



Queensland

Security Providers Amendment Regulation (No. 1) 2010

Subordinate Legislation 2010 No. 346

made under the

Security Providers Act 1993

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1 Short title

This regulation may be cited as the *Security Providers Amendment Regulation (No. 1) 2010*.

2 Commencement

Section 4 commences on 24 February 2011.

Note—

See section 2 of the *Criminal Proceeds Confiscation and Other Acts Amendment (Postponement) Regulation 2010*.

3 Regulation amended

This regulation amends the *Security Providers Regulation 2008*.

4 Amendment of s 12 (Change to information about licensee)

(1) Section 12(2)(a)—

insert—

‘(vii)if the individual is carrying on the business of a security firm—when the individual’s current membership of an approved security industry association ends; or’.

(2) Section 12(2)(b)—

insert—

‘(viii)when the corporation’s current membership of an approved security industry association ends; or’.

(3) Section 12(2)(c)—

insert—

‘(vii)when the partnership’s current membership of an approved security industry association ends.’.

(4) Section 12(2), at the end—

insert—

[s 5]

‘Examples of when membership of approved security industry association ends for subsection (2)(a)(vii), (b)(viii) and (c)(vii)—

membership lapses or is suspended, terminated or cancelled’.

5 Insertion of new pt 2A

After section 12—

insert—

‘Part 2A Security industry associations

‘12A Approval of security industry association—Act, s 25B(a)

‘The chief executive may approve a security industry association for part 2 of the Act if the association complies with all of the requirements stated in schedule 1A, part 2.

‘12B Withdrawal of security industry association’s approval—Act, s 25B(b)

‘The chief executive may withdraw a security industry association’s approval if the association no longer complies with all of the requirements stated in schedule 1A, parts 2 and 3.’.

6 Insertion of new sch 1A

Before schedule 1—

insert—

‘Schedule 1A Requirements for approval of security industry associations

sections 12A and 12B

‘Part 1 Preliminary

‘1 Definitions for sch 1A

‘In this schedule—

accountant means—

- (a) a member of CPA Australia who is entitled to use the letters ‘CPA’ or ‘FCPA’; or
- (b) a member of The Institute of Chartered Accountants in Australia who is entitled to use the letters ‘CA’ or ‘FCA’; or
- (c) a member of the National Institute of Accountants who is entitled to use the letters ‘MNIA’, ‘FNIA’, ‘PNA’ or ‘FPNA’.

association means—

- (a) for part 2—
 - (i) an association seeking to become an approved security industry association; or
 - (ii) an approved security industry association; or
- (b) for part 3—an approved security industry association.

complaint management policy, for an association, means a written policy outlining the principles and procedures the association uses to deal with and resolve complaints the association receives about its members.

corresponding law means a law applying, or that applied, in another State that provides, or provided, for the same, or substantially the same, matter as the *Associations Incorporation Act 1981* or a provision of that Act.

‘3 Incorporation

‘The association must be incorporated.

‘4 Annual election of office holders

- ‘(1) The association must hold an election for members of the association to elect its office holders.
- ‘(2) An election of office holders must be held at least once every 2 years.
- ‘(3) The association’s management committee or board of directors must include at least 1 individual who is—
- (a) a relevant member of the association; or
 - (b) nominated for the purpose by a corporation or partnership that is a relevant member of the association.
- ‘(4) In this section—
- office holder* means—
- (a) for an association incorporated under the *Associations Incorporation Act 1981* or a corresponding law—a member of the association’s management committee; or
 - (b) for an association incorporated under the Corporations Act—a director of the corporation.

‘5 Financial viability

- ‘(1) The association must be financially viable.
- ‘(2) An association seeking to become an approved security industry association must give the chief executive all of the following—
- (a) if the association has been incorporated for less than 3 years—
 - (i) a financial statement for each year that it has been incorporated; and

[s 6]

- (ii) for each financial statement—an accountant’s written report about the accountant’s audit of the statement;
 - (b) if the association has been incorporated for 3 or more years—
 - (i) financial statements for the last 3 years that it has been incorporated; and
 - (ii) for each financial statement—an accountant’s written report about the accountant’s audit of the statement;
 - (c) a written business plan that—
 - (i) describes how the association is to be funded; and
 - (ii) includes details of the services the association provides to its members; and
 - (iii) adopts a whole of business approach to planning, including, for example, components dealing with marketing and financial and risk management;
 - (d) a declaration of financial viability;
 - (e) a document signed and dated by an accountant stating—
 - (i) the accountant’s name and business address; and
 - (ii) the accountant agrees with the declaration of financial viability for the association based on an examination of the financial statements, written reports about the accountant’s audit of each financial statement and business plan for the association.
- ‘(3) A declaration of financial viability must—
- (a) if—
 - (i) the association has a management committee—be made under a decision of the management committee; or
 - (ii) the association has a board of directors—be made under a resolution of the directors; and

- (b) state the date when the declaration is made; and
- (c) be signed—
 - (i) if the association has a management committee—by a member of the committee; or
 - (ii) if the association has a board of directors—by a director.

