

Security Industry Regulation 2007

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Security Industry Act 1997*.

Minister for Police

Explanatory note

The object of this Regulation is to remake the *Security Industry Regulation 1998*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation:

- (a) provides that certain types of devices or equipment are not security equipment under the *Security Industry Act 1997* ("**the Principal Act**"), and
- (b) provides that the duplication of restricted security keys, the "manipulation" of security equipment and the sale of security equipment are security activities that are required to be licensed under the Principal Act, and
- (c) exempts certain classes of persons from the requirement to hold a licence under the Principal Act, and
- (d) provides for the meaning of "**basic household or automotive security item**" under the Principal Act, and
- (e) provides for certain matters in relation to making licence applications, combining licences and the terms of licences under the Principal Act, and
- (f) provides for the fees to accompany an application for a licence, and specifies the information and particulars required to accompany an application for a licence, and
- (g) specifies the classes of persons who can provide the written references required under the Principal Act to the effect that applicants for licences are fit and proper persons, and
- (h) specifies the competencies that licence applicants are required to hold, and
- (i) specifies the grounds for refusal and offences that disqualify a person from being eligible for a licence under the Principal Act, and
- (j) specifies direct supervision requirements for provisional licensees, and
- (k) specifies certain conditions in relation to master licences (for example, the holder of a master licence must take out public liability insurance in certain circumstances, must keep records in relation to licensees employed by the master licensee, must keep an incident register and must also ensure that vehicles used for cash in transit activities are properly equipped), and
- (l) provides for the inspection of records and incident registers, and
- (m) provides for the preparation and enforcement of guidelines as to the uniforms and vehicle markings to be used in connection with the carrying out of security activities, and
- (n) requires class 2C licensees who duplicate restricted keys to do so in accordance with certain industry procedures, and
- (o) provides for matters in relation to the appointment of members of the Security Industry Council, and
- (p) provides for certain offences in relation to false qualification certificates, security recordings, impersonating a licensee and breaching training organisation approval conditions, and
- (q) prescribes certain offences under the Principal Act and this Regulation as offences for which penalty notices may be issued, and
- (r) provides for other matters relating to licences.

This Regulation is made under the *Security Industry Act 1997*, including section 48 (the general

regulation-making power) and specific sections of the Act that are referred to in this Regulation.

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Security Industry Regulation 2007*.

2 Commencement

This Regulation commences on 1 September 2007.

This Regulation replaces the *Security Industry Regulation 1998* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation: "**restricted key**" means a security key that is of an approved type. "**the Act**" means the *Security Industry Act 1997*.

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

4 Security equipment: section 3 (1)

For the purposes of the definition of "**security equipment**" in section 3 (1) of the Act, the following types of device or equipment are declared not to be security equipment:

(a) any vehicle immobiliser, or similar electronic device, that interrupts the power supply to the fuel pump, starter motor or ignition of a vehicle to prevent the vehicle's engine from starting,

(b) any road vehicle alarms or sounding devices that comply with clause 2.3.2 (b) of *AS/NZS 4601:1999, Vehicle immobilizers*,

(c) any intruder alarm systems for road vehicles that comply with *AS/NZS 3749.1:2003, Intruder alarm systems--Road vehicles--Performance requirements*.

5 Security activities: section 4 (1) (p)

For the purposes of section 4 (1) (p) of the Act, the following activities are prescribed:

(a) the duplication of restricted keys (the relevant licence being a class 2C licence),

(b) the carrying on of a service, other than a service of an approved class, that involves the manipulation (for example, unlocking) of security equipment otherwise than by ordinary means (the relevant licence being a class 2C licence).

6 Exemptions: section 6 (3)

For the purposes of section 6 (3) of the Act, the persons or classes of persons specified in Schedule 1 are, to the extent specified in that Schedule, exempt from the operation of the Act.

7 Meaning of "basic household or automotive security item": section 4 (2)

For the purposes of section 4 (2) of the Act, "**basic household or automotive security item**" means any of the following:

(a) an item used for basic household security, including self-installed doors and grilles, self-installed door and window locks, padlocks, portable safes weighing not more than 50 kg or other self-installed electronic or mechanical security items,

(b) an item designed to minimise the possibility of motor vehicle theft, including a vehicle immobiliser, vehicle alarm or GPS tracking device,

(c) any other item approved by the Commissioner.

Part 2 – Licences--general provisions

8 Licence applications

In making an application for a licence, the applicant is required to send the application by mail to the following address:

Security Industry Registry

NSW Police Force

Locked Bag 5099

Parramatta NSW 2124

9 Composite licences: section 9 (2)

For the purposes of section 9 (2) of the Act:

- (a) a class 1 or class 2 licence of any subclass may be combined with a class 1 or class 2 licence of any other subclass or subclasses into a composite licence, but only if the relevant licensee is entitled to hold the other subclass or subclasses of licence, and
- (b) a provisional licence of any subclass may be combined with a provisional licence of any other subclass or subclasses into a composite licence, but only if the relevant licensee is entitled to hold the other subclass or subclasses of licence and has made an application to combine the subclasses at the same time.

10 Shortened term for class 1 or class 2 licence: section 24 (1)

For the purposes of section 24 (1) of the Act, the following periods are prescribed:

- (a) for a class 1 or class 2 licence--the period of 1 year, but only if the applicant for the licence applies for a licence that will be in force for such a period,
- (b) for a class 1 licence--the unexpired period of the applicant's provisional licence at the time the class 1 licence is issued, but only if the applicant for the class 1 licence:
 - (i) applies for a licence that will be in force for that unexpired period, and
 - (ii) is the holder of a class 1 provisional licence that authorises the same activity as the class 1 licence for which the application is being made (and has previously held such a provisional licence).

11 Term of provisional licence: section 24 (1)

For the purposes of section 24 (1) of the Act, a period of 1 year is prescribed for a provisional licence.

