



Tattoo Industry Act 2013

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Queensland

Tattoo Industry Act 2013

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Tattoo Industry Act 2013

An Act to provide for the licensing and regulation of body art tattooing businesses and body art tattooists and other related matters

Part 1 Preliminary

1 Short title

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

2 Commencement

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

3 Main purpose of Act

The main purpose of this Act is to regulate the body art tattooing industry to minimise the risk of criminal activity in the industry.

4 Definitions

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

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.

- 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; or
 - (d) otherwise in circumstances prescribed by regulation.
- (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.

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

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- (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; or
 - (c) otherwise in circumstances prescribed by regulation.

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.
- (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.
- (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
 - (b) an individual who is not an Australian citizen or Australian resident.
- (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 evidence of the applicant's identity that is satisfactory to the chief executive; and

Example for paragraph (d)—

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) be accompanied by—
- (i) the fee prescribed under a regulation; and
 - (ii) the other information and particulars, if any, prescribed under a regulation; and
- (f) comply with any other requirement prescribed under a regulation.
- (6) If, before or when the application is made, the chief executive requires the payment of costs under section 15A(1), the application must also be accompanied by the amount of the costs required to be paid.
- (7) An application for a licence may be considered by the chief executive only if—
- (a) the commissioner holds the applicant's fingerprints and palm prints taken under section 35E; or
 - (b) the applicant consents to having the applicant's fingerprints and palm prints taken by the commissioner under section 35E.

[s 11A]

- (8) If a regulation prescribes a fee for taking an applicant's fingerprints under section 35E, the application must be accompanied by the fee.
- (9) However, subsection (8) does not apply if the commissioner already holds the relevant person's fingerprints taken under section 35E.
- (10) If an applicant's fingerprints are not taken under section 35E for the application, the chief executive must refund to the applicant any fee paid under subsection (8).
- (11) 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.

- (12) The *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 does not apply in relation to an application for a licence.
- (13) In this section—
driver licence see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

11A Additional information required for applications for operator licences

In addition to the matters mentioned in section 11(5), an application for an operator licence must—

- (a) for fixed premises—state the address of the fixed premises proposed to be licensed; and
- (b) for mobile premises—
 - (i) state a description of the mobile premises proposed to be licensed that includes the registration number if the premises are a vehicle that is required to be registered; and

- (ii) state the address of a fixed premises at which records relating to the body art tattooing business proposed to be carried on at the mobile premises may be inspected; and
- (c) state the business name of the body art tattooing business carried on or proposed to be carried on at the proposed licensed premises; and
- (d) state the name and residential address of each staff member employed, or proposed to be employed, to work at the proposed licensed premises; and
- (e) if the business to which the application relates is owned or operated by or on behalf of a corporation—
 - (i) state the name and ACN or ARBN, if any, of the corporation and the names of the directors or members of its governing body; and
 - (ii) be accompanied by evidence in the approved form that the applicant has been nominated by the corporation to be the premises manager; and
- (f) if the business to which the application relates is owned or operated by or on behalf of a partnership—
 - (i) state the trading name of the partnership and the names of the partners, including any silent partners; and
 - (ii) be accompanied by evidence in the approved form that the applicant has been nominated by the partnership to be the premises manager; and
- (g) if the business to which the application relates is owned or operated by or on behalf of a trust—
 - (i) state the name of each trustee; and
 - (ii) if a trustee is a corporation—state the information mentioned in paragraph (e)(i); and
 - (iii) be accompanied by evidence in the approved form that the applicant has been nominated by the trustees to be the premises manager.

11B Additional information required for applications for tattooist licences

In addition to the matters mentioned in section 11(5), an application for a tattooist licence must be accompanied by evidence in the approved form of previous, existing or impending employment as a body art tattooist.

