



Queensland

Tattoo Parlours Act 2013

Act No. 46 of 2013



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Tattoo Parlours Act 2013

Act No. 46 of 2013

An Act to provide for the licensing and regulation of body art tattooing businesses and body art tattooists and other related matters and to amend the Liquor Act 1992 and the Police Powers and Responsibilities Act 2000 for particular purposes

[Assented to 17 October 2013]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Tattoo Parlours Act 2013*.

2 Commencement

This Act, other than part 9, commences on a day to be fixed by proclamation.

3 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

4 Meaning of *close associate*

- (1) A person is a *close associate* of an applicant for a licence or a licensee if—
- (a) the person—
 - (i) holds or will hold a relevant financial interest, or is or will be entitled to exercise a relevant power, whether exercisable alone or in association with others, 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 licence; and
 - (ii) because of the interest or power, is or will be able, in the commissioner's opinion, to exercise a significant influence over or with respect to the management or operation of the business; or

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- (b) the person holds or will hold any relevant position, whether in the person's own right or on behalf of another person, in the business of the applicant or licensee that is or will be carried on under the licence; or
 - (c) the person 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 licence.
- (2) For this section, a financial institution is not a close associate merely because the institution has a relevant financial interest in a business.
- (3) This section extends to relevant financial interests and relevant powers even if the 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 a business, means—

- (a) a share in the capital of the business; or
- (b) an entitlement to receive any income derived from the business, or to receive another 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) an entitlement to receive 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, including, 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) another position, however described, if it is an executive position.

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relevant power means a power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

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

5 Operation of other laws not affected

Nothing in this Act limits or restricts the operation of another law providing for 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 premises unless the person is authorised to do so by an operator licence.

Maximum penalty—

- (a) for a first offence—500 penalty units; or
 - (b) for a second offence—700 penalty units or 6 months imprisonment; or
 - (c) for a third or later offence—1000 penalty units or 18 months imprisonment.
- (2) To remove any doubt, it is declared that if a body art tattooing business is carried on, or is proposed to be carried on, at more than 1 premises, a separate operator licence is required to be held by a person for each premises.

- (3) A person who requires 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) for a first offence—500 penalty units; or
 - (b) for a second offence—700 penalty units or 6 months imprisonment; or
 - (c) for a third or later offence—1000 penalty units or 18 months imprisonment.
- (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 decided by the chief executive; 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 the licensee 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 decided by the chief executive; or
 - (c) under a permit.
- (5) It is a defence in proceedings for an offence against subsection (3) if the person satisfies the court the person did not know, and could not reasonably have been expected to know, 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 a body art tattooing procedure for fee or reward unless authorised to do so by a tattooist licence.

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Maximum penalty—

- (a) for a first offence—500 penalty units; or
 - (b) for a second offence—700 penalty units or 6 months imprisonment; or
 - (c) for a third or later offence—1000 penalty units or 18 months imprisonment.
- (2) An individual must not perform a body art tattooing procedure, whether or not for fee or reward, at licensed premises unless authorised to do so by a tattooist licence.

Maximum penalty—

- (a) for a first offence—500 penalty units; or
 - (b) for a second offence—700 penalty units or 6 months imprisonment; or
 - (c) for a third or later offence—1000 penalty units or 18 months imprisonment.
- (3) Subsections (1) and (2) 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) under a permit.

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) for a first offence—500 penalty units; or
- (b) for a second offence—700 penalty units or 6 months imprisonment; or
- (c) for a third or later offence—1000 penalty units or 18 months imprisonment.

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- (2) Subsection (1) does not apply to the employment of an individual to work as a body art tattooist in circumstances prescribed under a regulation.
 - (3) It is a defence in proceedings for an offence against subsection (1) if the person satisfies the court the person did not know, and could not reasonably have been expected to know, the individual employed to work as a body art tattooist was unlicensed.

Part 3 Licensing scheme

Division 1 General

9 Types of licences and authorisation conferred by licence

- (1) The following types 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 the licensee's own behalf or on behalf of another person, at the premises stated in the licence.
- (3) A tattooist licence authorises the licensee to perform body art tattooing procedures.

10 Licence conditions—general provisions

- (1) A licence is subject to the conditions—
 - (a) the chief executive may impose for a particular licence; and
 - (b) imposed under this Act.

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- (2) Subject to subsection (4), the chief executive may impose, vary or revoke conditions on a licence for the reasons, and in the circumstances, the chief executive considers appropriate.
- (3) The chief executive may—
 - (a) impose a condition at the time the licence is granted by stating it on the licence that is granted; and
 - (b) impose, vary or revoke conditions on a licence after it is granted by notice given to the licensee.
- (4) Nothing in this section authorises the chief executive—
 - (a) to impose a condition that is inconsistent with a condition imposed under this Act; or
 - (b) to vary or revoke a condition imposed under this Act.
- (5) A licensee must comply with any conditions to which the licence is subject.

Maximum penalty for subsection (5)—40 penalty units.

Division 2 Licence applications and granting of licences

11 Licence applications

- (1) An application for a licence must be made to the chief executive.
- (2) An application for a licence may only be made by an individual.
- (3) An application for an operator licence for 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 18 years; or

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- (b) an individual who is not an Australian citizen or Australian resident; or
 - (c) an individual who is a controlled person.
- (5) An application for a licence must—
- (a) be in the approved form; and
 - (b) state whether the licence is sought for a term of 1 or 3 years; and
 - (c) state the following for the applicant—
 - (i) full name;
 - (ii) date and place of birth;
 - (iii) residential address;
 - (iv) any other names by which the applicant has previously been known;
 - (v) if the applicant has a driver licence—the licence number; and
 - (d) be accompanied by—
 - (i) evidence of the applicant’s identity that is satisfactory to the chief executive; and
 - (ii) the statement mentioned in section 12; and
 - (iii) for each individual identified as a close associate of the applicant in the statement mentioned in section 12—evidence of each close associate’s identity that is satisfactory to the chief executive; and
- Example for subparagraphs (i) and (iii)—*
- The chief executive may adopt a system under which—
- (a) points are assigned to the applicant for producing particular evidence of identity; and
 - (b) the applicant is required to achieve a total number of points stated by the chief executive.
- (e) for an operator licence—

