

# Tattoo Parlours Act 2012 No 32

[2012-32]



New South Wales

## Status Information

### Currency of version

Historical version for 1 July 2020 to 21 January 2021 (accessed 19 December 2024 at 3:37)

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

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Statute Law \(Miscellaneous Provisions\) Act 2020 No 30](#), Sch 4.108 (not commenced — to commence on 22.1.2021)
- **Editorial note**  
The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

This version has been updated.

### 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](#).

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# Tattoo Parlours Act 2012 No 32



New South Wales

An Act to provide for the licensing and regulation of body art tattooing businesses and body art tattooists.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Tattoo Parlours Act 2012*.

### 2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Part 2 commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act—

***adverse security determination*** made by the Commissioner means—

- (a) in relation to an applicant for a licence—a determination of the Commissioner that is reported to the Secretary under this Act on any one or more of the following—
  - (i) that the applicant is not a fit and proper person to be granted a licence,
  - (ii) that a close associate of the applicant is not a fit and proper person,
  - (iii) that it would be contrary to the public interest for the applicant to be granted a licence, or
- (b) in relation to a licensee—a determination of the Commissioner that is reported to the Secretary under this Act on any one or more of the following—
  - (i) that the licensee is not a fit and proper person to continue to hold the licence or to have the licence renewed,
  - (ii) that a close associate of the licensee is not a fit and proper person,

- (iii) that it would be contrary to the public interest for the licensee to continue to hold the licence or to have the licence renewed.

**approved** means approved by the Secretary.

**authorised officer** means any of the following—

- (a) a police officer or any other member of the NSW Police Force,
- (b) an investigator within the meaning of the *Fair Trading Act 1987*,
- (c) any other person (or person belonging to a class of persons) prescribed by the regulations for the purposes of the provision in which the expression is used or generally.

**body art tattooing business** means a business involving the carrying out of body art tattooing procedures (whether or not in combination with other tattooing procedures or with other activities).

**body art tattooing procedure** means a tattooing procedure performed for decorative purposes, but does not include a cosmetic tattooing procedure.

**body art tattooist** means an individual who performs body art tattooing procedures.

**business day** means a day other than a Saturday, Sunday, public holiday or bank holiday in New South Wales.

**close associate**—see section 4.

**closure order**, in relation to premises, means an order made under section 28 or 29.

**Commissioner** means the Commissioner of Police.

**controlled member** of a declared organisation has the same meaning as in the *Crimes (Criminal Organisations Control) Act 2012*.

**cosmetic tattooing procedure** means any of the following—

- (a) a tattooing procedure performed for the purpose of providing the individual on whom it is performed with an eyeliner, eyebrows or any other make up effect on a permanent basis,
- (b) a tattooing procedure performed by a medical practitioner or for a medical reason (for example, to hide, disguise or correct a medical condition or a post-operative outcome),
- (c) any tattooing procedure performed for any other purpose, or in any other circumstances, prescribed by the regulations.

**employ** includes engage under a contract for services or as an apprentice.

**function** includes a power, authority or duty, and **exercise** a function includes perform a duty.

**interim closure order**, in relation to premises, means an order made under section 28.

**licence** means a licence under this Act.

**licensed premises**, in relation to an operator licence, means the premises to which the licence relates.

**licensee** means the holder of a licence.

**operator licence**—see section 9.

**Secretary** means—

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

**serious criminal offence** means an offence committed in New South Wales that is punishable by imprisonment for 2 years or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

**staff member**, in relation to premises, means an individual employed to work at those premises.

**tattooing procedure** means any procedure involving the making of a permanent mark on or in the skin of a person by means of ink, dye or any other colouring agent.

**tattooist licence**—see section 9.

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) The regulations may make provision for or with respect to the circumstances in which the performing of a tattooing procedure is taken (or is not taken) to be for medical reasons for the purposes of paragraph (b) of the definition of **cosmetic tattooing procedure** in subsection (1).
- (3) Notes included in this Act do not form part of this Act.

#### 4 Meaning of “close associate”

- (1) For the purposes of this Act, a person is a **close associate** of an applicant for a licence or a licensee if the person—
  - (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in the person’s own right or on behalf of any other person), in the business of the applicant or licensee that is or will be carried on under the authority of the licence, and by virtue of that interest or power is or will be able (in the opinion of the Commissioner) to exercise a significant influence over or with respect to the management or operation of that business, or
  - (b) holds or will hold any relevant position, whether in the person’s own right or on behalf of any other person, in the business of the applicant or licensee that is or will be carried on under the authority of the licence, or
  - (c) is or will be engaged as a contractor or employed in the business of the applicant or licensee that is or will be carried on under the authority of the licence.
- (2) For the purposes of this section, a financial institution is not a close associate by reason only of having a relevant financial interest in relation to a business.
- (3) The provisions of this section extend to relevant financial interests and relevant powers even if those interests and powers are not payable, exercisable or otherwise enforceable as a matter of law or equity, but are nevertheless payable, exercisable or otherwise enforceable as a matter of fact.
- (4) In this section—

**relevant financial interest**, in relation to a business, means—

- (a) any share in the capital of the business, or
- (b) any entitlement to receive any income derived from the business, or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise, or
- (c) any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the business is or is to be carried on (such as, for example, an entitlement of the owner of the premises at which the business is carried on to receive rent as lessor of the premises).

**relevant position** means—

- (a) the position of director, manager or secretary, or
- (b) any other position, however designated, if it is an executive position.

**relevant power** means any power, whether exercisable by voting or otherwise and



whether exercisable alone or in association with others—

- (a) to participate in any directorial, managerial or executive decision, or
- (b) to elect or appoint any person to any relevant position.

## **5 Relationship of Act to other laws**

Nothing in this Act limits any requirement imposed by or under the *Environmental Planning and Assessment Act 1979*, the *Public Health Act 2010* or any other Act or law with respect to the carrying out of tattooing procedures or the carrying on of body art tattooing businesses.

## **Part 2 Offences relating to unlicensed body art tattooing**

### **6 Body art tattooing businesses to be licensed**

- (1) A person must not carry on a body art tattooing business (whether on the person's own behalf or on behalf of another person) at any premises unless the person is authorised to do so by an operator licence.