‘6 Services to members

‘The association must provide genuine and accessible services relevant to its members including, for example—

- (a) programs for the education and training of the association’s members to develop skills and expertise relevant to the security industry; and
- (b) information or advice about statutory obligations applying to the security industry.

‘7 Promotion of ethics and conduct

‘The association must demonstrate that it promotes a high standard of ethics and conduct for the security industry.

Example—

promoting a high standard of ethics and conduct in the association’s rules, information services or promotional material

‘8 Code of conduct

- ‘(1) The association must have a code of conduct requiring its members to adopt best practice industry standards.
- ‘(2) The association must be able, under the code of conduct, to deal with a breach of the association’s code of conduct by—
 - (a) asking a member to take remedial action for the breach; or
 - (b) taking disciplinary action against a member for the breach.

[s 6]

- '(3) A code of conduct must include a requirement that the association give the member a written notice about an alleged breach of the code of conduct by the member.
- '(4) The written notice must include—
 - (a) a statement that if the association is satisfied that a member has breached the association's code of conduct the association may take action against the member within the period stated in the notice; and
 - (b) a show cause process.
- '(5) A code of conduct must be approved by the chief executive.
- '(6) In this section—

remedial action, for a breach of an association's code of conduct, means action to ensure a member's compliance with the association's code of conduct.

'9 **Complaint management policy**

- '(1) The association must—
 - (a) keep and put into effect a complaint management policy; and
 - (b) inform its members about the policy and how it may be accessed; and
 - (c) make the policy available to—
 - (i) its members; and
 - (ii) the public.
- '(2) A complaint management policy must state that an association must—
 - (a) deal with complaints about a member promptly and fairly; and
 - (b) make every reasonable effort to resolve a complaint about a member.
- '(3) A complaint management policy must be approved by the chief executive.

‘Part 3 Additional requirements for approved security industry associations

‘Division 1 Compliance audits

‘10 Compliance with code of conduct

- ‘(1) The association must be able to conduct an audit (a *compliance audit*) of a relevant member’s compliance with the association’s code of conduct.
- ‘(2) The association must conduct a compliance audit of each relevant member of the association—
 - (a) initially, within 3 years of the member becoming a member of the association; and
 - (b) afterwards, at least once every 3 years from the date of the audit conducted under paragraph (a).
- ‘(3) However, subsection (4) applies if a relevant member of an approved security industry association (the *current association*)—
 - (a) is a new member of the current association; and
 - (b) before becoming a member of the current association, was a member of another approved security industry association (the *former association*).
- ‘(4) The current association must conduct a compliance audit of the relevant member—
 - (a) within 3 years of the last satisfactory compliance audit of the member conducted by the former association; or
 - (b) if the member can not show when the last satisfactory compliance audit of the member was conducted by the former association—within 12 months of the member becoming a member of the current association.

[s 6]

- ‘(5) Within 2 years of an association becoming an approved security industry association, the association must conduct compliance audits of at least half of its relevant members.
- ‘(6) In this section—
satisfactory, for a compliance audit of a relevant member of an approved security industry association, means a written report that—
 - (a) complies with section 11; and
 - (b) states whether the auditor who conducted the audit is of the opinion that the member complies with the association’s code of conduct.