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- (i) state the address of the proposed licensed premises; and
 - (ii) state the business name of the body art tattooing business carried on or proposed to be carried on at the proposed licensed premises; and
 - (iii) state the name and residential address of each staff member employed, or proposed to be employed, to work at the proposed licensed premises; and
 - (iv) 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 that the applicant has been nominated by the corporation, partners or trustees to be the premises manager; and
- (f) for a tattooist licence—be accompanied by evidence in the approved form concerning previous, existing or impending employment as a body art tattooist; and
- (g) be accompanied by—
- (i) the fee prescribed under a regulation; and
 - (ii) the other information and particulars, if any, prescribed under a regulation; and
- (h) comply with any other requirement prescribed under a regulation.
- (6) If, before an application for a licence is decided by the chief executive, a change occurs in the information provided in, or in connection with, the application (including any information provided under this subsection), the applicant must within 7 business days after the change give notice to the chief executive of the particulars of the change.
- Maximum penalty for subsection (6)—20 penalty units.
- (7) The *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 does not apply in relation to an application for a licence.
- (8) In this section—

driver licence see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

12 Statement as to close associates of applicant for operator licence

- (1) An application for an operator licence must be accompanied by a written statement in the approved form, made by the applicant, stating—
 - (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 type 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—
 - (A) the names of the trustee or trustees; and
 - (B) if a trustee is a proprietary company—the information mentioned in subparagraph (ii); and
 - (C) if a trustee is a corporation—the information mentioned in subparagraph (iii).
- (2) This section does not apply in circumstances prescribed under a regulation.

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(3) In this section—

ACN see the Corporations Act.

ARBN see the Corporations Act.

proprietary company see the Corporations Act.

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 the commissioner to confirm the applicant's identity.
- (2) The chief executive must refuse to decide an application for a licence if the applicant refuses to be fingerprinted and palm printed.
- (3) If the applicant consents to having his or her fingerprints and palm prints taken by the commissioner, the chief executive must ask the commissioner to take the applicant's fingerprints and palm prints—
 - (a) to assist the chief executive in deciding whether the applicant is an appropriate person to hold a licence; and
 - (b) to assist the chief executive in identifying the applicant for the purpose mentioned in paragraph (a).
- (4) The commissioner must comply with a request made under subsection (3).
- (5) The commissioner must give the chief executive information about an applicant's identity derived from fingerprints and palm prints of the person taken under subsection (4).
- (6) The commissioner may use the fingerprints and palm prints of an applicant taken under subsection (4) only—
 - (a) to comply with subsection (5); or
 - (b) for performing a function of the police service.

14 Destruction of fingerprints and palm prints

- (1) A person who formerly held a licence, but is not currently a licensee, may apply to the commissioner to have the person's fingerprints or palm prints obtained under section 13, and any copies of the prints, destroyed.
- (2) The commissioner may decide to grant or refuse the application.
- (3) If the commissioner decides to grant the application, the commissioner must ensure that the former licensee's fingerprints or palm prints obtained under section 13, and copies of the prints, are destroyed as soon as practicable in the presence of a justice.
- (4) If the commissioner decides to refuse the application, the commissioner must give the applicant notice of the decision.
- (5) If an application for a licence is withdrawn or refused, the chief executive must ask the commissioner to ensure the applicant's fingerprints or palm prints obtained under section 13, and copies of the prints, are destroyed as soon as practicable after the application is withdrawn or refused.
- (6) The commissioner must comply with a request under subsection (5) in the presence of a justice.
- (7) As soon as practicable after the applicant's fingerprints or palm prints, or copies of the prints, are destroyed under subsection (3) or (6), the commissioner must give the applicant a notice stating that the fingerprints or palm prints, or copies, have been destroyed.

15 Investigations, inquiries and referrals in relation to licence applications

If the chief executive receives an application for a licence, the chief executive—

- (a) may carry out the investigations and inquiries in relation to the application the chief executive considers necessary for a proper consideration of the application; and

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- (b) must refer any application that the chief executive considers to have been properly made, along with any supporting information, to the commissioner for an investigation and determination as to either or both of the following—
 - (i) whether the applicant is a fit and proper person to be granted the licence;
 - (ii) whether it would be contrary to the public interest for the licence to be granted.

16 Chief executive or commissioner may require further information

- (1) The chief executive or the commissioner may, by notice given to an applicant for a licence or a close associate of the applicant, require the applicant or close associate to do 1 or more of the following things—
 - (a) give, in a stated way, stated information the chief executive or the commissioner considers relevant to the investigation of the application;
 - (b) produce, in a stated way, stated records the chief executive or the commissioner considers relevant to the investigation of the application and permit the chief executive or commissioner to examine, take extracts from and make copies of the records;
 - (c) authorise a person described in the notice to comply with a requirement mentioned in paragraph (a) or (b);
 - (d) give the chief executive or the commissioner the authorisation or consent the chief executive or the commissioner requires to enable the chief executive or the commissioner to obtain, from another person, information relevant to the investigation of the application.
- (2) A person who complies with a requirement of a notice under this section does not merely because of the compliance incur a liability to another person.

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- (3) The applicant is taken to have withdrawn the applicant's application if, within a stated reasonable time, the applicant or a close associate of the applicant fails to comply with a requirement under this section in relation to the application.
 - (4) In this section—
information includes financial and other confidential information.

17 Decision on application

- (1) The chief executive may, after considering an application for a licence and the determination of the commissioner under section 15 on the application, decide to—
 - (a) grant the licence; or
 - (b) refuse to grant the licence.
- (2) The chief executive must decide to refuse to grant the licence if—
 - (a) the chief executive is satisfied the application for the licence was not properly made; or
 - (b) an adverse security determination has been made by the commissioner about the applicant.
- (3) Without limiting subsection (1), the chief executive may decide to refuse to grant an operator licence if the chief executive is satisfied that—
 - (a) the applicant is subject to an order under the *Public Health (Infection Control for Personal Appearance Services) Act 2003* made in connection with the carrying out of skin penetration procedures; or
 - (b) for an application for a body art tattooing business owned or operated by or on behalf of a corporation—the corporation is the subject of a winding-up order or a corporation for which a controller or administrator has been appointed; or
 - (c) the applicant holds, or has held, a licence, permit or other authority under an Act administered by a relevant

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- Minister that has been suspended, cancelled or revoked;
or
- (d) the applicant is disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister; or
 - (e) the applicant is, or was at any time in the last 3 years, a director of or concerned in the management of an externally-administered body corporate under the Corporations Act other than the voluntary winding-up of the body corporate; or
 - (f) the applicant has been convicted of an offence against section 6(1) or (3) or 8(1); or
 - (g) another ground prescribed under a regulation exists for refusing the application.
- (4) Without limiting subsection (1), the chief executive may decide to refuse to grant a tattooist licence if the chief executive is satisfied—
- (a) the applicant holds, or has held, a licence, permit or other authority under an Act administered by a relevant Minister that has been suspended, cancelled or revoked; or
 - (b) the applicant is disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister; or
 - (c) the applicant has been convicted of an offence against section 7(1) or (2).
- (5) If the chief executive decides to grant the licence, the chief executive must promptly give the applicant—
- (a) the licence; and
 - (b) if the licence is subject to a condition under section 10(1)(a)—a QCAT information notice for the decision to impose the condition.