Maximum penalty—

- (a) in the case of a corporation—100 penalty units and in addition, in the case of a continuing offence, 100 penalty units for each day the offence continues, and
- (b) in any other case—50 penalty units and in addition, in the case of a continuing offence, 50 penalty units for each day the offence continues.

- (2) If a body art tattooing business is carried on (or is proposed to be carried on) at more than one set of premises, a separate operator licence is required to be held by a person for each set of premises for the purposes of subsection (1).

- (3) A person that requires, allows or permits a body art tattooing business to be carried on at premises on the person's behalf in contravention of subsection (1) is guilty of an offence.

Maximum penalty—

- (a) in the case of a corporation—100 penalty units and in addition, in the case of a continuing offence, 100 penalty units for each day the offence continues, and
- (b) in any other case—50 penalty units and in addition, in the case of a continuing offence, 50 penalty units for each day the offence continues.

- (4) Subsection (1) does not apply to a person carrying on a body art tattooing business—

- (a) during the period of 7 business days after the death of a licensee who holds an operator licence for the premises and, if a new application for an operator licence is made during that period, until that application is determined by the Secretary,

or

(b) during the period of 7 business days after a licensee who holds an operator licence for the premises becomes unable to carry on the business because he or she is incapacitated and, if a new application is made by another person for an operator licence for the premises during that period, until that application is determined by the Secretary, or

(c) in such other circumstances as may be prescribed by the regulations.

(5) It is a defence in proceedings for an offence against subsection (3) if the person satisfies the court that the person did not know, and could not reasonably have been expected to know, that the body art tattooing business was not being carried on under the authority of an operator licence.

## **7 Body art tattooists to be licensed**

(1) An individual must not perform any body art tattooing procedure for fee or reward unless authorised to do so by a tattooist licence.

Maximum penalty—

(a) for a first offence, 50 penalty units, and

(b) for a second or subsequent offence, 100 penalty units.

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

Maximum penalty—

(a) for a first offence, 50 penalty units, and

(b) for a second or subsequent offence, 100 penalty units.

(1B) An individual is not liable to be convicted of an offence under both subsections (1) and (1A) in respect of essentially the same act or omission.

(2) Subsections (1) and (1A) do not apply to an individual who performs a body art tattooing procedure—

(a) if the individual carries out the procedure as a self-employed individual at premises for which the individual holds an operator licence, or

(b) in such other circumstances as may be prescribed by the regulations.

## **8 Employed body art tattooists to be licensed**

(1) A person must not employ an individual to work as a body art tattooist unless the

individual is the holder of a tattooist licence.

Maximum penalty—

- (a) in the case of a corporation—100 penalty units and in addition, in the case of a continuing offence, 100 penalty units for each day the offence continues, and
  - (b) in any other case—50 penalty units and in addition, in the case of a continuing offence, 50 penalty units for each day the offence continues.
- (2) It is a defence in proceedings for an offence against this section if the person satisfies the court that the person did not know, and could not reasonably have been expected to know, that the individual employed to work as a body art tattooist was unlicensed.
- (3) Subsection (1) does not apply to the employment of an individual to work as a body art tattooist in such circumstances as may be prescribed by the regulations.

## **Part 3 Licensing scheme**

### **Division 1 General**

#### **9 Types of licences and authorisation conferred by licence**

- (1) The following kinds of licence may be granted and held under this Act—
- (a) an operator licence,
  - (b) a tattooist licence.
- (2) An operator licence authorises the licensee to carry on a body art tattooing business (whether on his or her own behalf or on behalf of another person) at the premises specified in the licence in accordance with this Act and the conditions of the licence.
- (3) A tattooist licence authorises the licensee to perform body art tattooing procedures in accordance with this Act and the conditions of the licence.
- (4) The authorisation conferred by a licence is subject to this Act and the regulations.

#### **10 Licence conditions—general provisions**

- (1) A licence is subject to—
- (a) such conditions as may be imposed by the Secretary under this Act (whether at the time the licence is granted or at any later time), and
  - (b) such conditions as are imposed by this Act or prescribed by the regulations.
- (2) Subject to subsection (4), the Secretary may impose, vary or revoke conditions on a licence for such reasons, and in such circumstances, as the Secretary considers appropriate or necessary.

- (3) The Secretary may—
- (a) impose a condition at the time the licence is granted by specifying it on the licence that is issued, and
  - (b) impose, vary or revoke conditions on a licence after it is granted by written notice served on the licensee.
- (4) Nothing in this section authorises the Secretary—
- (a) to impose a condition that is inconsistent with a condition imposed by this Act or the regulations, or
  - (b) to vary or revoke a condition imposed by this Act or the regulations.
- (5) A licensee must comply with any conditions to which the licence is subject.
- Maximum penalty (subsection (5)): 20 penalty units.

## **Division 2 Licence applications and granting of licences**

### **11 Licence applications**

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

**Note—**

See Part 5A of the [Crimes Act 1900](#) for offences with respect to the making of false and misleading applications, information and documentation.

- (3) An application for an operator licence in connection with a body art tattooing business that is owned or operated 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 premises manager for the purposes of carrying on that business at the premises for which the licence is sought.
- (4) An application for a licence may not be made by—
- (a) an individual who is under the age of 18 years, or
  - (b) an individual who is not an Australian citizen or Australian resident, or
  - (c) an individual who is a controlled member of a declared organisation.

**Note—**

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

- (5) An application for a licence must—
- (a) be in the approved form and manner, and

- (b) state the full name and residential address of the applicant, and
- (b1) in addition to the statement required under section 12, be accompanied by copies of 3 forms of personal identification of an approved kind for each individual identified as a close associate in that statement, and
- (c) in the case of an operator licence—
  - (i) specify the address of the proposed licensed premises, and
  - (ii) specify the names and residential addresses of each staff member employed (or, if no staff members are currently employed, proposed to be employed) to work at the proposed licensed premises, and
  - (iii) if the business to which the application relates is owned or operated by or on behalf of a corporation, partnership or trust—be accompanied by evidence in the approved form and manner that the applicant has been nominated by the corporation, partners or trustees to be the premises manager, and
- (d) in the case of a tattooist licence—be accompanied by evidence in the approved form and manner concerning previous, existing or impending employment as a body art tattooist (including employment as an apprentice), and
- (e) be accompanied by the fee prescribed by the regulations and such other information and particulars as may be prescribed by the regulations, and
- (f) comply with such other requirements as may be prescribed by the regulations.