12 Criteria for granting application

- (1) The chief executive may grant an application for a licence only if the chief executive is satisfied—
 - (a) the application is properly made; and
 - (b) the applicant is a fit and proper person to hold the licence; and
 - (c) it would not be contrary to the public interest for the licence to be granted.
- (2) In deciding whether the applicant is a fit and proper person to hold the licence, the chief executive must have regard to the following—
 - (a) the criminal history of the applicant;
 - (b) in dealings in which the person has been involved, whether the person has—
 - (i) shown dishonesty or lack of integrity; or
 - (ii) used harassing tactics;
 - (c) information about the person that indicates—
 - (i) the person is a risk to public safety; or
 - (ii) the holding of a licence by the person would be contrary to the public interest;
 - (d) whether 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;

- (e) whether 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;
 - (f) whether the applicant is disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister;
 - (g) whether the person has taken advantage, as a debtor, of the laws of bankruptcy;
 - (h) anything else relevant to the person's suitability to hold the licence.
- (3) A person is not a fit and proper person to hold a licence if the person—
- (a) within 10 years before applying for the licence, has been convicted of a prescribed offence for which a conviction was recorded; or
 - (b) is subject to a relevant control order.
- (4) The chief executive may not have regard to criminal intelligence in deciding whether—
- (a) a person is a fit and proper person to hold a licence; or
 - (b) it would be contrary to the public interest for the licence to be granted.

13 Additional criteria for operator licences

Without limiting section 12(2), in deciding whether a person is a fit and proper person to hold an operator licence, the chief executive must also have regard to the following—

- (a) whether the applicant has been convicted of an offence against section 6(1) or (3) or 8(1);
- (b) for an application for a body art tattooing business owned or operated by or on behalf of a corporation— whether the corporation is the subject of a winding-up

order or a corporation for which a controller or administrator has been appointed;

- (c) whether 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;
- (d) whether a closure order under section 47 is, or has been, in force in relation to the proposed licensed premises.

14 Additional criteria for tattooist licences

Without limiting section 12(2), in deciding whether a person is a fit and proper person to hold a tattooist licence, the chief executive must also have regard to whether the applicant has been convicted of an offence against section 7(1) or (2).

15 Inquiries about applicants, licensees and relevant persons

- (1) The chief executive may make inquiries about an applicant for a licence, a licensee or a relevant person for the applicant or licensee to assist in deciding—
 - (a) whether the applicant or licensee is, or continues to be, a fit and proper person to hold the licence; and
 - (b) whether it is contrary to the public interest for the licence to be granted to the applicant or held by the licensee.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner to give the chief executive the following written information about the applicant, licensee or relevant person—
 - (a) a report about the applicant's, licensee's or relevant person's criminal history;
 - (b) a brief description of the nature of the offence giving rise to a conviction or charge mentioned in the

applicant's, licensee's or relevant person's criminal history.

- (3) The commissioner must comply with the request.
- (4) If the applicant, licensee or relevant person is, or has been, subject to a control order or a registered corresponding control order, the commissioner's report must—
 - (a) state the details of the order; or
 - (b) be accompanied by a copy of the order.
- (5) The duty imposed on the commissioner to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (6) In this section—

applicant for a licence includes an applicant for the renewal of a licence.

offence includes alleged offence.

15A Costs of criminal history report

- (1) The chief executive may require an applicant for a licence or a licensee to pay the reasonable, but no more than actual, costs of obtaining a report under section 15(2) about—
 - (a) the applicant or licensee; or
 - (b) a relevant person for the applicant or licensee.
- (2) The chief executive must refund to an applicant an amount paid under subsection (1) if—
 - (a) the chief executive refuses the application without asking for the report; or
 - (b) the applicant withdraws the application before the chief executive asks for the report.
- (3) In this section—

applicant for a licence includes an applicant for the renewal of a licence.

15B Notice of change in criminal history

- (1) This section applies if—
 - (a) the commissioner reasonably suspects a person is the holder of, or an applicant for, a licence; and
 - (b) the person's criminal history changes.
- (2) The commissioner may give the chief executive a written notice about the change in the person's criminal history.
- (3) The notice must—
 - (a) state the following details—
 - (i) the person's name and any other name the commissioner believes the person may use or may have used;
 - (ii) the person's address;
 - (iii) the person's date and place of birth;
 - (iv) a brief description of the nature of the offence giving rise to the conviction or charge to which the change relates; and
 - (b) if the change includes the person becoming subject to a control order or a registered corresponding control order—
 - (i) state the details of the order; or
 - (ii) be accompanied by a copy of the order.
- (4) The chief executive may confirm the suspicion of the commissioner mentioned in subsection (1)(a).
- (5) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.
- (6) In this section—

offence includes alleged offence.