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- (6) If the chief executive decides to refuse to grant the licence, the chief executive must give the applicant a QCAT information notice for the decision.

18 Term of licence

- (1) A licence may be granted for a term of 1 year or 3 years.
- (2) A licence comes into force on the day stated in the licence.
- (3) A licence stops being in force if it is surrendered, cancelled or otherwise stops being in force.

Note—

See also the *Criminal Organisation Act 2009*, section 19 (Conditions of control order).

- (4) A licence suspended under this or another Act is taken not to be in force for this Act during the period of the suspension.
- (5) A licence cannot be renewed, but an application for a new licence may be made under this Act.

19 Form of licence

- (1) A licence must be in the approved form.
- (2) To remove any doubt, it is declared that the chief executive may approve a form of operator licence for display in the licensed premises.

Division 3 Role of commissioner

20 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 15, the commissioner is to inquire into and determine, and report to the chief executive on, either or both of the following—

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- (a) whether the applicant is a fit and proper person to be granted the licence;
 - (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 chief executive's request or on the commissioner's own initiative, either or both of the following and report to the chief executive on them—
- (a) whether a licensee continues to be a fit and proper person to hold his or her licence;
 - (b) whether it would be contrary to the public interest for the licensee to continue to hold his or her licence.
- (3) For making a determination on a matter mentioned in subsection (1) or (2), the commissioner may have regard to a 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 carried on or performed, or proposed to be carried on or performed, under the licence; or
 - (b) causes the commissioner to conclude improper conduct is likely to occur if the applicant is granted the licence or the licensee continues to hold the licence; or
 - (c) causes the commissioner not to have confidence improper conduct will not occur if the applicant is granted the licence or the licensee continues to hold the licence.

21 Commissioner may require further information

- (1) For an investigation by the commissioner about whether a licensee continues to be a fit and proper person to hold a licence, or whether it would be contrary to the public interest for the licensee to continue to hold a licence, the commissioner may, by notice given to the licensee, or a close

associate of the licensee, require the licensee or associate to do 1 or more of the following—

- (a) give, in a stated way, stated information the commissioner considers relevant to the investigation stated in the notice;
 - (b) produce, in a stated way, stated records the commissioner considers relevant to the investigation stated in the notice and permit the commissioner to examine, take extracts from and make copies of the records;
 - (c) authorise a person described in the notice to comply with a requirement mentioned in paragraph (a) or (b);
 - (d) give the commissioner the authorisation or consent the commissioner requires to enable the commissioner to obtain, from another person, information relevant to the investigation stated in the notice.
- (2) A person who complies with a requirement of a notice under this section does not incur a liability to another person merely because of the compliance.
- (3) In this section—
information includes financial and other confidential information.

22 Disclosure of criminal intelligence information

- (1) The commissioner is not, under this Act or another law, required to give reasons for determining a matter under section 20 if the giving of the reasons would disclose the existence or content of a criminal intelligence report or other criminal information mentioned in section 20(3).
- (2) The chief executive is not, under this Act or another law, required to give 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 the reasons would disclose a

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criminal intelligence report or other criminal information mentioned in section 20(3).

Division 4 Special conditions relating to licences generally

23 Licensee not to sell or dispose of licence

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

- (a) sell, dispose of, deliver, loan, hire or rent the licence to another person; or
- (b) permit another person to use the licence.

Division 5 Special conditions relating to operator licences

24 Inspection of financial records

- (1) It is a condition of an operator licence that the licensee must ensure the requirements of this section about 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 notice given to 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—

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- (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, including, for example, profit and loss statements, balance sheets and cash flow statements, are made up; and
 - (ii) adjustments to be made in preparing financial statements.

25 Change of licence particulars

- (1) It is a condition of an operator licence that the licensee must give the chief executive notice of any change in the licensee's particulars within 14 business days after the change.
- (2) In this section—

licensee's particulars means the information required to be provided by the licensee in connection with the licence application under section 11(5) or 12(1)(b).

26 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 a body art tattooing procedure at the licensed premises unless the individual is the holder of a tattooist licence.

27 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 notice to the chief executive of the change.

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- (2) There is a *change in staff employment* if—
 - (a) a new staff member is employed to work at the licensed premises; or
 - (b) a staff member stops being employed to work at the licensed premises.
- (3) The notice must include the following particulars—
 - (a) for a new staff member employed to work at the licensed premises—
 - (i) the full name and the residential address of the new staff member; and
 - (ii) the date of birth of the new staff member; and
 - (iii) the date on which the new staff member started work at the premises; and
 - (iv) the position in which the new staff member is employed to work;
 - (b) for a staff member who has stopped being employed to work at the licensed premises—
 - (i) the full name of the former staff member; and
 - (ii) the date of birth of the former staff member; and
 - (iii) the date on which the former staff member started work at the premises; and
 - (iv) the date on which the former staff member stopped being employed to work at the premises; and
 - (v) the position in which the former staff member was employed to work immediately before he or she stopped being a staff member.

28 Display of operator licence

It is a condition of an operator licence that the licensee must conspicuously display the licensee's licence at the licensed premises.

29 Advertisements

It is a condition of an operator licence that the licensee must ensure the licence number is included in an advertisement relating to the body art tattooing business carried on at the licensed premises.

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

It is a condition of an operator licence that, if a closure order has been made under section 47 in relation to the licensed premises, the licensee must return the licence to the chief executive within 7 business days after the order is made.

31 Notifying chief executive of lost, stolen or destroyed operator licence

It is a condition of an operator licence that the licensee must give the chief executive a notice that the licence has been lost, stolen or destroyed within 7 business days after the licensee becomes aware it has been lost, stolen or destroyed.

32 Notifying chief executive of existence of a prescribed licence cancellation circumstance

(1) It is a condition of an operator licence that the licensee must give a notice to the chief executive that a prescribed licence cancellation circumstance has happened or exists within 7 business days after the licensee becomes aware it has happened or exists.

