payable under the relevant registration legislation in connection with the application.
- (2) In the case of an application made by means of electronic communication, any

processing fee that is otherwise payable in respect of the application—

- (a) is to be reduced by \$5, or
  - (b) is to be reduced by 10 per cent, and rounded to the nearest whole dollar,
- whichever results in the greater reduction.

### **Division 3 Determination of applications**

#### **43 Provision of further information and supporting evidence**

- (1) The relevant registration authority may serve notice on an applicant requiring the applicant to provide—
  - (a) such information further to the original information contained in the application, and
  - (b) such documentary or other evidence (such as a photograph of the applicant) in support of the original or further information,as the authority may require to enable it to deal with the application.

**Note—**

Part 4A makes special provision for photographic identification for some registration.

- (2) In particular, the relevant registration authority may require an applicant to provide—
  - (a) details of any offence for which the applicant has been convicted or found guilty in this State or elsewhere (together with details of any penalty imposed for the offence), and
  - (b) details of any criminal proceedings pending against the applicant in this State or elsewhere.
- (3) If the applicant fails to comply with the requirements of a notice referred to in subsection (1) within 14 days after the notice is served, the relevant registration authority may refuse the application without dealing with it any further.
- (4) The refusal of an application under this section entitles the applicant to a refund of fees under section 51 but not to a right of review under section 52.

#### **44 Advertising of applications**

- (1) This section applies to any application that, pursuant to the relevant registration legislation, is required to be advertised.
- (2) Notice of such an application must be published in at least one daily newspaper circulating throughout New South Wales—



- (a) by the applicant, or
  - (b) by the relevant registration authority,
- as the relevant registration legislation requires.

(3) The notice must indicate—

- (a) that any person may make submissions to the relevant registration authority with respect to the application, and
- (b) the procedure by which, and the date before which, any such submission must be lodged.

(4) The date referred to in subsection (3)(b) may be any date occurring not earlier than 14 days, and not later than 28 days, after the date on which notice is first published under this section.

#### **45 Withdrawal of applications**

- (1) An applicant may withdraw an application at any time before a certificate of registration is issued under section 49.
- (2) The withdrawal of an application under this section entitles the applicant to a refund of fees under section 51.

#### **46 Period within which applications to be dealt with**

- (1) For the purpose of enabling an applicant to exercise any rights of appeal or review, a registration authority is taken to have made a decision to refuse the application if it has failed to determine the application within 28 days after the application is made.
- (2) A registration authority's failure to determine an application within the period referred to in subsection (1) does not prevent the authority from continuing to deal with the application after that period has expired.
- (3) In calculating a period referred to in subsection (1), the following periods are to be excluded—
  - (a) any period between—
    - (i) the date on which a request for further information or supporting evidence is made under section 43, and
    - (ii) the date on which that further information or supporting evidence is furnished,
  - (b) any period between—
    - (i) the date on which a notice is published under section 44 with respect to the application, and

- (ii) the date fixed by the notice as the date by which any submission with respect to the application must be lodged,
- (c) in the case of an application that the relevant registration authority is required to refer to some other person or body for consideration, whether under the relevant registration legislation or otherwise, any period (not exceeding 14 days) between—
  - (i) the date on which the authority refers the application to that other person or body, and
  - (ii) the date on which the authority receives a response to that reference from that other person or body,
- (d) in the case of an application with respect to a person whom the relevant registration authority has referred for assessment (whether or not to some other person or body) in connection with the determination of the application, any period between—
  - (i) the date on which the authority refers the applicant for assessment, and
  - (ii) the date on which the authority obtains or receives the results of the assessment.

#### **47 Decision on applications**

- (1) A registration authority may make either of the following decisions with respect to an application—
  - (a) a decision to grant the application, either unconditionally or subject to such conditions as are authorised or required by the relevant registration legislation,
  - (b) a decision to refuse the application.
- (2) Before making its decision with respect to an advertised application, the registration authority must have regard to such submissions as have been made in accordance with section 44.