16 Chief executive may require further information

- (1) The chief executive may, by written notice given to an applicant for a licence, or the renewal of a licence, require the applicant to do 1 or more of the following things—
 - (a) give, in a stated way, stated information the chief executive considers relevant to the investigation of the application;
 - (b) produce, in a stated way, stated records the chief executive considers relevant to the investigation of the application and permit the chief executive 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 the authorisation or consent the chief executive requires to enable the chief executive 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 incur a liability to another person merely because of the compliance.
- (3) The applicant is taken to have withdrawn the applicant's application if, within a reasonable time stated in the notice, 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.

16A Use of information obtained under s 15, 15B, 16 or 61

- (1) This section applies to the chief executive in considering information about a person obtained under section 15, 15B, 16 or 61.

- (2) Information about a conviction of the person may be used only for making a decision about whether the person is, or continues to be, a fit and proper person to hold a licence.
- (3) Information about a charge made against the person for a prescribed offence may be used only for deciding whether to grant a licence to the person, or to suspend, or to refuse to renew, the person's licence.
- (4) When making a decision mentioned in subsection (2), the chief executive must have regard to the following matters relating to information about the commission of the offence by the person—
 - (a) when the offence was committed;
 - (b) the nature of the offence and its relevance to the person carrying out a body art tattoo business, or body art tattoo procedures, under the licence;
 - (c) anything else the chief executive considers relevant to the decision.
- (5) When making a decision mentioned in subsection (3), the chief executive must have regard to the following matters relating to information about the alleged or possible commission of the offence by the person—
 - (a) when the offence is alleged to have been committed or may possibly have been committed;
 - (b) the nature of the alleged or possible offence and its relevance to the person carrying out a body art tattoo business, or body art tattoo procedures, under the licence;
 - (c) anything else the chief executive considers relevant to the decision.

17 Decision on application

- (1) The chief executive may, after considering an application for a licence and any other information obtained in relation to the application, decide to—

- (a) grant the licence; or
 - (b) refuse to grant the licence.
- (2) If the applicant has been charged with a prescribed offence, the chief executive may defer making a decision to grant or refuse to grant the licence until the end of the proceeding for the charge.
- (3) 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.
- (4) 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 *Penalties and Sentences Act 1992*, section 161U.

- (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.

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 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 4 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—
 - (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 11A.

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.
- (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;
 - (c) any other particulars prescribed by regulation.

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 5 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 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 *Penalties and Sentences Act 1992*, section 161U.

- (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 may cancel a licence—
 - (a) if the chief executive is satisfied the licensee—
 - (i) is no longer a fit and proper person to hold the licence; or
 - (ii) supplied information that was, to the licensee's knowledge, false or misleading in a material

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- particular in, or in connection with, the application for, or renewal of, the licence; or
- (iii) contravened this Act, whether or not the licensee has been convicted of an offence for the contravention; or
- (iv) contravened a condition of the licence; or
- (b) in other circumstances prescribed by regulation.
- (2) For deciding whether a person is not, or is no longer, a fit and proper person to hold the licence, the chief executive may have regard to the matters mentioned in sections 12 to 14 to which the chief executive may have regard in deciding whether an applicant for a licence is a fit and proper person to hold a licence.
- (3) The chief executive may not have regard to criminal intelligence in deciding whether a person is not, or is no longer, a fit and proper person to hold the licence.
- (4) The chief executive must not cancel a licence under subsection (2) or (3) without first—
- (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 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.

34A Automatic cancellation on conviction

- (1) A person's licence is cancelled if the person is convicted of a prescribed offence for which a conviction is recorded.
- (2) The person must return the licence to the chief executive within 14 days after its cancellation.

Maximum penalty for subsection (2)—20 penalty units.

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 6 Renewal of licences

35A Renewal of licence

(1) A licensee may apply to the chief executive for the renewal of the licensee's licence before the licence ends.

(2) The application must be—

(a) in the approved form; and

(b) accompanied by—

(i) the fee prescribed by regulation; and

(ii) if, before or when the application is made, the chief executive requires the payment of costs under section 15A(1)—the amount of costs required to be paid.