12 Licence application fees: section 14 (2) (a)

- (1) Class 1 licence--less than 1 year term For the purposes of section 14 (2) (a) of the Act, the prescribed fee to accompany an application for a class 1 licence that will be in force for less than 1 year is \$80. Clause 10 (b) provides for class 1 licences to be issued for less than 1 year in certain circumstances.
- (2) Class 1, class 2 and provisional licences--1 year term For the purposes of section 14 (2) (a) of the Act, the prescribed fee to accompany an application for a class 1, class 2 or provisional licence that will be in force for a period of 1 year is \$130.
- (3) Class 1 and 2 licences--5 year term For the purposes of section 14 (2) (a) of the Act, the prescribed fee to accompany an application for a class 1 or class 2 licence that will be in force for a period of 5 years is \$480.
- (4) Master licences For the purposes of section 14 (2) (a) of the Act, the prescribed fee to accompany an application for a master licence is:
 - (a) if the licensee is to be self-employed and no licensed security industry employees are to be employed by the licensee under the licence during the term of the licence--\$425, or

- (b) if a total of no more than 10 licensed security industry employees are to be employed by the licensee during the term of the licence--\$895, or
- (c) if a total of no more than 50 licensed security industry employees are to be employed by the licensee during the term of the licence--\$1,925, or
- (d) if a total of more than 50 licensed security industry employees are to be employed by the licensee during the term of the licence--\$3,785.

13 Information and particulars to accompany licence application: section 14 (2) (b)

(1) Class 1, class 2 and provisional licences For the purposes of section 14 (2) (b) of the Act, an application for a class 1, class 2 or provisional licence must include the following information:

- (a) the applicant's name, date and place of birth and residential address,
- (b) if the application is for a class P1F licence, the name and address of the employer who applies for the licence on the applicant's behalf,
- (c) information satisfying the Commissioner that the applicant is an Australian citizen or a permanent Australian resident,
- (d) the security activities that the applicant proposes to carry on under the licence,
- (e) evidence of the applicant's competencies and experience referred to in section 15 (1) (c) of the Act,
- (f) if the application is for a subsequent licence or the variation of a licence, the number and expiry date of the existing licence.

(2) Master licences--individuals For the purposes of section 14 (2) (b) of the Act, an application for a master licence that is made by an individual must include the following information:

- (a) the name, date and place of birth and residential address of:
 - (i) the applicant, and
 - (ii) each of the applicant's close associates (if applicable),
- (b) the applicant's Australian Business Number (ABN) and each business name (within the meaning of the *Business Names Act 2002*) under which the applicant carries on business,
- (c) information satisfying the Commissioner that the applicant is an Australian citizen or a permanent Australian resident,
- (d) the applicant's business address,
- (e) the security activities in respect of which the applicant proposes to carry on business under the master licence,
- (f) if the application is for a subsequent licence or the variation of a licence, the number and expiry date of the existing licence,
- (g) evidence of current membership of an approved security industry association,
- (h) particulars of each firearms licence held by the applicant that relates to any proposed security activities,
- (i) particulars relating to each employee of the applicant who is authorised to possess or use a firearm in the course of his or her employment (including the number of the employee's firearms licence),
- (j) evidence that the applicant has obtained public liability insurance as required by clause 35 (if applicable to the applicant).

(3) Master licences--corporations For the purposes of section 14 (2) (b) of the Act, an application for a master licence that is made by a corporation (other than a government agency or public authority) must include the following information:

- (a) the name of the applicant,
- (b) the applicant's Australian Business Number and Australian Company Number and each business name (within the meaning of the *Business Names Act 2002*) under which the applicant carries on business,
- (c) the nominated person for the licence, being an individual who is:

- (i) an Australian citizen or permanent Australian resident, and
 - (ii) a close associate of the applicant, and
 - (iii) involved in the day-to-day conduct of the applicant's security activities,
 - (d) the name, date and place of birth and residential address of each of the applicant's close associates,
 - (e) the address of the applicant's registered office and, if that address is not the address of its principal place of business, the address of its principal place of business,
 - (f) the security activities in respect of which the applicant proposes to carry on business under the master licence,
 - (g) evidence of current membership of an approved security industry association,
 - (h) if the application is for a subsequent licence or the variation of a licence, the number and expiry date of the existing licence,
 - (i) particulars of each firearms licence held by the applicant that relates to any proposed security activities,
 - (j) particulars relating to each employee of the applicant who is authorised to possess or use a firearm in the course of his or her employment (including the number of the employee's firearms licence),
 - (k) evidence that the applicant has obtained public liability insurance as required by clause 35 (if applicable to the applicant).
- (4) Master licences--government agencies or public authorities For the purposes of section 14 (2) (b) of the Act, an application for a master licence that is made by a government agency or a public authority must include the following information:
- (a) the name of the applicant,
 - (b) the applicant's Australian Business Number and each business name (within the meaning of the *Business Names Act 2002*) under which the applicant carries on business in connection with the security activities to be authorised by the licence,
 - (c) the nominated person for the licence, being an individual who is:
 - (i) an Australian citizen or permanent Australian resident, and
 - (ii) involved in the day-to-day conduct of the applicant's security activities,
 - (d) the address of the head office of the applicant,
 - (e) the security activities in respect of which the applicant proposes to carry on business under the master licence,
 - (f) if the application is for a subsequent licence or the variation of a licence, the number and expiry date of the existing licence,
 - (g) particulars of each firearms licence held by the applicant that relates to any proposed security activities,
 - (h) particulars relating to each employee of the applicant who is authorised to possess or use a firearm in the course of his or her employment (including the number of the employee's firearms licence),
 - (i) evidence that the applicant has obtained public liability insurance as required by clause 35 (if applicable to the applicant).
- (5) The Commissioner may refuse to grant an application for a licence if the applicant does not provide such other information and particulars as the Commissioner may require in respect of the application.