#### **48 Notice of decision on applications**

- (1) A registration authority must cause notice of its decision under section 47 on an application to be served on the applicant and (in the case of an advertised application to which any objection has been made) on each objector within 14 days after the decision is made.
- (2) If the decision is that the application is granted but the relevant registration legislation requires payment of any fee in connection with registration before a certificate of registration is issued under section 49, the notice must indicate the

amount of the fee to be paid.

- (3) As soon as practicable after an applicant or (in the case of an advertised application to which any objection has been made) an objector so requests, the relevant registration authority must cause notice of the reasons for its decision to be served on the applicant or objector.
- (4) Subsection (3) does not apply to any decision in respect of which there is a right of administrative review by the Civil and Administrative Tribunal under section 52.

#### **49 Issue of certificate of registration**

- (1) A registration authority that grants an application for registration—
  - (a) must record the following particulars in the relevant register—
    - (i) the name of the registered person,
    - (ii) the kind of registration it is, whether by reference to the provision of the relevant registration legislation or otherwise,
    - (iii) the authority conferred by registration and (in the case of registration that is subject to discretionary conditions) a statement to that effect,
    - (iv) the date on which registration comes into force and (in the case of fixed-term registration) the date on which registration expires, and
  - (b) must record in the relevant register such other particulars as the relevant registration legislation requires to be recorded in the register, and
  - (c) may record in the relevant register such other particulars as the relevant registration legislation authorises to be recorded in the register, and
  - (d) must issue a certificate of registration to the applicant.
- (2) The certificate of registration is to be issued—
  - (a) if the relevant registration legislation requires payment of any fee in connection with registration before the certificate is issued, on payment of the fee, or
  - (b) in any other case, when notice of the decision is served on the applicant as referred to in section 48.
- (3) A certificate of registration—
  - (a) must be in a form approved by the registration authority, and
  - (b) must include the following particulars—
    - (i) a unique identifier,

- (ii) the particulars recorded in the register under subsection (1)(a), and
  - (c) may include such other particulars as the registration authority considers appropriate to include in the certificate.
- (4) The registration authority may issue replacement certificates of registration not only in response to an application by the registered person under Division 2 but also whenever there is a change in the particulars recorded in the register under subsection (1)(a) in relation to the registered person.
  - (5) A certificate of registration may indicate the kind of registration it refers to, and the authority conferred by registration, by reference to words, codes or symbols prescribed for that purpose by the relevant registration legislation.
  - (6) A single document may contain one or more certificates of registration together with one or more licences under Part 2.

## **50 Duration of registration**

- (1) Subject to subsection (2), registration comes into force—
  - (a) on the date on which the relevant certificate of registration is issued, or
  - (b) on such other date (whether earlier or later) as is specified in the certificate.
- (2) Renewed (but not restored) registration comes into force, or is taken to have come into force, on the date following the expiry date of the registration it renews.
- (3) Registration that comes into force before the date on which the relevant certificate of registration is issued has effect in relation to the period before that date for the purposes only of this Act and the relevant registration legislation.
- (4) Unless sooner cancelled, fixed-term registration remains in force for such period as is specified in the relevant certificate of registration.
- (5) If an application for renewal of registration is made before the date on which registration would otherwise expire, registration remains in force, for the purposes only of this Act and the relevant registration legislation, until the date on which the applicant is notified of the relevant registration authority's decision on the application.
- (6) Subsection (5) does not affect any requirements (such as requirements as to insurance) that must be complied with by a registered person under the relevant registration legislation.
- (7) Without limiting any other circumstances in which registration may be cancelled, registration is taken to be cancelled for the purposes of this section if the registered person surrenders the relevant certificate of registration together with a notice to the effect that the registered person intends that registration be cancelled.

- (8) Subject to subsection (7), nothing in this section authorises the suspension or cancellation of registration.

### **51 Refund of certain fees**

All fees paid in connection with an application that is refused (other than any processing fee) are to be refunded to the applicant.