(3) An application for renewal of a licence may be considered by the chief executive only if—

(a) the commissioner holds the applicant's fingerprints and palm prints taken under section 35E; or

- (b) the applicant consents to having the applicant's fingerprints and palm prints taken by the commissioner under section 35E.
- (4) If a regulation prescribes a fee for taking an applicant's fingerprints under section 35E, the application must be accompanied by the fee.
- (5) However, subsection (4) does not apply if the commissioner already holds the relevant person's fingerprints taken under section 35E.
- (6) If an applicant's fingerprints are not taken under section 35E for the application, the chief executive must refund to the applicant any fee paid under subsection (4).
- (7) If the chief executive receives an application for the renewal of a licence, the chief executive must renew the licence unless the chief executive considers reasonable grounds exist to refuse to renew the licence under section 35C.
- (8) However, if the applicant has been charged with a relevant offence, the chief executive may defer making a decision about renewing the licence until the proceeding for the charge ends.
- (9) If an application is made under subsection (1) for the renewal of a licence and the chief executive has not, before the licence ends, decided whether to renew the licence, the licence is taken to continue in force until the day—
- (a) the chief executive decides the application; or
- (b) the licensee withdraws the application.
- (10) In this section—
- relevant offence*** means—
- (a) a prescribed offence; or
- (b) an offence a conviction for which would result in the person convicted being disqualified from holding a licence, permit or other authority under an Act administered by a relevant Minister.

35B Term of renewed licence

- (1) A licence granted under this division (a *renewed licence*) begins at the end of the day on which, apart from its renewal, the licence being renewed would have ended.
- (2) A renewed licence is granted for the term, of 1 year or 3 years, stated in the renewed licence.

35C Grounds for refusal to renew

- (1) Each of the following is a ground to refuse to renew a licence—
 - (a) the applicant—
 - (i) is not a fit and proper person to hold the licence; or
 - (ii) has supplied information that was, to the licensee's knowledge, false or misleading in a material particular in, or in connection with, the application for renewal of the licence; or
 - (iii) has contravened a provision of this Act, whether or not the licensee has been convicted of an offence for the contravention; or
 - (iv) has contravened a condition of the licence to which the application for renewal relates;
 - (b) it would be contrary to the public interest for the licence to be granted;
 - (c) another ground prescribed by regulation.
- (2) Without limiting subsection (1), it is a ground to refuse to renew an operator licence that a closure order made under section 47 is, or has been, in force in relation to the licensed premises.
- (3) For deciding whether a person continues to be a fit and proper person to hold the licence, the chief executive may have regard to the matters mentioned in sections 12 to 14 to which the chief executive may have regard in deciding whether an applicant for a licence is a fit and proper person to hold a licence.

- (4) A person is not, or is no longer, a fit and proper person to hold a licence if the person is subject to a relevant control order.
- (5) The chief executive may not have regard to criminal intelligence in deciding whether—
 - (a) a person is not, or is no longer, a fit and proper person to hold a licence; or
 - (b) it would be contrary to the public interest for the licence to be granted.

35D Procedure for refusal to renew

- (1) If the chief executive considers reasonable grounds exist to refuse to renew a licence, the chief executive must give the applicant a written notice that—
 - (a) states the chief executive proposes not to renew the licence; and
 - (b) states the grounds for proposing not to renew the licence; and
 - (c) invites the person to show within a stated period, not less than 28 business days after the notice is given to the person, why the application should not be refused.
- (2) If, after considering all representations made within the stated period, the chief executive still believes that grounds not to renew the licence exist, the chief executive may decide to refuse to renew the licence.
- (3) If the chief executive decides to refuse to renew the licence, the chief executive must give the applicant a QCAT information notice for the decision.
- (4) 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.

Division 7 Fingerprint and palm print procedures

35E Fingerprinting and palm printing of applicants

- (1) An applicant for a licence, or the renewal of 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, or the renewal of 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.

35F 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 35E, 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 35E, 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 35E, 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.

Division 8 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.

- (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 at all times kept—
 - (i) for a licensed premises that is a fixed premises—at the licensed premises; or
 - (ii) for a licensed premises that is a mobile premises—at the fixed premises mentioned in section 11A(1)(b)(ii).

Maximum penalty—200 penalty units.