14 Application for class 1, class 2 or provisional licences--written references: section 14 (3) (b)

- (1) For the purposes of section 14 (3) (b) of the Act, the following classes of persons are prescribed:

- (a) accountants (namely, members of the Institute of Chartered Accountants in Australia, CPA Australia, the National Institute of Accountants or the Association of Taxation and Management Accountants, or registered tax agents),
 - (b) bank managers,
 - (c) Australian lawyers within the meaning of the *Legal Profession Act 2004* and patent attorneys,
 - (d) clerks or registrars of court,
 - (e) registered medical practitioners,
 - (f) judges,
 - (g) members of the Chartered Institute of Company Secretaries in Australia,
 - (h) public sector employees (other than members of the police force, or other law enforcement agency, of any jurisdiction) who have been employed full-time continuously for at least 5 years,
 - (i) teachers who have been teaching full-time for at least 5 years at schools or tertiary institutions,
 - (j) ministers of religion,
 - (k) the applicant's current or previous employers,
 - (l) justices of the peace,
 - (m) persons who have held a licence continuously for at least 5 years.
- (2) A person included in a class prescribed under subclause (1):
- (a) must have personally known the applicant for at least 12 months, and
 - (b) must provide particulars of the context in which they know the applicant, and
 - (c) must not be a close family member of the applicant.
- (3) A person included in a class prescribed under subclause (1) must not provide a written reference under section 14 (3) (b) of the Act that is false or misleading in a material particular. Maximum penalty: 20 penalty units.
- (4) In this clause: "**close family member**" of an applicant means:
- (a) a parent of the applicant or other person with parental responsibility for the applicant, or
 - (b) the spouse or partner of the applicant, or
 - (c) a child or stepchild of the applicant or any other person for whom the applicant has parental responsibility, or
 - (d) a brother, sister, half-brother or half-sister, or stepbrother or stepsister of the applicant.

"**spouse or partner**" means:

- (a) a husband or wife, or
- (b) the other party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*,

but where more than one person would so qualify as a spouse or partner, means only the last person to so qualify.

15 Competencies: section 15 (1) (c)

(1) Class 1 and class 2 licences For the purposes of section 15 (1) (c) of the Act, the attainment of the approved competency standards, or the approved level of accreditation, for the class of licence sought by the applicant are prescribed in relation to an applicant for a class 1 or class 2 licence.

(2) False qualification certificates A person who obtains, or attempts to obtain, or who creates, issues or produces any document in connection with subclause (1) that is false or misleading in a material particular is guilty of an offence. Maximum penalty: 20 penalty units.

16 Grounds for refusal to grant licence: section 15 (4)

(1) Mandatory grounds for refusal--individual For the purposes of section 15 (4) of the Act, the Commissioner must refuse to grant an application for a master licence if the applicant, or a close associate of the applicant:

(a) at any time in the 3 years immediately preceding the application for the licence, was an undischarged bankrupt or applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit, unless the Commissioner is satisfied that the person took all reasonable steps to avoid the bankruptcy, or

(b) at any time in the 3 years immediately preceding the application for the licence, was concerned in the management of a corporation when the corporation was the subject of a winding up order or when a controller or administrator was appointed, unless the Commissioner is satisfied that the person took all reasonable steps to avoid the liquidation or administration.

(2) Mandatory grounds for refusal--corporation For the purposes of section 15 (4) of the Act, the Commissioner must refuse to grant an application for a master licence if the applicant:

(a) is a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed, or

(b) at any time in the 3 years immediately preceding the application for the licence, was a corporation the subject of a winding up order or for which a controller or administrator was appointed.

(3) Mandatory grounds for refusal--master licensee must be current member of approved security industry association For the purposes of section 15 (4) of the Act, the Commissioner must refuse to grant an application for a master licence if the applicant is not a current member of an approved security industry association.

(4) Mandatory grounds for refusal--offences and payment of penalty notices under the Act For the purposes of section 15 (4) of the Act, the Commissioner must refuse to grant an application for a licence if the applicant is convicted of an offence under the Act but only if a total of at least 3 such offences arising out of different sets of circumstances have been committed by the applicant during any period of 2 years.

(5) For the purposes of subclause (4), a person is taken to have committed an offence at the time that the person:

(a) is convicted of the offence by a court, or

(b) pays the penalty required by a penalty notice served on the person under section 45A of the Act in respect of the alleged offence (or if the person does not pay the penalty and does not elect to have the matter dealt with by a court, at the time that enforcement action is taken against the person under Division 3 or 4 of Part 4 of the *Fines Act 1996*).

(6) Discretionary grounds for refusal For the purposes of section 15 (4) of the Act, the Commissioner may refuse to grant an application for a master licence if the applicant, or a close associate of the applicant, has, within the period of 3 years before the application for the licence was made, been found guilty of an offence:

(a) under the *Fair Trading Act 1987* that relates to a contravention of section 44, 46, 49, 50, 53 or 55 of that Act, or

(b) under the *Trade Practices Act 1974* of the Commonwealth that relates to a contravention of section 51AA-51AC, 52, 53, 53B, 55, 55A, 58 or 60 of that Act.

17 References to close associate: section 15 (5)

For the purposes of section 15 (5) of the Act, a reference to an applicant in section 15 (1) (c), (d) and (e) of the Act does not include a reference to a close associate of the applicant.

18 Offences and civil penalties that disqualify applicants

(1) Prescribed offences: section 16 (1) (a) and (b) For the purposes of section 16 (1) (a) and (b) of the Act, the following offences are prescribed offences regardless of whether they are committed in New South Wales:

(a) An offence relating to the possession or use of a firearm, or any other weapon, committed under:

- (i) the law of any Australian jurisdiction, or
- (ii) the law of any overseas jurisdiction (being an offence that, had it been committed in Australia, would be an offence under the law of an Australian jurisdiction),

and being an offence that would (had the offence been committed under the law of an Australian jurisdiction) disqualify the person concerned from holding a licence under the *Firearms Act 1996*.