### **52 Review of decisions**

- (1) An applicant who is aggrieved by the relevant registration authority's decision to refuse the application, or to grant the application subject to discretionary conditions, may apply for a review of the decision—
- (a) to the extent to which the relevant registration legislation provides the applicant with a right of appeal or review, in accordance with the right so provided, or
  - (b) to the extent to which the relevant registration legislation does not provide the applicant with such a right, to the Civil and Administrative Tribunal (with the review being an administrative review under the [Administrative Decisions Review Act 1997](#)).
- (2) An objector who is aggrieved by the relevant registration authority's decision to grant an advertised application, either generally or because the authority has failed to impose particular discretionary conditions, may apply for a review of the decision—
- (a) to the extent to which the relevant registration legislation provides the objector with a right of appeal or review, in accordance with the right so provided, or
  - (b) to the extent to which the relevant registration legislation does not provide the objector with such a right, to the Civil and Administrative Tribunal (with the review being an administrative review under the [Administrative Decisions Review Act 1997](#)).
- (3) The parties to proceedings before the Civil and Administrative Tribunal on an administrative review arising under subsection (1)(b) or (2)(b) include, in the case of an advertised application in respect of which any submission has been duly made under section 44, any objector who, in accordance with the procedural rules (within the meaning of the [Civil and Administrative Tribunal Act 2013](#)), gives notice to the Tribunal of the objector's wish to become a party to the application for the review.

## **Division 4 Administration of registration schemes**

### **53 Periodic updating of registered particulars**

- (1) It is a condition of registration (whether fixed-term or continuing) that the registered person must notify the relevant registration authority, within 14 days after the change, of any change that occurs in the registered person's name, address or other

registered particulars.

- (2) It is a condition of continuing registration that the registered person must notify the relevant registration authority, within 14 days after each anniversary of the date on which the relevant certificate of registration was issued, that the registered person's registered particulars have not changed since the more recent of the following—
  - (a) the date on which the certificate was issued,
  - (b) the date on which the registered person last gave notice under this section.

#### **54 Periodic administration fees for continuing registration**

- (1) It is a condition of continuing registration that the registered person must, within 14 days after each anniversary of the date on which the relevant certificate of registration was issued, pay to the relevant registration authority a registration administration fee of an amount prescribed by or under the relevant registration legislation.
- (2) If payment is made by means of electronic communication, the registration administration fee otherwise payable—
  - (a) is to be reduced by \$5, or
  - (b) is to be reduced by 10 per cent, and rounded to the nearest whole dollar,whichever results in the greater reduction.

#### **55 Evidentiary certificates**

- (1) A certificate that is issued by a registration authority and that states that, on a specified date or during a specified period—
  - (a) a specified person was or was not a registered person in respect of registration of a specified kind, or
  - (b) a specified person's registration was or was not in specified terms, or
  - (c) a specified person's registration was or was not subject to specified conditions, or
  - (d) a specified person's registration was or was not suspended or cancelled,is admissible in legal proceedings as evidence of the matters so stated.
- (2) This section is in addition to any provision of the relevant registration legislation with respect to evidentiary certificates.

#### **56 Service of notices**

- (1) Any notice that a registration authority is authorised or required by this Part to serve

on a person may be served—

(a) in the case of an individual—

- (i) by delivering it personally to the individual, or
- (ii) by sending it by post, addressed to the individual at the address recorded in the register as the individual's residential address, business address or address for service of notices, or
- (iii) by leaving it with a person apparently aged 16 years or more at the address recorded in the register as the individual's residential address or business address, or
- (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the individual at the address recorded in the register as the individual's address for service of electronic communications or facsimile transmissions, in accordance with the individual's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions, or

(b) in the case of a corporation—

- (i) by delivering it personally to a person concerned in the corporation's management, or
- (ii) by sending it by post, addressed to the corporation at the address recorded in the register as the corporation's business address or address for service of notices, or
- (iii) by leaving it with a person apparently aged 16 years or more at the address recorded in the register as the corporation's business address, or
- (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the corporation at the address recorded in the register as the corporation's address for service of electronic communications or facsimile transmissions, in accordance with the corporation's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions.