(2) In this section—

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

Division 9 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 place 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.
- (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.

- (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 place 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 decision 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 may decide not to grant the permit if the chief executive is satisfied the application for the permit was not properly made.
- (3A) The chief executive may also decide not to grant the permit if—
 - (a) the grant of the permit would result in more than 2 exhibition permits being granted to the same individual, or an individual applying on behalf of the same corporation, partnership or trust, in the same calendar year; and
 - (b) the chief executive reasonably believes the individual is seeking to avoid applying for or holding a licence.
- (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;

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- (b) the day stated in the QCAT information notice.

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 is under 18 years.
- (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) if a visa has not been issued to the applicant to enter Australia—evidence that the applicant has applied for a visa at least 7 days before the proposed commencement date for the permit;
 - (iv) information in the approved form concerning the matter mentioned in section 45(2);
 - (v) 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 may decide not to grant the permit if the chief executive is satisfied the application was not properly made.
- (4) The chief executive may also refuse to grant the permit if—
 - (a) the grant of the permit would result in more than 2 visiting tattooist permits being granted to the same individual in the same calendar year; and
 - (b) the chief executive reasonably believes the individual is seeking to avoid applying for or holding a licence.
- (5) The permit may be granted unconditionally or subject to conditions.

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- (6) 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.
 - (7) 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.
 - (8) A permit must state the period, not more than 31 days, during which it is in force.
 - (9) The chief executive may at any time, by notice given to the permit holder, revoke the permit or vary the conditions of the permit.
 - (10) 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.
 - (11) 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.

Part 5 Enforcement

Division 1 Closure orders

46 Interim closure of unlicensed or illegal body art tattooing businesses

- (1) The commissioner may make an order that stated premises be closed (an *interim closure order*) if—

[s 47]

- (a) the commissioner is satisfied a body art tattooing business is being carried on at the premises without the authority of an operator licence; or
 - (b) the commissioner reasonably suspects serious criminal offences are being committed at the premises.
- (2) The interim closure order must be—
- (a) served on the person apparently in charge of the premises, if any; or
 - (b) posted in a conspicuous place—
 - (i) for a licensed premises that is a fixed premises—at the entrance to the licensed premises; or
 - (ii) for a licensed premises that is a mobile premises—
 - (A) on the mobile premises; or
 - (B) at the entrance to the fixed premises mentioned in section 11A(1)(b)(ii).
- (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 body art tattooing businesses

- (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.

- (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
 - (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.

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 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
 - (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.

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; or

-
- (c) the commissioner.

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; or
(c) the commissioner.

61 Exchange of information

- (1) The chief executive may enter into an arrangement (an *information-sharing arrangement*) with a relevant agency for the purpose of sharing or exchanging information—

- (a) held by the chief executive or the relevant agency; or
(b) to which the chief executive or the relevant agency has access.

- (2) An information-sharing arrangement may relate only to information that assists—

- (a) the chief executive perform the chief executive's functions under this Act; or

- (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the chief executive and the relevant agency are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
 - (b) disclose information to the other party.
- (4) The chief executive may use criminal intelligence given to the chief executive by the commissioner under an information-sharing arrangement only for monitoring compliance with this Act.
- (5) In this section—

information does not include information given to the chief executive or a relevant agency, or to which the chief executive or relevant agency has access, under the *Crime and Corruption Act 2001*.

relevant agency means the following—

- (a) the commissioner;
- (b) the chief executive of a department;
- (c) a local government;
- (d) a person prescribed by regulation.

62 Confidentiality

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act.
- (2) The person must not make a record of the information or disclose the information to another person, other than under subsection (4).

Maximum penalty—35 penalty units.