(b) An offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2002*, in respect of which the maximum penalty imposed is imprisonment for 6 months or more, or a penalty of \$2,200 or more, or both, being an offence committed under:

- (i) the law of any Australian jurisdiction, or
- (ii) the law of any overseas jurisdiction (being an offence that, had it been committed in Australia, would be an offence under the law of an Australian jurisdiction).

(c) An offence under the law of any Australian or overseas jurisdiction involving assault of any description, being:

- (i) an offence in respect of which the penalty imposed is imprisonment, or a fine of \$200 or more, or both, or
- (ii) in any cases where the applicant concerned has been found guilty but not been convicted--an offence that, in the opinion of the Commissioner, is a serious assault offence.

(d) An offence under the law of any Australian or overseas jurisdiction involving fraud, dishonesty or stealing, being an offence in respect of which the maximum penalty is (had the offence been committed under the law of an Australian jurisdiction) imprisonment for 3 months or more.

(e) An offence under the law of any Australian or overseas jurisdiction involving robbery (whether armed or otherwise).

(f) In the case of an application for a master licence only, an offence under the *Industrial Relations Act 1996* or under any similar law of any other Australian jurisdiction, but only if a total of at least 5 such offences have been committed by the applicant during any period of 2 years.

(g) An offence under section 93B of the *Crimes Act 1900* or any similar offence under the law of another jurisdiction.

(h) An offence under section 93C of the *Crimes Act 1900* or any similar offence under the law of another jurisdiction.

(i) An offence under the law of any Australian or overseas jurisdiction involving stalking or intimidation.

(j) An offence under section 32A of the *Occupational Health and Safety Act 2000* or any similar offence under the law of another jurisdiction.

(k) An offence relating to terrorism, being:

- (i) an offence under Part 6B of the *Crimes Act 1900* or against Part 5.3 of the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth, or
- (ii) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence referred to in subparagraph (i).

(l) An offence under section 93IK or 351A of the *Crimes Act 1900*.

(2) Prescribed civil penalties: section 16 (1) (c) For the purposes of section 16 (1) (c) of the Act, a civil penalty imposed under section 357 of the *Industrial Relations Act 1996* is prescribed, but only in the case of an application for a master licence and only if a total of at least 5 such penalties have been imposed on the applicant during any period of 2 years.

19 Direct supervision: section 29A

For the purposes of section 29A of the Act, the holder of a provisional licence ("**the provisional licensee**") is under the direct supervision of a person ("**the competent person**") who holds a class 1 licence that authorises the carrying on of the security activity to which the provisional licence relates if:

- (a) the provisional licensee receives detailed written instructions (which may, for example, be in the form of standard operating procedures, employment policies or an employment procedure manual) from the licensee's employer on the work to be performed, and
- (b) the provisional licensee performs tasks that are part of an overall work routine that is documented, and
- (c) the provisional licensee is subject to regular personal progress checks, in writing, on the work being performed by a nominated supervisor, and
- (d) in the case of the holder of a class P1C licence:
 - (i) the competent person is on the same premises as the provisional licensee, and
 - (ii) the provisional licensee is as far as practicable in the line of sight of the competent person, and
 - (iii) the competent person is able to immediately render assistance to the provisional licensee if required, and
 - (iv) there is at least one competent person on the relevant premises for every 3 provisional licensees, and
- (e) in the case of the holder of a class P1D licence (but only for the period of 3 months from the date the holder of such a licence commences employment with the relevant employer):
 - (i) the competent person is on the same premises as the provisional licensee, and
 - (ii) the provisional licensee is as far as practicable in the line of sight of the competent person, and
 - (iii) the competent person is able to immediately render assistance to the provisional licensee if required, and
 - (iv) there is at least the same number of competent persons as provisional licensees on the relevant premises, and
- (f) in the case of the holder of a class P1F licence:
 - (i) the provisional licensee is as far as practicable in the line of sight of the competent person, and
 - (ii) the competent person is able to immediately render assistance to the provisional licensee if required, and
 - (iii) the competent person holds a firearms licence under the *Firearms Act 1996* and the competent person's genuine reason under that Act for possessing or using the firearm is for business or employment, and
 - (iv) there is at least the same number of competent persons as provisional licensees on the relevant premises.

20 Surrender of licence: section 31

For the purposes of section 31 of the Act, a licence that is suspended or revoked must be immediately surrendered as follows:

- (a) if a notice of suspension or revocation is sent to the person to whom the licence was granted--the person must, on receiving that notice, deliver the licence to a police officer

or other approved person,

(b) if no such notice is sent to the person but the person is otherwise directed by a police officer or other approved person to hand over the licence--the person must hand over the licence in accordance with that direction.

21 Requirement to notify change of licence particulars

It is a condition of a licence that the holder of the licence must notify the Commissioner in writing of a change in any of the particulars in respect of a licence (including any change of address by the licensee), and of the appropriate new particulars, within 14 days of the change occurring.

22 Notification of lost etc licences

(1) A licensee must, within 7 days after becoming aware that the licence has been lost, stolen, destroyed, defaced or mutilated, notify the Commissioner of that occurrence.

Maximum penalty:

(a) in the case of a corporation--40 penalty units, or

(b) in the case of an individual--10 penalty units.

(2) For the purposes of this clause, the Commissioner is taken to have been notified of the occurrence if:

(a) written notice of the occurrence has been sent by post to the Commissioner, or

(b) oral notice of the occurrence has been given, either in person or by telephone, to a police officer at a police station or to the Police Assistance Line (131 444).

23 Application for replacement licence

(1) The Commissioner may, on being satisfied that a licence has been lost, stolen, destroyed, defaced or mutilated, and on payment of the fee of \$65, issue a replacement licence.