(2) In the case of joint applicants or joint registered persons, any notice that under this Part is required to be served on an applicant or registered person is taken to have been served on all of them when it is served on any one of them.

(3) This section does not affect any other Act or law with respect to the service of notices or other documents.

## **57 Applications sent by facsimile**

- (1) The facsimile copy of an application sent by facsimile transmission is taken to be in writing and has the same effect as the original and, for that purpose, a facsimile signature on the facsimile copy has the same effect as an original signature.
- (2) This section does not apply to any document that accompanies an application.

## **58 Recovery of unpaid fees**

Any fee payable in connection with registration or an application for registration may be recovered by the relevant registration authority as a debt in any court of competent jurisdiction.

## **59 Exercise of registration authority's functions**

A registration authority's functions under this Part may be exercised on its behalf—

- (a) by the principal officer of the registration authority, or
- (b) by such other person as the registration authority may authorise in that regard.

## **60 Application of [Electronic Transactions Act 2000](#)**

Subject to the provisions of the relevant registration legislation—

- (a) any question as to the time and place of dispatch or receipt of an electronic communication made for the purposes of this Part is to be decided in accordance with section 13 of the [Electronic Transactions Act 2000](#), and
- (b) any question as to whether the purported originator of an electronic communication made for the purposes of this Part is bound by that communication is to be decided in accordance with section 14 of the [Electronic Transactions Act 2000](#).

## **Part 4**

### **61-80 (Repealed)**

## **Part 4A Special provisions for ID photographs**

### **Division 1 Application and interpretation**

#### **80A Application of Part**

- (1) This Part applies to a licence or certificate of registration under such of the legislative provisions referred to in Schedules 1, 2 and 3 as are referred to in Schedule 3A.
- (2) A statutory rule that establishes, amends or repeals a licensing or registration scheme may amend Schedule 3A so as to include, amend or omit any matter arising from the establishment, amendment or repeal of the scheme.



## 80B Interpretation

(1) In this Part—

**applicant** means an applicant under Part 2, 3 or 4 in respect of a licence or certificate of registration to which this Part applies.

**Director-General** means the Director-General of the Department of Commerce.

**photograph** includes a digitised, electronic or computer generated image, and electronic data and other information used to create or generate a photograph.

**RMS** means Roads and Maritime Services constituted under the *Transport Administration Act 1988*.

(2) Expressions used in this Part have the same meaning as they have in Parts 2, 3 and 4 in respect of the particular licence or certificate of registration to which the use of the expression relates.

## Division 2 Photo-access arrangements

### 80C Arrangements for the provision of photographs of applicants

- (1) The Director-General may enter into the following arrangements (**photo-access arrangements**) to facilitate the provision to licensing and registration authorities of photographs of applicants in connection with applications to which this Part applies—
- (a) arrangements with RMS and a licensing or registration authority (a **participating authority**) for RMS to provide the participating authority on behalf of an applicant with a photograph of the applicant as a means of compliance with a lawful requirement that a photograph of the applicant be provided in connection with the application concerned,
  - (b) arrangements with a person or body (a **service provider**) for the provision by the service provider of information services for or on behalf of RMS or a participating authority in connection with the arrangements referred to in paragraph (a), being services relating to the collection, processing, disclosure or use of, or provision of access to, information (including photographs).
- (2) A participating authority is entitled to require that a photograph that an applicant is required to provide to the authority in connection with an application to the authority must be provided under and in accordance with the photo-access arrangements.

### 80D What the photo-access arrangements can provide for

The photo-access arrangements can include provision for or with respect to the following—

- (a) authorising RMS to take, store, use and provide photographs for the purposes of the

arrangements, including photographs already held by RMS in the exercise of any other functions of RMS (such as photographs to which Part 3.5 of the *Road Transport Act 2013* applies),

- (b) authorising the collection of information by RMS for use in connection with the arrangements, including information to assist RMS to identify persons whose photographs are to be taken or provided by RMS,
- (c) authorising the disclosure by RMS to a participating authority of information (including photographs) held by RMS, for the purpose of assisting the authority to verify the identity of an applicant,
- (d) authorising the disclosure by a participating authority to RMS of information (including photographs) held by the participating authority, for the purpose of assisting RMS to verify the identity of a person whose photograph is to be taken or provided by RMS under the arrangements,
- (e) providing for the exercise by a service provider for or on behalf of RMS or a participating authority of any functions of RMS or participating authority under the arrangements,
- (f) the fees to be paid to RMS (by a participating authority or applicant) in connection with any service provided by RMS under the arrangements.