- (3) Without limiting subsection (1), a person gains confidential information through involvement in the administration of this

Act if the person gains the information because of being, or an opportunity given by being—

- (a) the chief executive; or
 - (b) a public service employee employed in the department;
or
 - (c) a person engaged by the chief executive for this Act.
- (4) A person may make a record of confidential information or disclose it to another person—
- (a) for this Act; or
 - (b) to discharge a function under another law; or
 - (c) for a proceeding in a court or QCAT; or
 - (d) if authorised by a court or QCAT in the interests of justice; or
 - (e) if required or permitted by law; or
 - (f) for information other than criminal intelligence—if the person is authorised in writing by the person to whom the information relates.
- (5) The chief executive must destroy the following as soon as practicable after it is no longer needed for the purpose for which it was requested or given—
- (a) a report about the criminal history of a person given under section 15(3);
 - (b) a copy of a control order accompanying a report about the criminal history of a person given under section 15(3);
 - (c) a notice given under section 15B(2);
 - (d) information about a person obtained under section 61.
- (6) Subsection (5) applies despite the *Public Records Act 2002*.
- (7) In this section—
- confidential information***—
- (a) includes information about a person’s affairs; but

- (b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

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) the commissioner; or
 - (c) an authorised officer; or
 - (d) a person acting under the direction of an authorised officer; or
 - (e) 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—
 - (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.
- (2) Without limiting subsection (1), a regulation may be made about the following—

- (a) setting fees payable under this Act, including the waiver, reduction, postponement or refund of fees payable or paid;
- (b) the making, keeping and inspection of records in connection with the carrying on of a body art tattooing business.

Part 8 Transitional provisions

Division 1 Transitional provision for Tattoo Parlours Act 2013

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.

Division 2 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

73 Applications not finally decided

- (1) This section applies if, immediately before the commencement, the chief executive had not finally decided an application for the grant of a licence or permit.
- (2) The application is taken to have been withdrawn.

74 Show cause process not finally decided

- (1) This section applies if—

[s 75]

- (a) the chief executive had given a QCAT notice mentioned in section 33(1) or 34(5) (the *show cause notice*) to a person; and
 - (b) immediately before the commencement, the chief executive had not finally dealt with the matters relating to the show cause notice (the *show cause process*).
- (2) The show cause process must continue under this Act as in force after the commencement.

75 Proceedings not finally decided

- (1) This section applies if immediately before the commencement the following proceedings had been started but not finally dealt with—
- (a) a proceeding before QCAT for a review of a decision mentioned in repealed section 57(1);
 - (b) a proceeding about a decision mentioned in repealed section 57(1) in the Supreme Court.
- (2) The proceeding is discontinued.
- (3) QCAT or the Supreme Court must return to the commissioner any criminal intelligence report or other criminal information mentioned in repealed section 20(3) relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
- (a) QCAT or the Supreme Court had not made a decision; or
 - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
 - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had been started but not ended.
- (5) In this section—

repealed, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

76 Additional prescribed offences

Until the expiry of the Criminal Code, sections 60A and 60B, the definition *prescribed offence* for this Act is taken to include a reference to those sections.

77 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the pre-amended Act to the operation of the amended Act; and
 - (b) this Act does not make provision or sufficient provision.
- (2) Without limiting subsection (1), a transitional regulation may continue the operation of a provision of the pre-amended Act that was omitted by the amending Act.
- (3) A transitional regulation may have retrospective operation to a day that is not earlier than the day of the commencement.
- (4) A transitional regulation must declare it is a transitional regulation.
- (5) This section and any transitional regulation expire 2 years after the day of commencement.
- (6) In this section—

amended Act means this Act as in force after the commencement.

amending Act means the *Serious and Organised Crime Legislation Amendment Act 2016*.

pre-amended Act means this Act as it was in force immediately before the commencement.

Schedule 1 Dictionary

section 4

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.

charge, for an offence, means a charge in any form, including, for example, the following—

- (a) a charge on an arrest;
- (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;
- (c) a complaint under the *Justices Act 1886*;
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act;
- (e) an indictment.

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.

control order see the *Penalties and Sentences Act 1992*, section 161N.

convicted, of a prescribed offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

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.

criminal history, of a person, means—

- (a) despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6, every conviction of the person for an offence, in Queensland or elsewhere, whether before or after the commencement; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere, whether before or after the commencement.

criminal intelligence see the Criminal Code, section 86(3).

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

exhibition permit see section 40.

fixed premises means premises that is a building or other structure, or part of a building or other structure, that has a permanent address.