**Note—**

See also section 12 for the requirement to provide a statement as to close associates of an applicant for an operator licence.

- (6) If, before an application for a licence is determined by the Secretary, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must within 7 business days of the change give written notice to the Secretary of the particulars of the change.

Maximum penalty (subsection (6)): 20 penalty units.

- (7) Section 12 of the *Criminal Records Act 1991* does not apply in relation to an application for a licence.

**12 Statement as to close associates of applicant for operator licence**

- (1) An application for an operator licence or for the renewal of an operator licence must be accompanied by a written statement in the approved form, made by the applicant, specifying—

- (a) that the applicant has made all reasonable inquiries to ascertain the information required to complete the statement, and
- (b) the following information about any close associates of the applicant—
  - (i) if the associate is an individual—the individual’s name and date of birth,
  - (ii) if the associate is a proprietary company—the name and ACN of the company and the names of its directors and shareholders,
  - (iii) if the associate is any other kind of corporation—the name of the corporation, its ACN or ARBN (if any) and the names of the directors or members of its governing body,
  - (iv) if the associate is a partnership—the trading name of the partnership and the names of the partners (including any silent partners),
  - (v) if the associate is a trust—the names of the trustee or trustees and, if a trustee is a proprietary company or other corporation, the information referred to in subparagraphs (ii) and (iii) concerning its management and shareholders.
- (2) The regulations may provide for exceptions to this section.
- (3) In this section—

**ACN, ARBN** and **proprietary company** have the same meanings as they have in the [Corporations Act 2001](#) of the Commonwealth.

### **13 Fingerprinting and palm printing of applicants**

- (1) An applicant for a licence must consent to having his or her fingerprints and palm prints taken by a police officer in order to confirm the applicant’s identity.
- (2) The Secretary must refuse to determine an application for a licence if the applicant refuses to be fingerprinted and palm printed.
- (3) Any fingerprints or palm prints obtained from an applicant in accordance with this section who is granted a licence may be used by the Commissioner for any purpose that the Commissioner sees fit.
- (4) A person who formerly held a licence, but is not currently a licensee, may apply to the Commissioner to have any of his or her fingerprints or palm prints obtained in accordance with this section and any copies of them destroyed.
- (5) The Commissioner may grant or refuse an application under subsection (4) as the Commissioner sees fit.
- (6) If an application for a licence is withdrawn or refused, the Commissioner is to ensure that any fingerprints or palm prints that are obtained in accordance with this section,

and any copies of them, are destroyed as soon as is practicable after the application is withdrawn or refused.

- (7) As soon as practicable after any fingerprints or palm prints (or any copies of them) are destroyed in accordance with subsection (6), the Commissioner is to notify the applicant in writing that those fingerprints or palm prints (and those copies, if any) have been destroyed.

### **13A Renewal of licence**

- (1) An application for the renewal of a licence may be made to the Secretary by the licensee.
- (2) The application must—
- (a) be in the approved form and manner, and
  - (b) be accompanied by the fee prescribed by the regulations, and
  - (c) in addition to the statement required under section 12, be accompanied by copies of 3 forms of personal identification of an approved kind for each individual identified as a close associate in that statement and who was not identified as such in the statement that accompanied the previous licence or renewal application made by the licensee.

**Note—**

See sections 14–17 in relation to the grant, conditions and duration of renewed licences.

- (3) If an application for the renewal of a licence is received by the Secretary on or before the date on which the licence is due to expire, the licence is, unless it is suspended for the time being under this or any other Act, taken to continue in force until the application is determined by the Secretary.
- (4) Division 3 applies to an application for renewal of a licence in the same way as it applies to an application for a licence.

**Note—**

The Commissioner is required to make a security determination under Division 3 in relation to an application for the renewal of a licence that is referred to the Commissioner only if the application includes changes relating to the close associates of the licensee or the licensed premises—see section 14 (2).

- (5) A licence may be renewed on more than one occasion.
- (6) Section 12 of the *Criminal Records Act 1991* does not apply in relation to an application for the renewal of a licence.

### **13B Restoration of licence**

- (1) An application for the restoration of a licence must be made—

- (a) within 3 months of the expiry of the licence, or
  - (b) within the further period determined by the Secretary on the application of the person seeking the restoration of the licence.
- (2) Without limiting subsection (1) (b), the Secretary may extend the period within which an application for the restoration of a licence may be made if the Secretary is satisfied that—
- (a) in a case where the applicant failed to apply for renewal before the licence expired—the failure to apply for renewal of the licence before it expired was due to inadvertence, or
  - (b) it is just and equitable to restore the licence.
- (3) A licence that has been surrendered or cancelled must not be restored.
- (4) An application for the restoration of a licence must—
- (a) be made in the approved form (if any), and
  - (b) be accompanied by the fee prescribed by the regulations, and
  - (c) nominate a term of duration for the licence.
- (5) A licence restored at any time is taken to have been restored from the day on which the licence expired.
- (6) Subject to this section, this Act applies to an application for the restoration of a licence in the same way as it applies to an application for a licence.

#### **14 Investigations, inquiries and referrals in relation to licence applications**

- (1) If the Secretary receives an application for a licence or for the renewal of a licence, the Secretary—
- (a) may carry out such investigations and inquiries in relation to the application as the Secretary considers necessary for a proper consideration of the application, and
  - (b) is to refer any application that the Secretary considers to have been duly made (along with any supporting information) to the Commissioner for an investigation and determination as to any one or more of the following—
    - (i) whether the applicant is a fit and proper person,
    - (ia) whether a close associate of the applicant is a fit and proper person,
    - (ii) whether it would be contrary to the public interest for the licence to be granted or renewed.



- (2) However, an application for the renewal of a licence is required to be referred to the Commissioner only if the application includes any changes relating to—
- (a) the close associates of the licensee, or
  - (b) the licensed premises at which the licensee carries on a body art tattooing business.