(2) An application for a replacement licence may be made by lodging an application in the approved form (or in such other manner as may be approved) with the Security Industry Registry.

24 Application for variation of master licence

(1) The Commissioner may, on the application of the holder of a master licence, vary the subclass of that licence (referred to in this clause as the "**old subclass**") to another subclass.

(2) The fee payable on such an application is the difference between the application fee for the other subclass and the application fee for the old subclass.

(3) A master licence that has been varied under this clause remains in force only for the term of that licence, unless sooner surrendered or revoked or otherwise ceases to be in force.

25 Application for variation of licence

An application under section 27 of the Act for the variation of a class 1, class 2 or provisional licence must be accompanied by a fee of \$80.

26 Amendment of licence

An application to amend the information relating to a licence (not being an application to vary a licence) must be accompanied by a fee of \$65.

27 Pending application for subsequent licence

If a person applies for a subsequent licence before the term of the person's current licence expires (referred to in this clause as the "**old licence**") and the application has not been dealt with by the time the old licence expires, the authority conferred by the old licence continues:

(a) until the person is notified of the refusal of the subsequent licence, or

(b) until the person collects the subsequent licence in accordance with the condition set

out in section 21 (4) of the Act, or
(c) until 60 days after the person is notified of the grant of the subsequent licence,
whichever occurs first.

28 Special licence conditions--fingerprints: section 21 (3) (b)

(1) For the purposes of section 21 (3) (b) of the Act, it is a condition of a licence that the licensee must, at the Commissioner's request, consent to having his or her fingerprints taken by an authorised officer (within the meaning of section 18 of the Act) in order to confirm the licensee's identity.

(2) Any fingerprint obtained in accordance with this clause may be used by the Commissioner for any purpose as the Commissioner sees fit.

(3) A person who formerly held a licence, but is not currently a licensee, may apply to the Commissioner to have his or her fingerprints and any copies of them destroyed.

(4) The Commissioner may grant or refuse the application as the Commissioner sees fit.

29 Revocation of licence--additional reasons: section 26 (1) (d)

For the purposes of section 26 (1) (d) of the Act, a licence may be revoked if the Commissioner considers that it is not in the public interest for the person to whom it is granted to continue to hold it.

30 Training

A person is not eligible to undertake any training course required under the Act for the purposes of obtaining a licence if the person would be refused the licence because of section 16 of the Act.

Part 3 – Master licences--special conditions

31 Requirement to display master licence

It is a condition of a master licence that the licensee must conspicuously display a copy of the master licence at the principal place of business of the licensee.

32 Requirement to display licence number

(1) It is a condition of a master licence that the licensee must ensure that any sign on any premises or vehicle used in connection with the security activity authorised by the master licence contains the number of the licence.

(2) This clause does not have effect until 1 September 2008.

33 Job advertisements

It is a condition of a master licence that the licensee must, in any advertisement relating to the employment of persons to perform security activities as employees of the master licensee, include the master licensee's business or proper name (within the meaning of the *Business Names Act 2002*) and number of the master licence.

34 Requirement to notify changes relating to close associates

It is a condition of a master licence that the licensee must notify the Commissioner in writing of any change in the particulars relating to the close associates of the licensee within 14 days after the change occurs.

35 Public liability insurance

If the holder of a master licence provides persons to carry on security activities involving the possession or use of firearms or the use of dogs, it is a condition of the master licence that the licensee must obtain and maintain (in an approved form) public liability insurance cover totalling at least \$10,000,000.

36 Records required to be kept by master licensees

(1) It is a condition of a master licence that the licensee must keep a register in the approved form containing the following records:

- (a) the full name, residential address and licence number of each class 1, class 2 or provisional licensee employed by the holder of the master licence,
- (b) the expiry date of the licence held by each class 1, class 2 or provisional licensee employed by the holder of the master licence,
- (c) in relation to each record containing the name of a provisional licensee--that licensee's supervisor,
- (d) the documentation referred to in clause 19 (a)-(c),
- (e) in relation to each occasion on which the holder of the master licence is engaged to provide security services to be performed by a class 1 licensee employed by the holder of the master licence:
 - (i) the name and address of the person engaging those services, and
 - (ii) the address of the location at which the services are provided, and
 - (iii) the date on which the services are provided, and
 - (iv) details of the services provided, and
 - (v) the name of the class 1 licensee who provided the services.

(2) If the holder of a master licence employs any person to perform a mobile patrol service, it is a condition of the licence that the holder of the licence must ensure that a record of each patrol visit is kept.

(3) Each record required to be kept under this clause must be kept for at least 3 years.

37 Incident register

(1) If the holder of a master licence employs a class 1 licensee or a provisional licensee, it is a condition of the master licence that the licensee must keep a register containing particulars of the following incidents that occur while the licensee is performing his or her duties:

- (a) in relation to a class 1A, 1B, 1C, 1D, 1F, 1G, P1A, P1B, P1C, P1D, P1F or P1G licensee--the licensee makes forceable physical contact with, or physically restrains, a member of the public,
- (b) in relation to a class 1C or class P1C licensee--the licensee ejects a member of the public from the premises or site concerned,
- (c) in relation to a class 1D or class P1D licensee--the licensee's dog attacks a person,
- (d) in relation to a class 1F or class P1F licensee--the licensee removes a firearm from his or her holster (unless the removal is for the purposes of unloading ammunition or for the maintenance of the firearm),
- (e) in relation to a class 1F or class P1F licensee--the licensee discharges a firearm.

(2) If an incident involves a provisional licensee, the particulars must include the name of that licensee's supervisor.

(3) The incident register must be kept on premises that are used for the purposes of conducting the security activity authorised by the relevant master licence.

(4) The incident register must contain a copy of the relevant master licence.

(5) The requirement to keep a register under this clause is in addition to the requirement under clause 36 to keep records.