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.

mobile premises, in relation to a body art tattooing business, means premises that is a vehicle, building or other structure ordinarily moved from place to place.

notice means written notice.

operator licence see section 9.

permit means a permit under this Act.

premises means—

- (a) a building or other structure, or part of a building or other structure, that has a permanent address; or
- (b) a vehicle, building or other structure ordinarily moved from place to place.

prescribed offence means—

- (a) an offence against the Criminal Code, section 76; or
- (b) an offence mentioned in the Criminal Code, part 2, chapter 9A; or
- (c) an offence that is—
 - (i) a prescribed offence within the meaning of the *Penalties and Sentences Act 1992*, section 161N; and
 - (ii) committed with a serious organised crime circumstance of aggravation within the meaning of the *Penalties and Sentences Act 1992*, section 161Q.

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

registered corresponding control order see the *Penalties and Sentences Act 1992*, section 161N.

relevant control order means a control order or registered corresponding control order that restricts the person from

carrying on a business, engaging in an occupation or performing an activity requiring a licence.

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*.

relevant person, for an applicant or licensee, means—

- (a) if the business to which the application or licence relates is owned or operated by or on behalf of a corporation—a director of the corporation or a member of its governing body; or
- (b) if the business to which the application or licence relates is owned or operated by or on behalf of a partnership—a partner, including a silent partner, of the partnership; or
- (c) if the business to which the application or licence relates is owned or operated by or on behalf of a trust—a trustee of the trust.

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.

1 Index to endnotes

- 2 Key
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- 5 List of annotations

2 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|-------------|---------------------------------------|---------------|----------------------------|
| AIA | = Acts Interpretation Act 1954 | (prev) | = previously |
| amd | = amended | proc | = proclamation |
| amd | = amendment | prov | = provision |
| t | | | |
| ch | = chapter | pt | = part |
| def | = definition | pubd | = published |
| div | = division | R[X] | = Reprint No. [X] |
| exp | = expires/expired | RA | = Reprints Act 1992 |
| gaz | = gazette | reloc | = relocated |
| hdg | = heading | renu | = renumbered |
| | | m | |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro | = retrospectively |
| | |) | |
| notf | = notified | rv | = revised version |
| d | | | |
| num | = numbered | s | = section |

| Key | Explanation | Key | Explanation |
|---------------|---------------------------|----------------|--|
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 2012 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum m | = unnumbered |
| prev | = previous | | |

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

| Current as at | Amendments included | Notes |
|----------------------|----------------------------|------------------------|
| 17 October 2013 | none | RA ss 7(1)(k), 40, 42A |

| Current as at | Amendments included | Notes |
|----------------------|----------------------------|-------------------|
| 6 January 2014 | 2013 Act No. 46 | RA ss 7(1)(k), 40 |
| 1 July 2014 | 2013 Act No. 64 | |
| 9 December 2016 | 2016 Act No. 62 | |
| 9 March 2017 | 2016 Act No. 62 | RA s 44 |

4 List of legislation

Tattoo Industry Act 2013 No. 46 (prev Tattoo Parlours Act 2013)

date of assent 17 October 2013

ss 1–2 commenced on date of assent

pt 1 hdg, ss 3–5, pts 3–4, 6, 7 (other than s 71), 10–11, sch 1 commenced 6 January 2014 (2013 SL No. 243)

pt 9 commenced on date of assent (see s 2)

remaining provisions commenced 1 July 2014 (2013 SL No. 243)

amending legislation—

Tattoo Parlours Act 2013 No. 46 ss 1–2, pt 11

date of assent 17 October 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 6 January 2014 (2013 SL No. 243)

Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013 No. 64 ss 1, 2(1), pt 19

date of assent 27 November 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2014 immediately after the commencement of the Liquor (Red Tape Reduction) and Other Legislation Amendment Act 2013, s 37 (2014 SL No. 90)

Serious and Organised Crime Legislation Amendment Act 2016 No. 62 ss 1–2(1), pt 30

date of assent 9 December 2016

ss 1–2, pt 30 divs 1–2 commenced on date of assent

pt 30 div 3 commenced 9 March 2017 (see s 2(1))