(2) In this section—

prescribed licence cancellation circumstance means a circumstance mentioned in section 34 of a type that, if the chief executive were satisfied it had happened or exists, would enable the chief executive to cancel an operator licence.

Division 6 Suspension and cancellation of licences

33 Suspension of licence

- (1) The chief executive may, if the chief executive is satisfied there may be grounds for cancelling a licence, suspend the licence by giving the licensee a QCAT information notice—
 - (a) stating that the licence is suspended and, subject to section 22, the reasons for suspending it; and
 - (b) requesting the person give the chief executive, within a stated period of not less than 14 business days from the day the notice is given, written reasons as to why the licence should not be cancelled; and
 - (c) stating that the licence will be cancelled unless the person gives the chief executive sufficient reasons as to why the licence should not be cancelled; and
 - (d) stating the period, not more than 60 days from the day on which the notice is given, during which the licence is suspended.

Note—

See also the *Criminal Organisation Act 2009*, section 19 (Conditions of control order).

- (2) The decision takes effect on the later of the following—
 - (a) the day on which the notice is given to the licensee;
 - (b) the day stated in the notice.

34 Cancellation of licence

- (1) The chief executive must cancel a licence if an adverse security determination is made by the commissioner about the licensee.

Note—

See also the *Criminal Organisation Act 2009*, section 19 (Conditions of control order).

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- (2) The chief executive may cancel a licence—
- (a) if the chief executive is satisfied the licensee has—
 - (i) supplied information that 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 a provision of this Act, whether or not the licensee has been convicted of an offence for the contravention; or
 - (iii) contravened a condition of the licence; or
 - (b) in other circumstances prescribed under a regulation.
- (3) Without limiting subsection (2), the chief executive may cancel an operator licence if the chief executive is satisfied that—
- (a) the licensee holds, or has held, a licence, permit or other authority under an Act administered by a relevant Minister that has been suspended, cancelled or revoked; or
 - (b) the licensee is disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister; or
 - (c) for a body art tattooing business that is owned or operated by or on behalf of a corporation—the corporation is the subject of a winding-up order or a corporation for which a controller or administrator has been appointed; or
 - (d) the applicant is subject to an order under the *Public Health (Infection Control for Personal Appearance Services) Act 2003* made in connection with the carrying out of skin penetration procedures; or
 - (e) a closure order made under section 47 is in force in relation to the licensed premises.
- (4) The chief executive must not cancel a licence under subsection (2) or (3) without first—

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- (a) suspending the licence; and
 - (b) considering any reasons given by the licensee under section 33 as to why the licence should not be cancelled.
- (5) The chief executive may cancel a licence by giving the licensee a QCAT information notice stating that the licence is cancelled and, subject to section 22, the reasons for cancelling it.
- (6) The decision takes effect on the later of the following—
- (a) the day on which the notice is given to the licensee;
 - (b) the day stated in the notice.

35 Return of suspended or cancelled licence

- (1) If the chief executive cancels or suspends a person's licence, the chief executive may give the person a notice requiring the person to return the licence as stated within a stated period, of not less than 14 days.
- (2) The person must comply with the notice, unless the person has a reasonable excuse.
- Maximum penalty—20 penalty units.
- (3) If a licence returned to the chief executive is still current at the end of the suspension period, the chief executive must return the licence to the licensee.

Division 7 Keeping of records

36 Tattooing procedures log

- (1) The licensee for an operator licence must ensure a tattooing procedures log is kept, in the approved form, for each calendar year, or part of a calendar year, during which the operator licence is in force.
- Maximum penalty—100 penalty units.

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- (2) The licensee for an operator licence (or, in the case of a former operator licence, the former licensee) must keep the tattooing procedures log for the licensed premises (or former licensed premises) for 3 years after the end of the calendar year, or part of the calendar year, to which the log relates.

Maximum penalty—100 penalty units.

37 Tattooists to make contemporaneous entries in tattooing procedures log

An individual who performs a body art tattooing procedure, whether or not for a fee or reward, on another individual at licensed premises must ensure a contemporaneous record is made in the tattooing procedures log kept by the holder of the operator licence for the licensed premises of the following particulars concerning the procedure—

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

Maximum penalty—200 penalty units.

38 Way in which records for licensed premises to be kept

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

- (a) is kept in the English language and in a way that permits the record to be readily accessible by an authorised officer for inspection; and
- (b) is kept at the licensed premises at all times.

Maximum penalty—200 penalty units.

- (2) In this section—

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

Division 8 Offences relating to licences

39 Misuse of licences

A person (the *first person*) must not—

- (a) represent, or cause or allow another person to represent, that the first person is a licensee if the first person does not hold a licence; or
- (b) forge or steal a licence; or
- (c) deface, damage, alter or destroy a licence without the chief executive's permission; or
- (d) possess another person's licence without a reasonable excuse.

Maximum penalty—40 penalty units.

Part 4 Permits relating to unlicensed body art tattooing

Division 1 Body art tattooing shows and exhibitions

40 Authority conferred by permit

A permit granted under this division (an *exhibition permit*) authorises the permit holder to conduct a body art tattooing show or exhibition, whether on the permit holder's behalf or on behalf of another person—

- (a) at the premises stated in the permit; and
- (b) under the conditions of the permit; and
- (c) for the period stated in the permit.

41 Application for exhibition permit

- (1) An application for an exhibition permit must be made to the chief executive.
- (2) An application for an exhibition permit may only be made by an individual.
- (3) An application for an exhibition permit for a body art tattooing show or exhibition to be conducted by or on behalf of a corporation, partnership or trust must be made by an individual nominated by the corporation, partners or trustees to be the events manager for the show or exhibition.
- (4) An application for an exhibition permit may not be made by an individual who—
 - (a) is under 18 years; or
 - (b) is not an Australian citizen or Australian resident; or
 - (c) is a controlled person.
- (5) An application for an exhibition permit must—
 - (a) be in the approved form; and
 - (b) state the full name, date and place of birth, and residential address of the applicant; and
 - (c) be accompanied by evidence of the applicant's identity that is satisfactory to the chief executive; and

Example for paragraph (c)—

The chief executive may adopt a system under which—

- (a) points are assigned to the applicant for producing particular evidence of identity; and
- (b) the applicant is required to achieve a total number of points stated by the chief executive.