38 Vehicles used for cash in transit activities

(1) Armoured vehicles If the holder of a master licence provides persons to carry on security activities involving the protection of cash in transit, it is a condition of the master licence that any armoured vehicle used in connection with those activities must include, or be equipped with, the following features:

- (a) permanent company signage or markings,
- (b) ballistic protection to the crew members of the vehicle with G2 (or equivalent)

rated body and glazing materials within the meaning of the Australian and New Zealand Standard *AS/NZS 2343:1997, Bullet-resistant panels and elements*,

(c) a back-to-base radio with override button for use in an emergency,
(d) an alternative method of communication to the back-to-base radio that is operable in radio reception black spots,

(e) a mobile telephone,

(f) in relation to an armoured vehicle operated only by a 2-person crew where both crew members exit the vehicle to deliver cash--the following features:

(i) a remotely activated central locking system, or a method of preventing unauthorised entry into the vehicle,

(ii) one or more engine immobilisers designed to prevent unauthorised ignition of the vehicle,

(iii) a Global Positioning System that allows the vehicle to be remotely tracked,

(iv) portable back-to-base duress alarms for the crew,

(v) a system of secure partitioning that allows the crew to enter and exit the vehicle without exposing the crew and that restricts access to the vehicle's cargo by persons other than the crew.

(2) Other vehicles If the holder of a master licence provides persons to carry on security activities involving the protection of cash in transit, it is a condition of the master licence that any vehicle (other than an armoured vehicle) used in connection with those activities must include, or be equipped with, the following features:

(a) permanent company signage or markings,

(b) a drop safe, secure container or other similar device used to ensure that the cash in transit is secure,

(c) a back-to-base radio with override button for use in an emergency,

(d) an alternative method of communication to the back-to-base radio that is operable in radio reception black spots,

(e) a hands-free mobile telephone,

(f) a remotely activated central locking system, or a method of preventing unauthorised entry into the vehicle,

(g) one or more engine immobilisers designed to prevent unauthorised ignition of the vehicle,

(h) a Global Positioning System that allows the vehicle to be remotely tracked,

(i) portable back-to-base duress alarms for the crew.

(3) The Commissioner may, on application by a master licensee, authorise in writing a vehicle that does not include permanent company signage or markings in accordance with subclause (2) (a) to be a vehicle that may be used in the protection of cash in transit.

(4) An authorisation under subclause (3) remains in force for such time as is specified in the authorisation unless it is sooner revoked by the Commissioner.

Part 4 – Miscellaneous provisions

39 Inspection of records and register

(1) A record kept by a master licensee under clause 36, any incident register kept by a master licensee under clause 37 and any other record relating to the security operations of a master licensee that is kept by the licensee, may be inspected at any reasonable time at the place of business where they are kept:

(a) by any police officer, or

(b) by any person authorised in writing by the Commissioner for the purposes of this clause,

and any police officer or person so authorised may take copies of or extracts from those records or that register.

(2) A person who is authorised to inspect any such records or register may request, by notice in writing, that a person, who is for the time being in charge of the place where the records or register are kept, produce the records or register for inspection in accordance with the request.

(3) A person to whom any such request is made must not, without reasonable excuse, fail to produce the records or register in accordance with the request. Maximum penalty:

(a) in the case of a corporation--100 penalty units, or

(b) in the case of an individual--50 penalty units.

(4) A person who fails to produce any such records or register in accordance with such a request does not commit an offence under subclause (3) unless it is established that the person was informed by the person making the request, or that the person otherwise knew, that such a failure could constitute an offence.

40 Uniforms and vehicle markings

(1) A reference in this clause to any guidelines prepared by the Commissioner is a reference to the guidelines:

(a) made publicly available by the Commissioner, and

(b) in force as at the commencement of this Regulation.

(2) The Commissioner may prepare guidelines with respect to:

(a) the character and design of uniforms to be worn in connection with the carrying on of security activities (including in connection with carrying on specified security activities), and

(b) the markings that may be made on, and the design of any specified features of, vehicles used in connection with the carrying on of security activities.

(3) Any such guidelines are to provide that the relevant uniforms and vehicles cannot resemble the uniforms of police officers or the marked vehicles of the NSW Police Force.

(4) If the guidelines provide for the wearing of a uniform in connection with the carrying on of a security activity, a person must, in the course of carrying on that activity, wear a uniform that complies with the guidelines for that activity. Maximum penalty: 2 penalty units.

(5) If the guidelines provide for the wearing of a uniform in connection with the carrying on of a security activity, the employer of a person who is carrying on that activity must ensure that the person, in the course of carrying on that activity, wears a uniform that complies with the guidelines for that activity. Maximum penalty:

(a) in the case of a corporation--5 penalty units, or

(b) in the case of an individual--2 penalty units.

(6) The Commissioner may, by notice in writing to a person or to the employer of a person, advise:

(a) that the character or design of the uniform worn by the person, by reason of some feature specified in the notice, does not accord with the relevant guidelines, or

(b) that the vehicle used by the person, by reason of some marking or feature specified in the notice, does not accord with the relevant guidelines.

(7) A person to whom any such advice has been notified in relation to a uniform or vehicle must not wear the uniform or use the vehicle, or permit the person's employees to do so, until the feature or marking that does not accord with the relevant guidelines has been corrected or removed. Maximum penalty:

(a) in the case of a corporation--40 penalty units, or

(b) in the case of an individual--20 penalty units.

41 Procedures for duplicating restricted keys

If the holder of a class 2C licence is authorised under the licence to duplicate restricted keys, it is a condition of the licence that the holder must not duplicate a restricted key except in accordance with the procedures, if any, determined by the Security Industry Council and published with the approval of the Commissioner.