### **15 Secretary or Commissioner may require further information**

- (1) The Secretary or the Commissioner may, by written notice served on the person concerned, require an applicant for a licence or for the renewal of a licence, or a close associate of the applicant, to do one or more of the following things—
- (a) provide, in accordance with directions in the notice, such information as, in the opinion of the Secretary or the Commissioner, is relevant to the investigation of the application and is specified in the notice,
  - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Secretary or the Commissioner, are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them,
  - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
  - (d) furnish to the Secretary or the Commissioner such authorisations and consents as the Secretary or the Commissioner requires for the purpose of enabling the Secretary or the Commissioner to obtain information (including financial and other confidential information) from other persons concerning the applicant and the applicant's associates.
- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.
- (3) The Secretary may refuse to determine an application if a requirement made under this section (whether made by the Secretary or Commissioner) in relation to the application is not complied with.

### **16 Decision of Secretary in relation to licence applications**

- (1) The Secretary may, after considering an application for a licence or for the renewal or restoration of a licence and the determination of the Commissioner under section 19 on the application, grant, renew or restore the licence or refuse to grant, renew or restore the licence.
- (2) The Secretary may, in such circumstances as the Secretary considers appropriate, treat an application for a licence or for the renewal or restoration of a licence as

having been withdrawn.

(3) The Secretary must not grant, renew or restore a licence if—

(a) the Secretary is satisfied that the application for the licence or for the renewal or restoration of the licence was not duly made, or

(b) the applicant is a controlled member of a declared organisation, or

**Note—**

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

(c) an adverse security determination has been made by the Commissioner about the applicant.

(4) Without limiting subsection (1), the Secretary may refuse to grant, renew or restore an operator licence if the Secretary is satisfied that—

(a) 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 proposed licensed premises or the licensed premises, or

(b) development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 3A or Part 5.1 of that Act is required) to use the proposed licensed premises or the licensed premises for the purposes of carrying on the body art tattooing business and such consent or approval has been refused or is not in force.

(5) The regulations may also provide mandatory or discretionary grounds for refusing the granting, renewal or restoration of a licence.

(6) A licence 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.

(7) (Repealed)

## **17 Duration of licence**

(1) A licence (other than a renewed licence) comes into force on the date specified in the licence.

(2) A renewed licence comes into force on the date following the expiry date of the licence it renews.

- (3) An application for a licence or renewal of a licence is to nominate one of the following terms of duration for the licence (the ***nominated term***)—
- (a) 1 year,
  - (b) 3 years,
  - (c) 5 years.

(3A) The Secretary may grant or renew a licence for the nominated term or a shorter term than the nominated term if satisfied that it is in the public interest to do so.

**Note—**

A licence may cease to be in force by operation of section 27 of the [Crimes \(Criminal Organisations Control\) Act 2012](#).

(3B) If an application for renewal of a licence has been made but the application is not finally determined by the Secretary before the expiry of the licence, the licence (if not suspended or sooner cancelled) continues in force until the application is finally determined.

(3C) If a licence is granted or renewed for a shorter term than the nominated term, the Secretary is to refund to the applicant the difference between the fee for the nominated term and the fee for the term that was granted.

(4) A licence suspended under this or any other Act is taken not to be in force for the purposes of this Act during the period of the suspension. However, the suspension of a licence does not affect the term of the licence.

(5) Subsections (3A)–(3C) do not affect the term of any licence granted under this Act and in force immediately before the amendment of this section by the [Fair Trading Legislation Amendment \(Reform\) Act 2018](#).

## **18 Form of licence**

A licence is to be in the approved form.

## **Division 3 Role of Commissioner**

### **19 Commissioner to make security determinations about applicants and licensees**

- (1) If an application for a licence is referred to the Commissioner for investigation under section 14, the Commissioner is to inquire into and determine, and report to the Secretary on, any one or more of the following—
- (a) whether the applicant is a fit and proper person to be granted the licence,
    - (a1) whether a close associate of the applicant is a fit and proper person,
  - (b) whether it would be contrary to the public interest for the licence to be granted.

- (2) The Commissioner may also investigate and determine, whether at the request of the Secretary or on the Commissioner's own initiative, any one or more of the following and report to the Secretary on them—
  - (a) whether a licensee continues to be a fit and proper person to hold his or her licence,
  - (a1) whether a close associate of the licensee continues to be a fit and proper person,
  - (b) whether it would be contrary to the public interest for the licensee to continue to hold his or her licence.
- (3) For the purpose of making a determination on a matter referred to in subsection (1) or (2), the Commissioner may have regard to any criminal intelligence report or other criminal information held in relation to the applicant or licensee (or a close associate of the applicant or licensee) that—
  - (a) is relevant to the business or procedures proposed to be carried on or performed, or carried on or performed, under the licence, or
  - (b) causes the Commissioner to conclude that improper conduct is likely to occur if the applicant were granted the licence or the licensee continued to hold the licence, or
  - (c) causes the Commissioner not to have confidence that improper conduct will not occur if the applicant were granted the licence or the licensee continued to hold the licence.
- (4) For the purpose of making a determination on a matter referred to in subsection (1) or (2) and without limiting subsection (3), the Commissioner may consider the following—
  - (a) information relating to spent convictions, despite anything to the contrary in the *Criminal Records Act 1991*,
  - (b) information relating to criminal charges, whether or not heard, proven, dismissed, withdrawn or discharged,
  - (c) information relating to offences, despite anything to the contrary in section 579 of the *Crimes Act 1900*.

#### **19A Commissioner may require further information**

- (1) For the purpose of an investigation by the Commissioner in relation to any of the matters referred to in section 19 (2), the Commissioner may, by notice in writing served on the licensee or close associate concerned, require the licensee or close associate to do one or more of the following things—

- (a) provide, in accordance with directions in the notice, such information as, in the opinion of the Commissioner, is relevant to the investigation specified in the notice,
  - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Commissioner, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
  - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
  - (d) furnish to the Commissioner such authorisations and consents as the Commissioner requires for the purpose of enabling the Commissioner to obtain information (including financial and other confidential information) relevant to the investigation from other persons concerning the licensee and close associates of the licensee.
- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

## **20 Disclosure of criminal intelligence information**

- (1) The Commissioner is not, under this or any other Act or law, required to give any reasons for determining a matter or taking other action under this Act (including in making a report to the Secretary under section 19) if the giving of those reasons would disclose the existence or content of any criminal intelligence report or other criminal information.
- (2) The Secretary is not, under this or any other Act or law, required to give any reasons for not granting a licence to (or for suspending or cancelling a licence of) a person on the basis of an adverse security determination made by the Commissioner about the person if the giving of those reasons would disclose any criminal intelligence report or other criminal information provided by the Commissioner.