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- (d) if the applicant's postal address is different from the applicant's residential address—state the applicant's postal address; and
- (e) state the proposed commencement date for the permit; and
- (f) be made at least 28 days before the proposed commencement date; and
- (g) state the address of the premises at which it is proposed to conduct the show or exhibition; and
- (h) if the show or exhibition to which the application relates is to be conducted by or on behalf of a corporation, partnership or trust—be accompanied by evidence in the approved form demonstrating the applicant has been nominated by the corporation, partners or trustees to be the events manager; and
- (i) be accompanied by the fee prescribed under a regulation for the type of show or exhibition concerned.

42 Decision about application for exhibition permit

- (1) The chief executive must, after considering an application for an exhibition permit, decide to—
 - (a) grant the permit; or
 - (b) refuse to grant the permit.
- (2) The chief executive must take the following matters into account in deciding whether to grant the permit—
 - (a) whether the applicant has ever applied for a licence and, if so, any adverse security determinations made by the commissioner in relation to the application;
 - (b) whether the applicant has ever held a licence and, if so, the applicant's licence history, including compliance and complaints history;
 - (c) the body art tattooists likely to participate in the proposed show or exhibition;

- (d) the applicant's capacity to ensure participants comply with Acts relating to the performance of body art tattooing procedures.
- (3) The chief executive must decide not to grant the permit if—
 - (a) the chief executive is satisfied the application for the permit was not properly made; or
 - (b) the applicant is a controlled person.
- (4) The permit may be granted subject to conditions.
- (5) If the chief executive decides to grant the permit, the chief executive must promptly give the applicant—
 - (a) the permit; and
 - (b) if the permit is granted subject to a condition—a QCAT information notice for the decision to impose the condition.
- (6) If the chief executive decides to refuse to grant the permit, the chief executive must give the applicant a QCAT information notice for the decision.
- (7) The permit must state the period, not more than 7 days, during which it is in force.
- (8) The chief executive may, at any time, revoke the permit, or vary the conditions of the permit, by giving the permit holder a QCAT information notice for the decision.
- (9) A revocation or variation under subsection (8) takes effect on the later of the following—
 - (a) the day on which the QCAT information notice is given to the permit holder;
 - (b) the day stated in the QCAT information notice.
- (10) The chief executive must not grant more than 2 exhibition permits to the same individual, or an individual applying on behalf of the same corporation, partnership or trust, in the same calendar year.

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Division 2 Visiting overseas body art tattooists

43 Authority conferred by permit

A permit granted under this division (a *visiting tattooist permit*) authorises the permit holder to perform body art tattooing procedures—

- (a) under the conditions of the permit; and
- (b) for the period stated in the permit.

44 Application for visiting tattooist permit

- (1) An application for a visiting tattooist permit to perform body art tattooing procedures must be made to the chief executive.
- (2) An application for a visiting tattooist permit may only be made by an individual who is not an Australian resident.
- (3) An application for a visiting tattooist permit may not be made by an individual who—
 - (a) is under 18 years; or
 - (b) is a controlled person.
- (4) An application for a visiting tattooist permit must—
 - (a) be in the approved form, and
 - (b) state the proposed commencement date for the permit; and
 - (c) be made at least 28 days before the proposed commencement date; and
 - (d) state the following—
 - (i) the full name of the applicant;
 - (ii) the date and place of birth of the applicant;
 - (iii) the address at which the applicant intends to reside while in Australia and, if the applicant's postal address is different from that intended residential address, the applicant's postal address; and

- (e) be accompanied by the following—
 - (i) a copy of the applicant's passport;
 - (ii) a copy of any visa issued to the applicant to enter Australia;
 - (iii) information in the approved form concerning the matter mentioned in section 45(2);
 - (iv) the fee prescribed under a regulation.

45 Decision about application for visiting tattooist permit

- (1) The chief executive must, after considering an application for a visiting tattooist permit, decide to—
 - (a) grant the permit; or
 - (b) refuse to grant the permit.
- (2) The chief executive is to take into account, in deciding whether to grant the permit, the applicant's capacity to comply with Acts relating to the performance of body art tattooing procedures.
- (3) The chief executive must decide not to grant the permit if—
 - (a) the chief executive is satisfied the application was not properly made; or
 - (b) the applicant is a controlled person.
- (4) The permit may be granted unconditionally or subject to conditions.
- (5) If the chief executive decides to grant the permit, the chief executive must promptly give the applicant—
 - (a) the permit; and
 - (b) if the permit is granted subject to a condition—a QCAT information notice for the decision to impose the condition.
- (6) If the chief executive decides to refuse to grant the permit, the chief executive must give the applicant a QCAT information notice for the decision.

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- (a) served on the person apparently in charge of the premises, if any; or
 - (b) posted in a conspicuous place at the entrance to the premises.
- (3) The interim closure order—
- (a) takes effect from the time it is served or posted; and
 - (b) continues until the first of the following happens—
 - (i) the commissioner revokes it;
 - (ii) the end of 72 hours after it was served or posted.
- (4) No more than 1 interim closure order may be made for the same premises in a period of 7 days.

47 Long-term closure of tattoo parlours

- (1) A magistrate may, on the application of the commissioner, order that stated premises be closed for a stated period if the magistrate is satisfied that—
- (a) a body art tattooing business is being carried on at the 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 regardless of whether an interim closure order is, or has been, in force in relation to the premises.

48 Body art tattooing business may not be carried on in closed premises

- (1) A person must not, while a closure order is in force in relation to premises—
- (a) carry on a body art tattooing business at the premises; or
 - (b) work as a body art tattooist at those premises.

Maximum penalty—100 penalty units.

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

Division 2 Powers of entry

49 Production of authorised officer's identity card

- (1) An authorised officer may exercise a power under this division in relation to a person only if the officer first produces or displays the officer's identity card for inspection by the person.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for inspection by the person at the first reasonable opportunity.

50 Entry of premises by authorised officer

- (1) An authorised officer may at any reasonable time enter licensed premises, or any other premises the authorised officer reasonably suspects are being used to perform body art tattooing procedures for fee or reward, if—
 - (a) the occupier of the premises consents to the entry; or
 - (b) it is a public place and the entry is made when the place is open to the public; or
 - (c) the entry is authorised by a warrant; or
 - (d) for licensed premises—the premises are open for carrying on the business or otherwise open for entry.
- (2) This section does not confer a power to enter premises or a part of premises used only for residential purposes without the consent of the occupier or the authority of a search warrant.
- (3) Before asking for the consent of an occupier, an authorised officer must give a reasonable explanation to the occupier—

- (a) about the purpose of the entry, including the powers intended to be exercised; and
- (b) that the occupier is not required to consent; and
- (c) that the consent may be given subject to conditions and may be withdrawn at any time.