#### **80E Functions for the purposes of photo-access arrangements**

- (1) RMS, participating authorities and service providers are authorised to enter into the photo-access arrangements under this Part.
- (2) RMS, participating authorities and service providers have and may exercise such functions as are conferred or imposed on them by or under the photo-access arrangements.
- (3) RMS is authorised to charge and recover any fees that the photo-access arrangements provide are payable to RMS. This section does not limit any power of RMS under the *Transport Administration Act 1988* or otherwise to charge or recover a fee.

#### **80F Participating authorities required to accept photos provided under photo-access arrangements**

- (1) A photograph of an applicant provided under the photo-access arrangements is to be accepted by a participating authority as having been provided by the applicant, unless the authority is permitted under the arrangements to reject the photograph.
- (2) The photo-access arrangements can permit a participating authority to reject a photograph provided under the arrangements but only in the following

circumstances—

- (a) the photograph is not a sufficiently recent photograph, having regard to the need for the photograph to be adequate for use as a means of identification until the end of the period of currency of the licence or certificate of registration concerned,
- (b) the image quality or other technical qualities of the photograph are not adequate, having regard to any special aspects of the purpose for which the photograph is to be used,
- (c) the Director-General is satisfied some other good reason exists that justifies rejection of the photograph.

### **Division 3 Security and protection of photographs**

#### **80G Photographs to which Division applies**

This Division applies to the following photographs—

- (a) photographs held by RMS that have been taken pursuant to the photo-access arrangements (not including photographs kept by RMS under Part 3.5 of the [Road Transport Act 2013](#)),
- (b) photographs held by a participating authority or a service provider that have been provided by RMS pursuant to the photo-access arrangements, whether those photographs were taken by RMS pursuant to the arrangements or were photographs kept by RMS under Part 3.5 of the [Road Transport Act 2013](#).

#### **80H Keeping and use of photographs**

- (1) A photograph to which this Division applies may be kept and used by RMS, a participating authority or a service provider for one or more of the following purposes only—
  - (a) to assist RMS to verify the identity of a person whose photograph is to be taken or provided by RMS under the arrangements or to assist a participating authority to verify the identity of an applicant,
  - (b) to facilitate reproducing the likeness of a person on a licence or certificate of registration in connection with which the photograph was taken or provided,
  - (c) the exercise of any function conferred or imposed by or under the photo-access arrangements,
  - (d) any purpose that is reasonably necessary for the proper exercise of any of the investigative functions of the participating authority or its conduct of any lawful investigation,
  - (e) for the conduct of relevant criminal proceedings, and any investigation relating to

or leading to any such proceedings,

(f) any purpose for which a photograph to which Part 3.5 of the *Road Transport Act 2013* applies may be kept and used by RMS under that Part,

(g) any purpose for which a photograph to which Part 4 (Security arrangements for photographs) of the *Photo Card Act 2005* applies may be kept and used by RMS under that Part.

(2) A photograph may be used for a purpose set out in this section at the time that the photograph is provided or taken or at any later time.

(3) In this section—

**relevant criminal proceedings** means—

(a) criminal proceedings under the legislation under which a licence or certificate of registration to which this Part applies is issued, or

(b) proceedings under Division 3 of Part 5 (Forgery and false instrument offences) of the *Crimes Act 1900* in relation to a licence or certificate of registration to which this Part applies.