## **Division 4 Miscellaneous licence conditions**

### **21 Inspection of financial records**

- (1) It is a condition of an operator licence that the licensee must ensure that the requirements of this section concerning the financial records used, received or produced in connection with the carrying on of a body art tattooing business at licensed premises (the **business financial records**) are complied with.
- (2) The business financial records must be made available for inspection by an authorised officer at the place at which they are kept at any reasonable time requested by the officer by written notice served on the licensee.

- (3) An authorised officer inspecting the business financial records must be permitted to take copies of, or take extracts or make notes from, those records.
- (4) In this section—
- financial records** includes (whether in printed or electronic form)—
- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers, and
  - (b) documents of prime entry, and
  - (c) working papers and other documents needed to explain—
    - (i) the methods by which financial statements (such as profit and loss statements, balance sheets and cash flow statements) are made up, and
    - (ii) adjustments to be made in preparing financial statements.

## 22 Change of licence particulars

- (1) It is a condition of a licence that the licensee must give written notice to the Secretary of a change in any of the particulars in respect of the licence (including any change of residential address by the licensee and, in the case of an operator licence, any change in the particulars relating to the close associates of the licensee), and of the appropriate new particulars, within 14 business days of the change occurring.
- (1A) The notice of a change in the particulars relating to the close associates of the holder of an operator licence must be accompanied by copies of 3 forms of personal identification of an approved kind for each individual identified as a close associate in that notice.
- (2) The regulations may make provision for or with respect to the particulars that are (or are not) required to be included in a notice under subsection (1).

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

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

## 23 Changes in staff members

- (1) It is a condition of an operator licence that the licensee must, within 20 business days after a change in staff employment, give written notice to the Secretary of that change.
- (2) There is a **change in staff employment** for the purposes of subsection (1) if—

- (a) a new staff member is employed to work at the licensed premises, or
  - (b) a staff member ceases to be employed to work at the licensed premises.
- (3) The regulations may make provision for or with respect to the changes in staff employment that are (or are not) required to be included in a notice under subsection (1).

#### **24 Display of licence information**

It is a condition of an operator licence that the licensee must ensure that—

- (a) such document or information as may be prescribed by the regulations is conspicuously displayed at the licensed premises, and
- (b) the licence number is included in any advertisement relating to the body art tattooing business carried on at the licensed premises.

### **Division 5 Suspension and cancellation of licences**

#### **25 Suspension of licence**

- (1) The Secretary may, if the Secretary is satisfied that there may be grounds for cancelling a licence, suspend the licence by serving the licensee with a written notice—
- (a) stating that the licence is suspended and (subject to section 20) the reasons for suspending it, and
  - (b) requesting that the person provide the Secretary, within the period specified in the notice (being a period of not less than 14 business days from the date the notice is served), with written reasons as to why the licence should not be cancelled, and
  - (c) stating that the licence will be cancelled unless the person provides the Secretary with sufficient reasons as to why the licence should not be cancelled, and
  - (d) stating the period during which the licence is suspended (being a period of no more than 60 days from the date on which the notice is served).

#### **Note—**

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

- (2) A licensee must return a licence that has been suspended to the Secretary in the period (if any) specified by the Secretary in the notice suspending the licence.

Maximum penalty—20 penalty units.

## 26 Cancellation of licence

- (1) The Secretary must cancel a licence if—
  - (a) the licensee or a close associate of the licensee has failed to comply with a requirement of a notice under section 19A and the Secretary has been notified by the Commissioner of that failure, or
  - (b) an adverse security determination is made by the Commissioner about the licensee.

### Note—

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

- (2) The Secretary may cancel a licence—
  - (a) if the Secretary is satisfied that the licensee has—
    - (i) supplied information which was (to the licensee's knowledge) false or misleading in a material particular in, or in connection with, the application for the licence, or
    - (ii) contravened any provision of this Act or the regulations (whether or not the licensee has been convicted of an offence for the contravention), or
    - (iii) contravened a condition of the licence, or
  - (a1) if, within 60 days of being notified of the grant or renewal of the licence, the licensee fails to collect the licence from the place nominated by the Secretary, or
  - (b) in such other circumstances as may be prescribed by the regulations.
- (3) Except in the case of a licence that is cancelled because of an adverse security determination made by the Commissioner about the licensee or on the ground referred to in subsection (2) (a1), the Secretary may not cancel a licence without first—
  - (a) suspending the licence, and
  - (b) considering any reasons provided by the licensee under section 25 as to why the licence should not be cancelled.
- (4) The Secretary may cancel a licence by serving the licensee with a written notice stating that the licence is cancelled and (subject to section 20) the reasons for cancelling it.
- (5) The cancellation of a licence by such a notice takes effect when the notice is served or on a later date specified in the notice.



- (6) The Secretary may, by serving a further written notice on the licensee, revoke a notice cancelling a licence before the notice takes effect.
- (7) A licensee must return a licence that has been cancelled to the Secretary in the period specified by the Secretary in the notice cancelling the licence if the licence has not previously been returned.

Maximum penalty (subsection (7)): 20 penalty units.

## **Division 6 Review of licensing decisions**

### **27 Right to seek administrative review from Civil and Administrative Tribunal**

- (1) A person (other than a controlled member of a declared organisation) may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the following decisions—
  - (a) the refusal or failure by the Secretary to grant a licence to the person,
  - (a1) the refusal or failure by the Secretary to renew a licence granted to the person,
  - (b) a condition imposed by the Secretary on a licence granted to the person,
  - (c) the suspension or cancellation (other than on the ground referred to in section 26 (2) (a1)) of a licence granted to the person.
- (2) For the purposes of this section, an application for the grant or renewal of a licence is taken to have been refused if the licence is not granted or renewed within 60 days after the application is made in accordance with this Act.