51 Warrants

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The application must—
 - (a) be sworn; and
 - (b) set out the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require that additional information supporting the application be given by a statutory declaration.

- (4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing (the *evidence*) that may provide evidence of the commission of an offence against this Act; and
 - (b) the evidence is, or may be within the next 7 days, at the place.
- (5) The warrant must state—
 - (a) that the authorised officer is authorised, with assistance and force that may be necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the authorised officer's powers under this Act; and

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- (b) the evidence for which the warrant is issued; and
- (c) the hours of the day when entry may be made; and
- (d) the day, within 14 days after the warrant's issue, on which the warrant stops having effect.

52 Authorised officer's general powers in a place

- (1) After entering a place under section 50, an authorised officer may exercise a power mentioned in subsection (2) only if—
 - (a) the occupier of the place consents to the exercise of the power; or
 - (b) the entry was authorised by a warrant.
- (2) The authorised officer may—
 - (a) search any part of the place; or
 - (b) if entry was authorised by a warrant—seize the evidence for which the warrant was issued; or
 - (c) seize a thing if the authorised officer believes on reasonable grounds—
 - (i) the thing is evidence of the commission of an offence against this Act; and
 - (ii) the seizure is necessary to prevent—
 - (A) the concealment, loss or destruction of the thing; or
 - (B) the use of the thing in committing, continuing or repeating an offence against this Act; or
 - (d) inspect, examine, photograph or film anything in or on the place; or
 - (e) take extracts from, or make copies of, any documents in or on the place; or
 - (f) take into or onto the place any person, equipment and materials that the authorised officer reasonably requires

for the purpose of exercising any powers in relation to the place.

53 Procedure after thing seized

- (1) As soon as practicable after a thing is seized by an authorised officer, the authorised officer must give a receipt for it to the person from whom it was seized.
- (2) The authorised officer must allow a person who would be entitled to the seized thing if it were not in the authorised officer's possession—
 - (a) to inspect it; or
 - (b) if it is a document—to take extracts from it or make copies of it.
- (3) The authorised officer must return the seized thing to the person at the end of—
 - (a) 12 months; or
 - (b) if a prosecution for an offence involving it is started within 12 months—the proceeding for the offence and any appeal from the proceeding.
- (4) Despite subsection (3), the authorised officer must return the seized thing to the person if the authorised officer is satisfied that—
 - (a) its retention as evidence is no longer necessary; and
 - (b) its return is not likely to result in its use in repeating the offence.

Division 3 Other enforcement provisions

54 Production of licences

A licensee must not, without reasonable excuse, fail to produce the licensee's licence to an authorised officer if asked to do so by the authorised officer.

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Maximum penalty—20 penalty units.

55 Obstruction of authorised officer

- (1) A person must not obstruct an authorised officer exercising a power under this Act unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) If a person has obstructed an authorised officer and the officer decides to proceed with the exercise of the power, the officer must, if practicable, warn the person that—
- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and
 - (b) the officer considers the person's conduct an obstruction.
- (3) In this section—
obstruct includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

Part 6 Review

56 Review by QCAT of particular decisions of chief executive

- (1) A person, other than a controlled person, may apply to QCAT for a review of a decision of the chief executive to—
- (a) refuse to grant a licence to the person; or
 - (b) impose a condition on a licence granted to the person; or
 - (c) suspend or cancel a licence granted to the person; or
 - (d) refuse to grant a permit to the person; or
 - (e) impose a condition on a permit granted to the person; or

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- (f) revoke, or vary a condition, on a permit granted to the person.
 - (2) The application to QCAT must be made as provided under the QCAT Act.

57 Confidentiality of criminal intelligence

- (1) If the chief executive decides to refuse an application for a licence or decides to suspend or cancel a licence on the ground of an adverse security determination made by the commissioner—
 - (a) the commissioner is to be a party to any proceedings in QCAT for a review of the decision of the chief executive; and
 - (b) a copy of the report of the commissioner’s adverse security determination is to be given to QCAT; and
 - (c) QCAT is not prevented from deciding whether the chief executive made the correct and preferable decision about the application or the licence concerned merely because of the commissioner’s adverse security determination; and
 - (d) QCAT is not prevented from deciding whether the commissioner made the correct and preferable decision about the adverse security determination.
- (2) In any proceedings relating to a review of a decision of the chief executive mentioned in section 56(1), QCAT or the Supreme Court—
 - (a) must, on the application of the commissioner, take steps to maintain the confidentiality of a criminal intelligence report or other criminal information mentioned in section 20(3), including steps to receive evidence and hear argument about the information in private in the absence of parties to the proceeding and their representatives; and
 - (b) may take evidence consisting of a criminal intelligence report or other criminal information mentioned in

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section 20(3) by way of affidavit of a police officer of or above the rank of superintendent.

- (3) If QCAT considers that information in the commissioner's adverse security determination has not been properly identified as being from a criminal intelligence report or other criminal information mentioned in section 20(3), QCAT must ask the commissioner whether the commissioner wishes to withdraw the information from consideration by QCAT.
- (4) Information that is withdrawn by the commissioner must not be—
 - (a) disclosed to any person; or
 - (b) taken into consideration by QCAT.

58 Application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991*, part 4 does not apply to a decision of the chief executive mentioned in section 56(1).
- (2) Subject to section 56, unless the Supreme Court decides that a decision of the chief executive mentioned in section 56(1) is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

Part 7 General

59 **False or misleading statements**

- (1) A person must not state anything to an official that the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) In this section—

official means—

- (a) the chief executive; or
- (b) an authorised officer.

60 **False or misleading documents**

- (1) A person must not give an official a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the official, to the best of the person's ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

- (3) In this section—

official means—

- (a) the chief executive; or
- (b) an authorised officer.

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61 Exchange of information

- (1) The chief executive 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 chief executive or the relevant 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 chief executive or the commissioner under this Act or of the relevant agency.
- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite an Act or another law, authorised to—
 - (a) request and receive information that is held by the other party to the arrangement; and
 - (b) disclose that information to the other party.
- (4) In this section—

relevant agency means any of the following—

 - (a) the police service;
 - (b) a department;
 - (c) a local government;
 - (d) a person prescribed under a regulation.

62 Confidentiality of information

- (1) A person must not disclose, use or record information gained by the person through involvement in the administration of this Act.