42 Security Industry Council: section 43A (2)

- (1) For the purposes of section 43A (2) of the Act, the members of the Security Industry Council are to be appointed by the Minister in accordance with this clause.
- (2) The Security Industry Council is to consist of 12 members, of whom:
 - (a) 1 is to be appointed by the Minister as Chairperson in accordance with subclause (3), and
 - (b) 11 are to be appointed by the Minister in accordance with subclause (4).
- (3) The Chairperson is to be an independent and eminent person appointed on an honorarium basis by the Minister on the advice of the members appointed under subclause (4).
- (4) The appointed members are as follows:
 - (a) 1 representative of the Ministry for Police,
 - (b) 1 representative of the Security Industry Registry, NSW Police Force,
 - (c) 1 representative of the Vocational Education and Training Accreditation Board,
 - (d) 1 representative of the Australian Liquor, Hospitality and Miscellaneous Union,
 - (e) 1 representative of the Transport Workers' Union,
 - (f) 1 representative of the Office of Fair Trading, Department of Commerce,
 - (g) 1 representative of Qantas,
 - (h) 1 representative of Australian Bankers' Association,
 - (i) 1 representative from 3 different approved security industry associations.
- (5) A member (other than a member referred to in subclause (4) (a) or (b)) is to be appointed for a period of 3 years unless the member is unable to continue his or her appointment.
- (6) Members are eligible for re-appointment.

43 Security recordings

- (1) A person who deliberately or recklessly destroys, edits, alters, erases or otherwise interferes with any security recording that relates to any incident involving a licensee performing his or her duties that would likely lead to criminal or disciplinary proceedings against that licensee is guilty of an offence. Maximum penalty: 50 penalty units.
- (2) A person does not commit an offence under this clause if the person destroys, edits, alters, erases or otherwise interferes with a security recording after any criminal or disciplinary proceedings relating to the recording have been finalised.
- (3) In this clause, "**security recording**" means security, surveillance, closed circuit television or digital recording or footage.

44 Offence of impersonating a licensee

A person must not impersonate, or falsely represent that the person is, a licensee.

Maximum penalty: 50 penalty units.

45 Approval for training organisations to conduct approved courses

- (1) The Commissioner may grant an approval to a registered training organisation to conduct a security industry training course that is approved by the Commissioner.
 - (2) An approval to conduct any such course is subject to such conditions as may be imposed by the Commissioner at the time the approval is granted or at any later time.
 - (3) An approval under this clause may be revoked or suspended at any time by the Commissioner by notice in writing to the registered training organisation concerned.
 - (4) A registered training organisation that conducts an approved security industry training course must comply with the conditions of the organisation's approval under this clause.
- Maximum penalty:
- (a) in the case of a corporation--100 penalty units, or
 - (b) in the case of an individual--50 penalty units.

(5) A person must not conduct an approved security industry training course unless the Commissioner has granted an approval to the person to conduct the course. Maximum penalty:

- (a) in the case of a corporation--100 penalty units, or
- (b) in the case of an individual--50 penalty units.

46 Penalty notice offences and penalties: section 45A

(1) For the purposes of section 45A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and
- (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of Schedule 2.

(2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

Part 5 – Savings and transitional provisions

47 Existing class 1A and class 2C licences: clause 12 of Schedule 2

(1) If the holder of an existing class 1A or 2C licence fails to make an application to the Commissioner for a determination (as referred to in clause 12 (1) (b) of Schedule 2 to the Act) of the relevant licence class within 3 months after the commencement of that clause, the existing licence is taken to be suspended.

(2) An application for a determination of the relevant licence class in respect of an existing class 1A or 2C licence must be in an approved form and be accompanied by a fee of \$40. The applicant must also provide any particulars that may be required by the Commissioner.

(3) An existing class 1A or 2C licence that continues in force after the commencement of clause 12 of Schedule 2 to the Act authorises any activities that were authorised by the licence immediately before that commencement until such time as whichever of the following occurs first:

- (a) the Commissioner determines the relevant licence class in respect of the existing licence,
- (b) the existing licence is revoked,
- (c) the existing licence expires at the end of its term.

(4) If the Commissioner determines an existing licence to be of a particular class, the existing licence is taken to be a licence of that class and, unless it is sooner surrendered by the holder or suspended or revoked under the Act, remains in force for the unexpired portion of its term.

(5) Nothing in this clause prevents an existing licence from being suspended or subjected to conditions.

(6) In this clause: "**existing licence**" has the same meaning as in clause 12 of Schedule 2 to the Act.

48 General savings

Any act, matter or thing that, immediately before the repeal of the *Security Industry Regulation 1998*, had effect under that Regulation is taken to have effect under this Regulation.

Schedule 1 Exempt persons

(Clause 6)

1

Persons employed in the Security Division of Rail Corporation New South Wales for the purpose

of undertaking security activities (other than contract security guards who are engaged to perform watch and guard duty at Rail Corporation New South Wales properties), but only to the extent to which the persons act in that capacity.

2

Authorised fire officers under the control of New South Wales Fire Brigades or a local council or similar body, but only to the extent to which the officers act in that capacity.

3

Persons employed in the Office of the Sheriff, Attorney General's Department, but only to the extent to which the persons act in that capacity.

4

The Casino Control Authority, but only to the extent to which it is exercising functions under section 141 (2) (i), (j) and (k) of the *Casino Control Act 1992*.

5

Casino inspectors appointed under section 106 of the *Casino Control Act 1992*, but only to the extent to which the inspectors act in that capacity.

6

Persons employed at a detention centre within the meaning of the *Children (Detention Centres) Act 1987*, but only to the extent to which the persons act in that capacity.

7

Persons who, in the course of their employment with an employer (being an employer who is not conducting a business in the security industry):

(a) provide internal advice (but no other type of security activity) in relation to security matters concerning the employer's business, including providing internal advice to a related body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the employer, but only to the extent to which the persons act in that capacity, or

(b) install, maintain, repair or service internal security equipment (but no other type of security activity) in connection with the employer's business, but only to the extent to which the persons act in that capacity.