**Note—**

Under the *Civil and Administrative Tribunal Act 2013*, if the Tribunal has made an administrative review decision (such as when it reviews a decision referred to in subsection (1)), a party to the proceedings may appeal to an Appeal Panel of the Tribunal. An appeal on a question of law may then lie to the Supreme Court.

- (3) If an application for a licence or for the renewal of a licence was refused or a licence was suspended or cancelled by the Secretary on the ground of an adverse security determination made by the Commissioner about the applicant for the administrative review or a close associate of the applicant—
  - (a) the Commissioner (as well as the Secretary) is to be a party to any proceedings in the Civil and Administrative Tribunal for an administrative review of the decision of the Secretary, and
  - (b) the Tribunal is to be provided with a copy of the report of the Commissioner's determination, and
  - (c) the Tribunal is not prevented from determining whether the Secretary made the

correct and preferable decision regarding the application or the licence concerned merely because of the determination of the Commissioner.

- (4) In determining an application for an administrative review of any decision to refuse to grant or renew a licence or to suspend or cancel a licence that was made on the ground of an adverse security determination made by the Commissioner about the applicant for the administrative review or a close associate of the applicant, the Civil and Administrative Tribunal (and any Appeal Panel of the Tribunal in determining any internal appeal against such a review under the *Civil and Administrative Tribunal Act 2013*)—
- (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other criminal information without the approval of the Commissioner, and
  - (b) in order to prevent the disclosure of any such report or other criminal information, is to receive evidence and hear argument in the absence of the public, the applicant for the administrative review, the applicant's representative and any other interested party, unless the Commissioner approves otherwise.

**Note—**

Section 20 of this Act provides that the Secretary and Commissioner are not, under this or any other Act or law, required to give any reasons in connection with the refusal to grant or renew a licence or the suspension or cancellation of a licence on the ground of an adverse security determination made by the Commissioner if the giving of those reasons would disclose the existence or content of any criminal intelligence report or other criminal information. Accordingly, Part 2 of Chapter 3 of the *Administrative Decisions Review Act 1997* does not apply to any decision to refuse to grant or renew a licence based on such information to the extent that it would require disclosure of the existence or content of any criminal intelligence report or other criminal information.

- (4A) If the Tribunal considers that information contained in a criminal intelligence report or other criminal information has not been properly identified as such, the Tribunal must ask the Commissioner whether the Commissioner wishes to withdraw the information from consideration by the Tribunal in its determination of an application.
- (4B) Information that is withdrawn by the Commissioner must not be—
- (a) disclosed to any person, or
  - (b) taken into consideration by the Tribunal in determining an application.
- (5) Section 53 (Internal reviews) of the *Administrative Decisions Review Act 1997* does not apply in relation to a decision referred to in subsection (1).

## **Part 4 Enforcement**

### **Division 1 Closure orders**

#### **28 Interim closure of unlicensed or illegal tattoo parlours**

- (1) The Commissioner may make an order that specified premises be closed (an ***interim closure order***)—
  - (a) if the Commissioner is satisfied that a body art tattooing business is being carried on at those premises without the authority of an operator licence, or
  - (b) if the Commissioner reasonably suspects that any serious criminal offences are being committed at the premises.
- (2) An interim closure order must be served on the person apparently in charge of the premises (if any) or be posted in a conspicuous place at the entrance to the premises.
- (3) An interim closure order takes effect from the time it is so served or posted and has effect for a period of 72 hours, unless sooner repealed or revoked.
- (4) More than one interim closure order closing the same premises may not be made under this section in any period of 7 days.

#### **29 Long term closure of tattoo parlours**

- (1) The Local Court may, on the application of the Commissioner, order that specified premises be closed for such period or until such time as the Court considers appropriate if the Court is satisfied that—
  - (a) a body art tattooing business is being carried on at those premises without the authority of an operator licence, or
  - (b) there have been, or there are likely to be, serious criminal offences committed at or in connection with the premises.
- (2) An application may be made under this section regardless of whether an interim closure order is (or has been) in force with respect to the premises.
- (3) If an interim closure order is in force with respect to premises when an application is made under this section, the Local Court may revoke the order if the Court considers that the order should not have been made or that there are no longer sufficient grounds for the order to continue in force.

#### **30 Body art tattooing business may not be carried on in closed premises**

- (1) A person must not, while a closure order is in force with respect to premises—
  - (a) carry on a body art tattooing business at those premises, or

(b) work as a body art tattooist at those premises.

Maximum penalty—

(a) in the case of a corporation—100 penalty units and in addition, in the case of a continuing offence, 100 penalty units for each day the offence continues, and

(b) in any other case—50 penalty units and in addition, in the case of a continuing offence, 50 penalty units for each day the offence continues.

(2) It is a defence in proceedings for an offence against this section if the person satisfies the court that the person did not know, and could not reasonably have been expected to know, that a closure order was in force with respect to the premises.

## **Division 2 Powers of entry**

### **30A Powers of authorised officers to enter premises without warrant**

(1) An authorised officer may at any reasonable time enter any licensed premises, or any other premises that the authorised officer reasonably suspects are being used to perform body art tattooing procedures for fee or reward, for the following purposes—

(a) for determining whether there has been compliance with, or a contravention of, this Act or the regulations,

(b) generally for administering this Act.

(2) This section does not confer a power to enter any premises or part of premises that are used only for residential purposes without the permission of the occupier or the authority of a search warrant.

### **30B Powers of authorised officers to enter premises with warrant**

(1) An authorised officer may apply to an authorised warrants officer for the issue of a search warrant if the authorised officer believes on reasonable grounds that any provision of this Act or the regulations is being or has been contravened on any premises.

(2) An authorised warrants officer to whom any such application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any authorised officer to enter and search the premises.

(3) An authorised officer executing a search warrant issued under this section may—

(a) enter the premises specified in the warrant, and

(b) search the premises for evidence of a contravention of this Act or the regulations, and

(c) exercise any other function of an authorised officer under this Part.