Maximum penalty—20 penalty units.
- (2) Subsection (1) does not apply to—
 - (a) an act done for the purposes of an Act; or
 - (b) disclosure of information to the commissioner; or

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- (c) disclosure of information ordered by a court or tribunal for a proceeding before it; or
 - (d) disclosure of information under an Act.
- (3) A person gains information through involvement in the administration of this Act if the person gains the information in the course of, or because of an opportunity provided by, the involvement.
- (4) The following persons are taken to be involved in the administration of this Act—
- (a) the chief executive;
 - (b) authorised officers;
 - (c) the department’s public service employees;
 - (d) local government employees.

63 Protection from liability

- (1) An official does not incur civil liability for an act or omission done honestly and without negligence under this Act.
- (2) A liability that would, apart from this section, attach to an official attaches instead to the State.
- (3) In this section—
- official* means—
- (a) the chief executive; or
 - (b) an authorised officer; or
 - (c) a person acting under the direction of an authorised officer; or
 - (d) a public service employee.

64 Proceeding for offence

- (1) A proceeding for an offence against this Act is to be taken in a summary way under the *Justices Act 1886*.
- (2) A proceeding may be started within—

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- (a) 1 year after the offence is committed; or
- (b) 2 years after the offence comes to the complainant's knowledge, but within 3 years after the offence is committed.

65 Evidentiary aids

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matters—
 - (a) that on a stated day, or during a stated period, a stated person was, or was not, the holder of a licence;
 - (b) that on a stated day a licence held by a stated person had been cancelled or surrendered;
 - (c) that on a stated day, or during a stated period, a licence held by a stated person was suspended;
 - (d) that on a stated day, or during a stated period, a licence held by a stated person was subject to stated conditions;
 - (e) that on a stated day, or during a stated period, stated premises were, or were not, licensed premises;
 - (f) that on a stated day, or during a stated period, a stated person was, or was not, the holder of a permit;
 - (g) that on a stated day a permit held by a stated person had been revoked or had expired;
 - (h) that on a stated day, or during a stated period, a permit held by a stated person was subject to stated conditions.
- (2) A certificate purporting to be signed by the commissioner and stating that on a stated day, or during a stated period, stated premises were, or were not, subject to an interim closure order, is evidence of the matter.

66 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 mentioned in that subsection.
- (3) In this section—
compensation includes damages and any other form of monetary compensation.

67 Delegation by chief executive

- (1) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified officer or employee of the department.
- (2) In this section—
function includes power.

68 Delegation by commissioner

- (1) The commissioner may delegate the commissioner's functions under this Act to an appropriately qualified police officer.
- (2) In this section—
function includes power.

69 Approved forms

The chief executive may approve forms for use under this Act.

70 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.

[s 71]

- (2) Without limiting subsection (1), a regulation may provide for fees payable under this Act and matters for which fees may be payable.

71 Act to be reviewed

- (1) The Minister must review this Act as soon as reasonably practicable after 3 years after the commencement of this section.
- (2) The objects of the review include deciding whether the Act is operating effectively.
- (3) The Minister must appoint an appropriately qualified person to undertake the review.
- (4) The Minister must, as soon as practicable after finishing the review, table a report about the outcome of the review in the Legislative Assembly.

Part 8 Transitional provision

72 Making of closure orders pending the commencement of section 6

A closure order may not be made on the ground mentioned in section 46(1)(a) or 47(1)(a) until section 6(1) commences.

Part 9 Amendment of Liquor Act 1992

73 Act amended

This part amends the *Liquor Act 1992*.

74 Amendment of s 4 (Definitions)

Section 4—

insert—

declared criminal organisation, for part 6, division 5, see section 173EA.

prohibited item, for part 6, division 5, see section 173EA.

75 Insertion of new pt 6, div 5

After part 6, division 4—

insert—

**Division 5 Prohibited items for
declared criminal
organisations**

173EA Definitions for div 5

In this division—

declared criminal organisation means an entity declared to be a criminal organisation under the Criminal Code, section 1, definition *criminal organisation*, paragraph (c).

prohibited item means an item of clothing or jewellery or an accessory that displays—

- (a) the name of a declared criminal organisation; or
- (b) the club patch, insignia or logo of a declared criminal organisation; or

Note—

The things mentioned in paragraph (b) are also known as the ‘colours’ of the organisation.

- (c) any image, symbol, abbreviation, acronym or other form of writing that indicates

[s 75]

membership of, or an association with, a declared criminal organisation, including—

- (i) the symbol ‘1%’; and
- (ii) the symbol ‘1%er’; and
- (iii) any other image, symbol, abbreviation, acronym or other form of writing prescribed under a regulation for this paragraph.

173EB Exclusion of persons wearing or carrying prohibited items

The following persons must not knowingly allow a person who is wearing or carrying a prohibited item to enter or remain in premises to which a licence or permit relates—

- (a) the licensee or permittee for the premises;
- (b) an approved manager employed by the licensee or permittee;
- (c) an employee or agent of the licensee or permittee working at the premises.

Maximum penalty—100 penalty units.

173EC Entering and remaining in licensed premises wearing or carrying a prohibited item

A person must not enter or remain in premises to which a licence or permit relates if the person is wearing or carrying a prohibited item.

Maximum penalty—

- (a) for a first offence—375 penalty units; or
- (b) for a second offence—525 penalty units or 6 months imprisonment; or

-
- (c) for a third or later offence—750 penalty units or 18 months imprisonment.

173ED Removal of person wearing or carrying prohibited item from premises

- (1) If an authorised person requires a person who is wearing or carrying a prohibited item (the *prohibited person*) to leave premises to which a licence or permit relates, the prohibited person must immediately leave the premises.

Maximum penalty—

- (a) for a first offence—375 penalty units; or
- (b) for a second offence—525 penalty units or 6 months imprisonment; or
- (c) for a third or later offence—750 penalty units or 18 months imprisonment.

- (2) If the prohibited person fails to leave when required under subsection (1), an authorised person may use necessary and reasonable force to remove the person.

- (3) The prohibited person must not resist an authorised person who is removing the person under subsection (2).

Maximum penalty—

- (a) for a first offence—375 penalty units; or
- (b) for a second offence—525 penalty units or 6 months imprisonment; or
- (c) for a third or later offence—750 penalty units or 18 months imprisonment.

- (4) In this section—

authorised person means—

- (a) the licensee or permittee for the licensed premises; or

[s 76]

- (b) an employee or agent of the licensee or permittee; or
- (c) a police officer.

Part 10 **Amendment of Police Powers and Responsibilities Act 2000**

76 **Act amended**

This part amends the *Police Powers and Responsibilities Act 2000*.