‘11 Requirements for conducting compliance audit

- ‘(1) An association must ensure a compliance audit is conducted in accordance with all of the following requirements—
 - (a) an auditor must conduct the audit;
 - (b) the auditor must be an accountant;
 - (c) the auditor must clearly define the scope and objectives of each audit before the auditor begins the audit;
 - (d) the auditor must conduct the audit in compliance with the auditing and assurance standards made by the Auditing and Assurance Standards Board;
 - (e) the auditor must assess a relevant member’s compliance with the provisions of the association’s code of conduct that are relevant to the functions carried out by the member as a security provider;
 - (f) the auditor must use a process that enables the auditor to obtain and evaluate evidence for the audit by applying audit procedures to a selection of particular data or information that the association reasonably considers appropriate to a relevant member’s circumstances, including those of a relevant member the association knows or suspects to have breached the association’s code of conduct;

-
- (g) the auditor must give the association a written report about the audit.
- ‘(2) The report must include a document signed and dated by the auditor stating—
 - (a) the auditor’s name and business address; and
 - (b) whether the auditor is of the opinion that the relevant member is complying with the association’s code of conduct.
 - ‘(3) An auditor may conduct a compliance audit in a way that the auditor considers appropriate, including, for example, by electronic communication.
 - ‘(4) Within 3 months of the completion of a compliance audit, the association must give the member audited a written notice about the outcome of the audit.
 - ‘(5) In this section—

Auditing and Assurance Standards Board means the Auditing and Assurance Standards Board established under the *Australian Securities and Investments Commission Act 2001* (Cwlth).

‘Division 2 Information to be given to chief executive

‘12 **Approved security industry association to give chief executive particular information**

- ‘(1) This section applies if the association has been an approved security industry association for 1 year or more.
- ‘(2) Within 6 months after the anniversary date for the association, the association must give the chief executive all of the following information—
 - (a) the association’s annual financial statement (the *annual financial statement*) prepared during the approval period for the association;
 - (b) a declaration of financial viability for the association;

- (c) an accountant's written report about the accountant's audit of the statement;
- (d) a document signed and dated by the accountant stating—
 - (i) the accountant's name and business address; and
 - (ii) the accountant agrees with the declaration of financial viability for the association based on an examination of the annual financial statement, the report mentioned in paragraph (c) and the business plan mentioned in section 5(2)(c) for the association;
- (e) a statement about the compliance audits conducted by the association during the approval period including details about the following—
 - (i) the number of audits conducted by the association;
 - (ii) the percentage of the association's total membership that the number of audits conducted represents;
 - (iii) the name, business address and licence number of each relevant member audited;
 - (iv) the findings of each audit;
 - (v) the action taken by the association in relation to the findings of each audit;
- (f) a statement about the operation of the association's complaint management policy during the approval period including details about the following—
 - (i) the number of complaints received;
 - (ii) a description of the nature of each complaint;
 - (iii) the action taken by the association for each complaint;
- (g) a statement that the association, during the approval period, has reviewed the association's code of conduct and complaint management policy to ensure the code of conduct and the complaint management policy have

regard to best practice industry standards for the types of services provided by the association's members;

- (h) if, within the approval period, the association has changed the association's code of conduct or complaint management policy—a copy of the new code of conduct or complaint management policy.

'(3) A declaration of financial viability must—

(a) if—

(i) the association has a management committee—be made under a decision of the management committee; or

(ii) the association has a board of directors—be made under a resolution of the directors; and

(b) state the date when the declaration is made; and

(c) be signed—

(i) if the association has a management committee—by a member of the committee; or

(ii) if the association has a board of directors—by a director.

'(4) In this section—

anniversary date, for an association, means the day in each year that is the anniversary of the day when it became an approved security industry association.

approval period, for an association, means the period of 1 year ending on the last anniversary date for the association.

'13 Documents about relevant members

'(1) The association must keep for 7 years all of the documents it receives about a relevant member of the association including, for example, the following—

(a) the relevant member's membership application;

(b) a document about a complaint about a relevant member;

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- (c) a document about a relevant member's breach of the association's code of conduct;
 - (d) a report about a compliance audit of a relevant member.
- (2) The association must give the chief executive a copy of a document mentioned in subsection (1) within 14 days after the chief executive asks for the document.'

7 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

'accountant, for schedule 1A, see schedule 1A, section 1.

association, for schedule 1A, see schedule 1A, section 1.

complaint management policy, for schedule 1A, see schedule 1A, section 1.

compliance audit see schedule 1A, section 10(1).

corresponding law, for schedule 1A, see schedule 1A, section 1.

declaration of financial viability, for schedule 1A, see schedule 1A, section 1.

financially viable, for schedule 1A, see schedule 1A, section 1.

management committee, for schedule 1A, see schedule 1A, section 1.

relevant member, for schedule 1A, see schedule 1A, section 1.'

ENDNOTES

- 1 Made by the Governor in Council on 2 December 2010.
- 2 Notified in the gazette on 3 December 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

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