8

Licenseses under the *Liquor Act 1982* and employees who perform activities relating to the exclusion of persons from licensed premises as authorised by that Act (other than any such employee who is employed for the purposes of carrying on security activities), but only to the extent to which they act in that capacity.

9

Secretaries of registered clubs and employees who perform activities relating to the exclusion of persons from club premises as authorised under the *Registered Clubs Act 1976* (other than any such employee who is employed for the purposes of carrying on security activities), but only to the extent to which they act in that capacity.

10

Persons who are engaged in the building and construction industry or who provide basic home maintenance services who, in the course of their building activities or maintenance services, install basic security equipment such as locks, but only to the extent to which the persons provide

those services.

11

Architects, engineers and other persons engaged in the building and construction industry who, in the course of their activities, provide incidental advice on basic security equipment, but only to the extent to which the persons provide that advice.

12

Persons who are engaged in the selling of the equipment, methods, principles or services referred to in section 4 (1) (e) of the Act by means of making telephone calls to seek out persons who may be prepared to enter, as consumers, into contracts for the supply of such equipment, methods, principles or services, but only to the extent to which the persons act in that capacity.

13

Persons who sell, by wholesale (other than directly to the public) only, equipment referred to in section 4 (1) (e) of the Act, but only to the extent to which the persons sell such equipment.

14

Persons who are employed by or in any government agency (whether of this State, of the Commonwealth or of another State or Territory) that exercises functions in relation to national security, but only to the extent to which the persons carry out national security duties in the course of that employment.

15

Officers and employees of the Australian Security Intelligence Organisation, but only to the extent to which the officers and employees are exercising functions under the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth.

16

Persons who are employed in the Department of Education and Training who perform control room or monitoring centre operations solely on behalf of that Department, but only to the extent to which the persons act in that capacity.

17

Persons who are employed in the State Transit Authority Division of the Government Service for the purposes of revenue protection activities, but only to the extent to which they carry out those duties in the course of that employment.

18

Persons who are employed in the State Transit Authority Division of the Government Service whose duties include observing, watching and guarding, by electronic means, State Transit Authority properties, but only to the extent to which the persons carry out those duties in the course of that employment.

19

Persons who are employed in the State Transit Authority Division of the Government Service or by Rail Corporation New South Wales whose duties include providing training in and assessment of security activities (other than persons engaged from external sources by those entities to provide security training), but only to the extent to which the persons carry out those duties in the course of that employment.

20

Persons who are employed in a security business but who do not perform any security activities.

21

Persons employed in the Attorney General's Department whose duties include advising on crime prevention strategies or community safety work, but only to the extent to which the persons carry out those duties in the course of that employment.

22

Persons employed by or in a local council whose duties include advising on crime prevention strategies or community safety work, but only to the extent to which the persons carry out those duties in the course of that employment.

23

Persons who are employed by or in a Commonwealth government agency who provide security advice to a Commonwealth government agency in connection with the functions of the agency by or in which they are employed, but only to the extent to which the persons provide such advice.

24

Persons who are engaged in the retail sale of the equipment referred to in section 4 (1) (e) of the Act who provide advice in relation to the equipment, being advice that is from the manufacturer of the equipment (but who do not install or maintain the equipment), but only to the extent to which the persons act in that capacity.

25

Persons who are employed in the retail industry who, in the course of that employment, conduct customer bag checks (but only bag checks that are carried out in accordance with guidelines sponsored by the Australian Retailers Association (NSW) and endorsed by the Office of Fair Trading, Department of Commerce), but only to the extent to which the persons act in that capacity.

Schedule 2 Penalty notice offences

(Clause 46)

Column 1	Column 2
Provision	Penalty (\$)
Offences under the Act	
Section 7 (1)--where the offence is committed by a corporation	11,000
Section 7 (1)--where the offence is committed by an individual	5,500
Section 7 (2)	5,500
Section 29A (2)--where the offence is committed by a corporation	2,200
Section 29A (2)--where the offence is committed by an individual	1,100
Section 29B	5,500
Section 30--where the offence is committed by a corporation	2,200

Section 30--where the offence is committed by an individual	1,100
Section 31--where the offence is committed by a corporation	2,200
Section 31--where the offence is committed by an individual	1,100
Section 32--where the offence is committed by a corporation	2,200
Section 32--where the offence is committed by an individual	1,100
Section 33 (1)--where the offence is committed by a corporation	2,200
Section 33 (1)--where the offence is committed by an individual	1,100
Section 33 (2)	550
Section 34	550
Section 35	550
Section 36 (1)	550
Section 37--where the offence is committed by a corporation	2,200
Section 37--where the offence is committed by an individual	1,100
Section 38	440
Section 38B	1,100
Section 38C	1,100
Section 39 (1)--where the offence is committed by a corporation	2,200
Section 39 (1)--where the offence is committed by an individual	1,100
Section 39A	1,100
Section 39B--where the offence is committed by a corporation	220
Section 39B--where the offence is committed by an individual	110
Section 42A (4)	1,100
Offences under this Regulation	
Clause 14 (3)	220
Clause 15 (2)	220
Clause 22 (1)--where the offence is committed by a corporation	440
Clause 22 (1)--where the offence is committed by an individual	110
Clause 39 (3)--where the offence is committed by a corporation	1,100
Clause 39 (3)--where the offence is committed by an individual	550
Clause 40 (4)	22
Clause 40 (5)--where the offence is committed by a corporation	55
Clause 40 (5)--where the offence is committed by an individual	22

Clause 40 (7)--where the offence is committed by a corporation	440
Clause 40 (7)--where the offence is committed by an individual	220
Clause 43 (1)	550
Clause 44	550
Clause 45--where the offence is committed by a corporation	1,100
Clause 45--where the offence is committed by an individual	550

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
ClI	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *Security Industry Regulation 2007 (376)*. GG No 98 of 3.8.2007, p 5353. Date of commencement, 1.9.2007, cl 2.