77 **Amendment of ch 2, pt 3, hdg (Use of drug detection dogs without warrant)**

Chapter 2, part 3, heading, ‘drug’—
omit.

78 **Amendment of s 34 (Definitions for pt 3)**

(1) Section 34—

insert—

body art tattooing business see the *Tattoo Parlours Act 2013*, schedule 1.

detection dog means—

- (a) a drug detection dog; or
- (b) an explosives detection dog.

explosives detection includes—

- (a) walking or placing an explosives detection dog in the vicinity of a person to ascertain whether the explosives detection dog can

detect the scent of explosives or firearms on the person; and

- (b) walking or placing an explosives detection dog in, on, or in the vicinity of, a vehicle or a thing to ascertain whether the explosives detection dog can detect the scent of explosives or firearms in or on the vehicle or thing.

tattoo parlour means a place at which a body art tattooing business is being conducted.

- (2) Section 34, definition *handler*, ‘drug’—
omit.

79 **Amendment of s 35 (Use of drug detection dogs in particular places)**

- (1) Section 35, heading, ‘drug’—
omit.

- (2) Section 35(1)(d)—
omit, insert—

- (d) a person who is about to enter, is in, or is leaving, a tattoo parlour;

- (e) a thing mentioned in paragraph (a), (b), (c) or (d), whether it is in the physical possession of a person or not.

- (3) Section 35(2)—
renumber as section 35(3).

- (4) Section 35—
insert—

- (2) A handler may, without warrant, use an explosives detection dog to carry out explosives detection in relation to the following persons or things—

[s 80]

- (a) a person who is about to enter, is in, or is leaving, a tattoo parlour;
- (b) a thing in a tattoo parlour, whether it is in the physical possession of a person or not.

80 Amendment of s 36 (Police officers and drug detection dogs may enter and remain on particular premises)

- (1) Section 36, heading, ‘drug’—

omit.

- (2) Section 36(3)—

renumber as section 36(4).

- (3) Section 36(1) and (2)—

omit, insert—

- (1) For carrying out drug detection under section 35(1), a drug detection dog, the drug detection dog’s handler and any other police officer may enter and remain on the following places—
 - (a) licensed premises;
 - (b) a tattoo parlour;
 - (c) a place at which an event is being held;
 - (d) a public place.
- (2) For carrying out explosives detection under section 35(2), an explosives detection dog, the explosives detection dog’s handler and any other police officer may enter and remain on a tattoo parlour.
- (3) For subsections (1) and (2), the power to enter and remain on a place includes power to enter and remain on land associated with the place.

Example of land associated with a place—

land on which car parking is provided for patrons of the place

81 Replacement of s 37 (Reasonable suspicion may be based on indication of drug detection dog)

Section 37—

omit, insert—

37 Reasonable suspicion may be based on indication of detection dog

- (1) This section applies if a provision of this Act requires a police officer to form a reasonable suspicion that a person has something, or there is something in a vehicle, that may be an unlawful dangerous drug or explosives or firearms, before the police officer may exercise a power in relation to the person or vehicle.
- (2) It is sufficient for the police officer to form a reasonable suspicion that the person has something, or there is something in the vehicle, that may be an unlawful dangerous drug or explosives or firearms, if a detection dog indicates it has detected an unlawful dangerous drug or explosives or firearms—
 - (a) on the person or on, or in, a thing in the person's physical possession; or
 - (b) on or in a thing, not in the person's physical possession but which the police officer reasonably suspects is connected with the person, that is at the place the detection dog is carrying out the drug detection or explosives detection; or
 - (c) in the vehicle.

82 Amendment of s 38 (Protection from liability for acts done by drug detection dogs)

- (1) Section 38, 'drug detection'—

omit, insert—

detection

[s 83]

- (2) Section 38(1)(a), ‘under section 35’—
omit.
- (3) Section 38(1)(b)(ii), after ‘unlawful dangerous drug’—
insert—
or explosives or firearms
- (4) Section 38(3)(b), before ‘an’—
insert—
for
- (5) Section 38(7)—
insert—

detection means drug detection under section 35(1) or explosives detection under section 35(2).

83 Amendment of s 39 (Effect of part on use of drug detection dogs under search warrants)

- (1) Section 39, heading, ‘drug’—
omit.
- (2) Section 39, after ‘carry out drug detection’—
insert—

, or an explosives detection dog to carry out explosives detection,

84 Amendment of sch 6 (Dictionary)

- (1) Schedule 6—
insert—

body art tattooing business, for ch 2, pt 3, see section 34.

detection dog, for ch 2, pt 3, see section 34.

explosives detection, for ch 2, pt 3, see section 34.

tattoo parlour, for ch 2, pt 3, see section 34.

- (2) Schedule 6, definition *explosives detection dog*, after ‘explosives’—

insert—

or firearms

Part 11 Amendment of this Act

85 Amendment of long title

Long title, from ‘and to’—

omit.

Schedule 1 Dictionary

section 3

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 chief executive under this Act on either or both of the following—
 - (i) that the applicant is not a fit and proper person to be granted the licence;
 - (ii) 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 chief executive under this Act on either or both of the following—
 - (i) that the licensee is not a fit and proper person to continue to hold his or her licence;
 - (ii) that it would be contrary to the public interest for the licensee to continue to hold his or her licence.

authorised officer means any of the following—

- (a) a police officer or any other member of the police service;
- (b) an inspector appointed under the *Fair Trading Act 1989*;
- (c) any other person prescribed under a regulation.

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.

close associate see section 4.

closure order, in relation to premises, means—

- (a) an interim closure order; or
- (b) an order made under section 47.

commissioner means the commissioner of the police service.

controlled person see the *Criminal Organisation Act 2009*, schedule 2.

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 including, 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 under a regulation.

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

exhibition permit see section 40.

interim closure order see section 46.

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.

notice means written notice.

operator licence see section 9.

permit means a permit under this Act.

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

relevant Minister means—

- (a) the Minister responsible for administering the *Fair Trading Act 1989*; or
- (b) the Minister responsible for administering the *Public Health (Infection Control for Personal Appearance Services) Act 2003*; or
- (c) the Minister responsible for administering the *Police Powers and Responsibilities Act 2000*.

serious criminal offence means—

- (a) an offence committed in Queensland that is punishable by imprisonment for 2 years or more; or
- (b) an offence committed elsewhere than in Queensland that, if committed in Queensland, would be punishable by imprisonment for 2 years or more.

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.

visiting tattooist permit see section 43.