### **80I Release of photographs**

(1) RMS, a participating authority or a service provider must ensure that a photograph to which this Division applies is not released except—

(a) in the exercise of any function conferred or imposed by or under the photo-access arrangements, or

(b) for any purpose that is reasonably necessary for the proper exercise of any of the agency's investigative functions or its conduct of any lawful investigation, or

(c) for the purposes of the conduct of relevant criminal proceedings (as defined in section 80H), and any investigation relating to or leading to any such proceedings, or

(d) as provided under any other law, or

(e) to the person whose likeness is shown in the photograph, or

(f) as authorised or required under Part 3.5 of the *Road Transport Act 2013* in respect of the release of photographs to which that Part applies, or

(g) as authorised or required under Part 4 (Security arrangements for photographs) of the *Photo Card Act 2005* in respect of the release of photographs to which that Part applies.

- (2) Any release authorised by subsection (1)(b) or (c) must be in accordance with any protocol approved by the Privacy Commissioner.

### **80J Access to and alteration of photographs**

Sections 14 (Access to personal information held by agencies) and 15 (Alteration of personal information) of the *Privacy and Personal Information Protection Act 1998* do not apply to a participating authority or service provider in respect of photographs to which this Division applies (without affecting the application of those sections to RMS).

**Note—**

RMS is the appropriate agency to exercise functions under those sections with respect to the photographs to which this Division applies.

### **80K Application of privacy principles to private sector service providers**

In the case of a service provider that is not a public sector agency under the *Privacy and Personal Information Protection Act 1998*, the Director-General is not to enter into photo-access arrangements with the service provider unless satisfied that the arrangements make appropriate provision for compliance by the service provider, in connection with its functions under the arrangements, with—

- (a) sections 80H and 80I, and
- (b) such of the information protection principles under the *Privacy and Personal Information Protection Act 1998* as would be applicable to the service provider if the service provider were a public sector agency under that Act.

## **Part 5 Miscellaneous**

### **81 Amendment of other Acts and statutory rules**

Each Act and statutory rule referred to in Schedule 4 is amended as set out in that Schedule.

### **82 Savings, transitional and other provisions**

Schedule 5 has effect.

### **83 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament

within 12 months after the end of the period of 5 years.

## **Schedule 1 Licences to which Part 2 of Act applies**

(Section 3)