(4) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

(5) In this section—

**authorised warrants officer** means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

### **30C Powers that may be exercised by authorised officers on entry**

(1) Without limiting section 32, an authorised officer may, at any premises lawfully entered under this Act for a purpose referred to in section 30A (1), do any or all of the following—

(a) examine any licence, registers, books, records or other documents on the premises,

(b) make a copy on the premises of any licence, registers, books, records or other documents and retain that copy,

(c) require any person to make a copy on the premises of any licence, registers, books, records or other documents and give that copy to the authorised officer to retain,

(c1) make such examinations and inquiries as the authorised officer considers necessary,

(d) take such photographs, films, audio, video or other recordings as the authorised officer considers necessary,

(e) require any person to produce any licence, registers, books, records or other documents on the premises,

(f) require any person to answer any question relating to any licence, registers, books, records or other documents or any other relevant matter,

(g) take any licence, registers, books, records or other documents from the premises for the purposes of copying them,

(h) seize any licence, registers, books, records or other documents, or any other thing that the authorised officer believes on reasonable grounds is connected with an offence against this Act or the regulations.

(2) The power to seize anything connected with an offence includes a power to seize anything that will provide evidence of the commission of an offence.

(3) Any registers, books, records or other documents taken only for the purpose of

copying them must be returned when that copying is completed.

### **31 Police powers of entry with dog**

A police officer may at any reasonable time enter any licensed premises, or any other premises that the police officer reasonably suspects are being used to perform body art tattooing procedures for fee or reward, for the purpose of—

- (a) carrying out general drug detection (within the meaning of Division 2 of Part 11 of the *Law Enforcement (Powers and Responsibilities) Act 2002*) using a dog, or
- (b) carrying out general firearms or explosives detection (within the meaning of Part 13 of that Act) using a dog.

## **Division 3 Other enforcement provisions**

### **32 Production of licences**

A licensee must not, without reasonable excuse, fail to produce his or her licence to an authorised officer on demand by an authorised officer.

Maximum penalty—20 penalty units.

### **33 Hindering or obstruction of authorised officer**

A person must not, without reasonable excuse—

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

Maximum penalty—20 penalty units.

### **33A Provisions relating to requirements to furnish records or information or answer questions**

- (1) **Warning to be given on each occasion** A person is not guilty of an offence of failing to comply with a requirement under section 19A or 30C to furnish records or information or to answer a question unless the person was warned on that occasion that a failure to comply is an offence.
- (2) **Self-incrimination not an excuse** A person is not excused from a requirement under section 19A or 30C to furnish records or information or to answer a question on the ground that the record, information or answer might incriminate the person or make the person liable to a penalty.
- (3) **Information or answer not admissible if objection made** However, any information furnished or answer given by a natural person in compliance with a requirement under

section 19A or 30C is not admissible in evidence against the person in criminal proceedings (except proceedings for an offence under section 33) if—

- (a) the person objected at the time to doing so on the ground that it might incriminate the person, or
- (b) the person was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person.

(4) **Records admissible** Any record furnished by a person in compliance with a requirement under section 19A or 30C is not inadmissible in evidence against the person in criminal proceedings on the ground that the record might incriminate the person.

(5) **Further information** Further information obtained as a result of a record or information furnished or of an answer given in compliance with a requirement under section 19A or 30C is not inadmissible on the ground—

- (a) that the record or information had to be furnished or the answer had to be given, or
- (b) that the record or information furnished or answer given might incriminate the person.

### **34 Nature of proceedings for offences**

(1) Proceedings for an offence against this Act or the regulations may be dealt with—

- (a) summarily before the Local Court, or
- (b) summarily before the Supreme Court in its summary jurisdiction.

(2) If proceedings are brought in the Local Court, the maximum monetary penalty that the Local Court may impose for the offence is 200 penalty units, despite any higher maximum monetary penalty provided in respect of the offence.

### **35 Penalty notices**

(1) An authorised officer may issue a penalty notice to a person if it appears to the authorised officer that the person has committed a penalty notice offence.

(2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.

(3) The *Fines Act 1996* applies to a penalty notice issued under this section.

#### **Note—**

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations.
- (5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

## Part 5 Miscellaneous

### 36 Exchange of information

- (1) The Secretary may enter into an arrangement (***an information sharing arrangement***) with a relevant agency for the purposes of sharing or exchanging any information that is held by the Secretary or the agency.
- (2) The information to which an information sharing arrangement may relate is limited to information that assists in the exercise of the functions of the Secretary or the Commissioner under this Act or the regulations or of the relevant agency concerned.
- (3) Under an information sharing arrangement, the Secretary and the relevant agency are, despite any other Act or law of the State, authorised—
  - (a) to request and receive information that is held by the other party to the arrangement, and
  - (b) to disclose that information to the other party.
- (4) In this section—

***relevant agency*** means any of the following—

  - (a) the NSW Police Force,
  - (b) any Public Service agency within the meaning of the [Government Sector Employment Act 2013](#),
  - (c) Transport for NSW or Roads and Maritime Services,
  - (d) any local council,
  - (e) any other person or body prescribed by the regulations.

### 36A Certificate evidence

- (1) A certificate purporting to have been signed by the Secretary and stating any of the following is admissible in evidence in any proceedings and is evidence of the matters stated—
  - (a) that on a specified day, or during a specified period, a specified person was, or was not, the holder of a licence,



- (b) that on a specified day a licence formerly held by a specified person had been cancelled or surrendered,
  - (c) that on a specified day, or during a specified period, a licence held by a specified person was suspended,
  - (d) that on a specified day, or during a specified period, a licence held by a specified person was subject to specified conditions,
  - (e) that on a specified day, or during a specified period, specified premises were, or were not, licensed premises,
  - (f) that on a specified day, or during a specified period, a specified person was, or was not, the holder of a permit issued under the regulations,
  - (g) that on a specified day a permit issued under the regulations that was formerly held by a specified person had been revoked or had expired,
  - (h) that on a specified day, or during a specified period, a permit issued under the regulations and held by a specified person was subject to specified conditions.
- (2) A certificate purporting to have been signed by the Commissioner and stating that on a specified day, or during a specified period, specified premises were, or were not, subject to an interim closure order, is admissible in evidence in any proceedings and is evidence of the matters stated.