### **Charitable Fundraising Act 1991**

section 13A(1), authority to conduct fundraising appeal

### **Commercial Agents and Private Inquiry Agents Act 2004**

section 6(1)(a), master licence for process serving

section 6(1)(b), master licence for debt collection

section 6(1)(c), master licence for repossession of goods

section 6(1)(d), master licence for surveillance of persons

section 6(1)(e), master licence for investigation of persons

section 12(1)(a), operator licence for process serving

section 12(1)(b), operator licence for debt collection

section 12(1)(c), operator licence for repossession of goods

section 12(1)(d), operator licence for surveillance of persons

section 12(1)(e), operator licence for investigation of persons

### **Community Gaming Act 2018**

section 11(1), authority to conduct permitted gaming activity

### **Conveyancers Licensing Act 2003**

section 11(1), conveyancer's licence

### **Explosives Act 2003**

section 11, explosives licence

### **Home Building Act 1989**

section 19(1), contractor licence

section 24(1)(a), tradesperson certificate

section 24(1)(b), supervisor certificate

section 30(1), owner-builder permit

### **Motor Dealers and Repairers Act 2013**

section 20(a), motor dealer's licence

section 20(b), motor vehicle repairer's licence

section 20(c), motor vehicle recycler's licence

section 20(d), tradesperson's certificate

#### **National Parks and Wildlife Act 1974**

section 133A(1)(a), general licence

section 133A(1)(b), occupier's licence

section 133A(1)(c), game licence

section 133A(1)(d), commercial fauna harvester's licence

section 133A(1)(e), fauna dealer's licence

section 133A(1)(f), fauna dealer's registration certificate

section 133A(1)(g), skin dealer's licence

section 133A(1)(h), skin dealer's registration certificate

section 133A(1)(i), emu licence

section 133A(1)(j), import or export licence

section 133A(1)(k), licence to liberate animals

section 133A(1)(m), licence to pick native plants

section 133A(1)(n), licence to grow native plants for sale

section 133A(1)(o), import licence

section 133A(1)(p), export licence

#### **Pawnbrokers and Second-hand Dealers Act 1996**

section 9(1)(a), pawnbroker's licence

section 9(1)(b), second-hand dealer's licence

section 9(1)(c), combined pawnbroker's and second-hand dealer's licence

#### **Property and Stock Agents Act 2002**

section 17(1)(a), real estate agent's licence

section 17(1)(b), stock and station agent's licence

section 17(1)(c), strata managing agent's licence

section 17(1)(d), corporation licence

section 17(1)(e), certificate of registration as an assistant real estate agent

section 17(1)(f), certificate of registration as an assistant stock and station agent

section 17(1)(g), certificate of registration as an assistant strata managing agent

### **Veterinary Practice Act 2003**

section 69(1), veterinary hospital licence

## **Schedule 2 Registration to which Part 3 of Act applies**

(Section 32)

### **Architects Act 2003**

section 22(1)(a), full registration as architect

section 22(1)(b), temporary registration as architect

### **Surveying and Spatial Information Act 2002**

section 10(1)(a), registration as a land surveyor

section 10(1)(b), registration as a mining surveyor

### **Veterinary Practice Act 2003**

section 17(1)(a), full registration as veterinary practitioner

section 17(1)(b), honorary registration as veterinary practitioner

section 17(1)(c), limited registration as veterinary practitioner

section 17(1)(d), provisional registration as veterinary practitioner

section 17(1)(e), specialist registration as veterinary practitioner

## **Schedule 3 (Repealed)**

## **Schedule 3A Licences and registration to which Part 4A of Act applies**

(Section 80A)

### **Explosives Act 2003**

section 11, explosives licence

### **Home Building Act 1989**

section 19(1), contractor licence

section 24(1)(a), tradesperson certificate



section 24(1)(b), supervisor certificate

section 30(1), owner-builder permit

### **Property and Stock Agents Act 2002**

section 17(1)(a), real estate agent's licence

section 17(1)(b), stock and station agent's licence

section 17(1)(c), strata managing agent's licence

section 17(1)(d), corporation licence

section 17(1)(e), certificate of registration as an assistant real estate agent

section 17(1)(f), certificate of registration as an assistant stock and station agent

section 17(1)(g), certificate of registration as an assistant strata managing agent

## **Schedule 4 Amendment of other Acts and statutory rules**

(Section 81)

### **Part 1 Amendments with respect to licensing procedures**

#### **4.1-4.8**

#### **4.9 National Parks and Wildlife Act 1974 No 80**

##### **Section 133A**

Insert after section 133—

#### **133A Application to licences and certificates of Licensing and Registration (Uniform Procedures) Act 2002**

- (1) The Director-General may grant the following licences and certificates for the purposes of this Act—
- (a) general licences under section 120,
  - (b) occupiers' licences under section 121,
  - (c) game licences under section 122,
  - (d) commercial fauna harvesters' licences under section 123,
  - (e) fauna dealers' licences under section 124,
  - (f) fauna dealers' registration certificates under section 124,

- (g) skin dealers' licences under section 125,
  - (h) skin dealers' registration certificates under section 125,
  - (i) emu licences under section 125A,
  - (j) import and export licences under section 126,
  - (k) licences to liberate animals under section 127,
  - (l) (Repealed)
  - (m) licences to pick native plants under section 131,
  - (n) licences to grow native plants for sale under section 132,
  - (o) import licences under section 132A(1),
  - (p) export licences under section 132A(2).
- (2) Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* (**the applied Act**) applies to and in respect of a licence or certificate under this Part, subject to the modifications and limitations prescribed by or under this Act.
- (3) For the purpose of applying Part 2 of the applied Act to a licence or certificate—
- (a) an application under section 6 may be made by an individual (of any age) or by a corporation, but not by a partnership or other association, and
  - (b) the licence or certificate may be amended under that Act, and
  - (c) in addition to details of any offence referred to in section 14(2)(a), the licensing authority may require an applicant to provide details of any offence against this Act or the regulations in respect of which a penalty notice has been served on the applicant, and
  - (d) sections 26 and 30 of that Act do not have effect.
- (4) Subject to this section, the regulations may make provision for or with respect to such matters concerning a licence or certificate as are relevant to the operation of Part 2 of the applied Act.
- (5) Part 2 of the applied Act does not apply to any licence or certificate

with respect to kangaroos or game birds.

#### **4.10-4.14**

#### **Parts 2-4**

#### **4.15-4.32**

### **Schedule 5 Savings, transitional and other provisions**

(Section 82)

## **Part 1 Provisions consequent on enactment of this Act**

### **1 Definitions**

In this Part—

**amended licensing legislation** means any Act or statutory rule referred to in Part 1 of Schedule 4, as that Act or statutory rule is amended by this Act.

**amended registration legislation** means any Act or statutory rule referred to in Part 2 or 3 of Schedule 4, as that Act or statutory rule is amended by this Act.

**application** has the same meaning as it has in Part 2, 3 or 4, as the case requires.

**electronic communication** has the same meaning as it has in the [Electronic Transactions Act 2000](#).

**licence** and **licensing authority** have the same meanings as they have in Part 2.

**registration** and **registration authority** have the same meanings as they have in Part 3 or 4.

**unamended licensing legislation** means any Act or statutory rule referred to in Part 1 of Schedule 4, as that Act or statutory rule is in force immediately before it is amended by this Act.

**unamended registration legislation** means any Act or statutory rule referred to in Part 2 or 3 of Schedule 4, as that Act or statutory rule is in force immediately before it is amended by this Act.

### **2 Pending applications**

Any application made under the unamended licensing legislation or unamended registration legislation that has not been determined when that legislation is amended by this Act is to be determined in accordance with that legislation as if this Act had not been enacted.

### **3 Current licences and registration**

Any licence or registration—

- (a) that was in force under the unamended licensing legislation or unamended registration legislation when that legislation is amended by this Act, or
- (b) that is granted under the unamended licensing legislation or unamended registration legislation as referred to in clause 2,

is taken to have been granted under the amended licensing legislation or amended registration legislation, as the case requires.

### **4 Transitional suspension of requirements as to signature**

- (1) Subject to clause 2, any provision of the unamended licensing legislation or the unamended registration legislation that requires an application to be signed does not have effect with respect to an application that is made by means of electronic communication.
- (2) Such an application must instead be authenticated as required by the relevant licensing or registration authority.

### **5 Transitional suspension of requirements as to verification of information**

- (1) Subject to clause 2, any provision of the unamended licensing legislation or the unamended registration legislation—
  - (a) that requires information contained in an application to be verified by statutory declaration, or
  - (b) that requires information provided in connection with an application to be verified by statutory declaration,does not have effect with respect to an application, whether made in writing or by means of electronic communication.
- (2) For the avoidance of doubt, it is declared that section 307A of the *Crimes Act 1900*, as amended by this Act, extends to any statement made in connection with an application referred to in subclause (1).

### **6 Transitional suspension of requirements as to the provision of documentary or other evidence**

- (1) Subject to clause 2, any provision of the unamended licensing legislation or the unamended registration legislation that requires an application to be accompanied by documentary or other evidence of any matter does not have effect with respect to an application that is made by means of electronic communication.

- (2) Nothing in this clause prevents the relevant licensing or registration authority from requiring the provision of such documentary or other evidence pursuant to section 14, 43 or 70, as the case requires, as if that section were in force with respect to the application concerned.

## **7 Disclosures in relation to offences**

Any requirement to disclose information concerning any conviction or finding of guilt that is imposed on an applicant under section 14, 43 or 70 extends to any conviction or finding of guilt that occurred before the commencement of this Act.

## **8 Savings and transitional regulations**

- (1) The regulations under any Act amended by Schedule 4 may contain provisions of a savings or transitional nature consequent on the enactment this Act.
- (2) Such a provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.
- (3) To the extent to which such a provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of that publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of that publication.