### **37 No compensation payable for exercise of regulatory functions**

- (1) No compensation is payable to any person or body for—
- (a) the closure of premises under this Act, or
  - (b) a refusal to grant a licence under this Act, or
  - (c) the suspension or cancellation of a licence under this Act, or
  - (d) the exercise of any other function in connection with any such closure, refusal, suspension or cancellation.
- (2) Subsection (1) extends to the purported exercise in good faith of any of the functions referred to in that subsection.
- (3) In this section—
- compensation** includes damages and any other form of monetary compensation.

### **38 Delegations**

- (1) The Secretary may delegate to an authorised delegate any of the Secretary's functions under this Act or the regulations, other than this power of delegation.

- (2) The Commissioner may delegate to an authorised delegate any of the Commissioner's functions under this Act or the regulations, other than this power of delegation.
- (3) A delegate may sub-delegate to another authorised delegate any of the functions delegated by the Secretary or the Commissioner if the delegate is authorised in writing to do so by the Secretary or Commissioner (as the case requires).
- (4) In this section—

**authorised delegate** means—

- (a) a police officer or any other member of the NSW Police Force, or
- (b) a person employed in a Public Service agency within the meaning of the [Government Sector Employment Act 2013](#), or
- (c) any person (or any person belonging to a class of persons) prescribed by the regulations.

### 39 Service of documents

- (1) A document that is authorised or required by this Act or the regulations to be served on any person may be served by any of the following methods—
  - (a) in the case of an individual—by personal delivery to the person,
  - (b) by post to the address specified by the person for the service of documents of that kind,
  - (c) in the case of an individual who has not specified such an address—by post to the residential or business address of the person last known to the person serving the document,
  - (d) in the case of a corporation—by post to the registered office or any other office of the corporation or by leaving it at any such office with a person apparently over the age of 16 years,
  - (e) by email to an email address specified by the person for the service of documents of that kind,
  - (f) by any other method authorised by the regulations for the service of documents of that kind.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person by any other method.
- (3) In this section, **serve** includes give or send.

#### **40 Provision of documents to Secretary**

- (1) A document may be served on, or given to, or lodged with, the Secretary by leaving it at, or by sending it by post to—
  - (a) the office of the Secretary, or
  - (b) if the Secretary has more than one office, any one of the Secretary's offices.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Secretary in any other manner.

#### **41 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1) or any other provision of this Act concerning the making of regulations, the regulations may make provision for or with respect to the following—
  - (a) the conditions of licences,
  - (b) the misuse of licences (including the forgery, alteration, theft or other improper use of licences) and misrepresentations concerning licences,
  - (c) without limiting paragraph (f), the application of, or exemption from, licensing requirements in connection with body art tattooing shows or exhibitions and the short term approval of the performing of body art tattooing procedures (including the issue of permits for those purposes),
  - (d) methods of service (which may include electronic transmission) for a notice or other document authorised or required to be served by or under a provision of this Act, either in addition to or as an alternative to a method of service provided for by the provision concerned,
  - (e) licence and permit fees,
    - (e1) the waiver, reduction, postponement or refund by the Secretary of fees payable or paid under this Act or the regulations,
  - (f) exemptions from the operation of this Act or specified provisions of this Act,
  - (g) the making, keeping and inspection of records in connection with the carrying on of body art tattooing businesses.
- (3) A regulation may create an offence punishable by a penalty not exceeding 40 penalty units in the case of a corporation or 20 penalty units in any other case.

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

### **Part 1 General**

#### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) If the regulations so provide, any such provision may—
  - (a) have effect despite any specified provisions of this Act (including a provision of this Schedule), and
  - (b) take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, 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 its 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 its publication.
- (4) A regulation made for the purposes of this clause may make separate savings and transitional provisions or amend this Schedule to consolidate the savings and transitional provisions.

### **Part 2 Provisions consequent on enactment of this Act**

#### **2 Making of first principal Regulation**

Part 2 of the *Subordinate Legislation Act 1989* is taken to apply to the first regulation

made under this Act as if the Minister administering that Act had given a certificate under section 6 (1) (b) of that Act with respect to the regulation.

### **3 Making of closure orders pending the commencement of section 6**

A closure order may not be made on the ground referred to in section 28 (1) (a) or 29 (1) (a) until section 6 (1) commences.

## **Part 3 Provisions consequent on enactment of [Tattoo Parlours Amendment Act 2012](#)**

### **4 Existing applications and licences**

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

### **5 Right to review where licence not granted within 60 days**

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

## **Part 4 Provisions consequent on enactment of [Tattoo Parlours Amendment Act 2017](#)**

### **6 Pending applications for licence renewals**

- (1) This clause applies in relation to an application (a **pending application**) that was made, but not finally determined, before the commencement of the [Tattoo Parlours Amendment Act 2017](#) by the holder of a licence (the **existing licence**) for a new licence to replace the existing licence that is due to expire.
- (2) A pending application is taken to be an application made under section 13A for the renewal of the existing licence.
- (3) Section 14, as amended by the [Tattoo Parlours Amendment Act 2017](#), extends to a pending application.

## **Part 5 Provisions consequent on enactment of [Better Regulation and](#)**

## Customer Service Legislation Amendment (Bushfire Relief) Act 2020

### 7 Definitions

In this Part—

**amendment Act** means the *Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Act 2020*.

**relevant period** means the period—

- (a) starting on 18 July 2019, and
- (b) ending immediately before the commencement of the amendment Act.

### 8 Waiver, reduction, postponement or refund of fees before commencement

(1) This clause applies if, during the relevant period, the Secretary waived, reduced, postponed or refunded, in whole or part, a fee payable or paid by a person under this Act or the regulations on the ground the Secretary was satisfied it was appropriate because—

- (a) the person was suffering financial hardship, or
- (b) special circumstances existed.

(2) The waiver, reduction, postponement or refund is taken to have been as valid as if it had happened after the commencement of the amendment Act.

### 9 Power to waive, reduce, postpone or refund fees applies to events before commencement

To remove any doubt, the power of the Secretary to waive, reduce, postpone or refund, in whole or part, a fee payable or paid under this Act or the regulations applies in relation to—

- (a) a person who was suffering financial hardship—
  - (i) during the relevant period, or
  - (ii) because of events that happened during the relevant period, or
- (b) special circumstances—
  - (i) that existed during the relevant period, or
  - (ii) that exist because of events that happened during the relevant period.

## Schedule 2 (Repealed)