5 List of annotations

Long title amd 2013 No. 46 s 85

Short title

s 1 amd 2016 No. 62 s 410

Main purpose of Act

s 3 sub 2016 No. 62 s 411

Definitions

s 4 sub 2016 No. 62 s 411

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s 6 amd 2016 No. 62 s 412

Body art tattooists to be licensed

s 7 amd 2016 No. 62 s 413

Licence applications

s 11 amd 2016 No. 62 ss 400, 414

Additional information required for applications for operator licences

s 11A ins 2016 No. 62 s 415

Additional information required for applications for tattooist licences

s 11B ins 2016 No. 62 s 415

Criteria for granting application

s 12 sub 2016 No. 62 s 416

Additional criteria for operator licences

s 13 (prev s 12A) ins 2016 No. 62 s 416
renum 2016 No. 62 s 447

Additional criteria for tattooist licences

s 14 (prev s 12B) ins 2016 No. 64 s 416
renum 2016 No. 62 s 447

Inquiries about applicants, licensees and relevant persons

s 15 sub 2016 No. 62 s 419

Costs of criminal history report

s 15A ins 2016 No. 62 s 419

Notice of change in criminal history

s 15B ins 2016 No. 62 s 419

Chief executive may require further information

s 16 sub 2016 No. 62 s 419

Use of information obtained under s 15, 15B, 16 or 61

s 16A ins 2016 No. 62 s 419

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s 17 amd 2016 No. 62 s 420

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s 18 amd 2016 No. 62 ss 401, 421

Division 3—Special conditions relating to licences generally

div hdg prev div 3 hdg om 2016 No. 62 s 422
pres div 3 hdg (prev div 4 hdg) renum 2016 No. 62 s 448

Commissioner to make security determinations about applicants and licensees

s 20 om 2016 No. 62 s 422

Commissioner may require further information

s 21 om 2016 No. 62 s 422

Disclosure of criminal intelligence information

s 22 om 2016 No. 62 s 422

Division 4—Special conditions relating to operator licences

div hdg (prev div 5 hdg) renum 2016 No. 62 s 448

Change of licence particulars

s 25 amd 2016 No. 62 s 423

Changes in staff members

s 27 amd 2016 No. 62 s 424

Division 5—Suspension and cancellation of licences

div hdg (prev div 6 hdg) renum 2016 No. 62 s 448

Suspension of licence

s 33 amd 2016 No. 62 ss 402, 425

Cancellation of licence

s 34 amd 2016 No. 62 ss 403, 426

Automatic cancellation on conviction

s 34A amd 2016 No. 62 s 427

Division 6—Renewal of licences

div hdg (prev div 6A hdg) ins 2016 No. 62 s 428
renum 2016 No. 62 s 448

Renewal of licence

s 35A ins 2016 No. 62 s 428

Term of renewed licence

s 35B ins 2016 No. 64 s 428

Grounds for refusal to renew

s 35C ins 2016 No. 62 s 428

Procedure for refusal to renew

s 35D ins 2016 No. 62 s 428

Division 7—Fingerprint and palm print procedures

div hdg (prev div 6B hdg) ins 2016 No. 62 s 428
renum 2016 No. 62 s 448

Fingerprinting and palm printing of applicants

s 35E (prev s 13) amd 2016 No. 62 s 417(1)
reloc and renum 2016 No. 62 s 417(2)

Destruction of fingerprints and palm prints

s 35F (prev s 14) amd 2016 No. 62 s 418(1)

reloc and renum 2016 No. 62 s 418(2)

Division 8—Keeping of records

div hdg (prev div 7 hdg) renum 2016 No. 62 s 448

Way in which records for licensed premises to be kept

s 38 amd 2016 No. 62 s 429

Division 9—Offences relating to licences

div hdg (prev div 8 hdg) renum 2016 No. 62 s 448

Authority conferred by permit

s 40 amd 2016 No. 62 s 430

Application for exhibition permit

s 41 amd 2016 No. 62 ss 404, 431

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s 42 amd 2016 No. 62 ss 405, 432

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s 44 amd 2016 No. 62 ss 406, 433

Decision about application for visiting tattooist permit

s 45 amd 2016 No. 62 ss 407, 434

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s 46 amd 2016 No. 62 s 435

Long-term closure of body art tattooing businesses

s 47 amd 2016 No. 62 s 436

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s 56 amd 2016 No. 62 s 400

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s 57 sub 2013 No. 64 s 186

om 2016 No. 62 s 437

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s 58 amd 2013 No. 64 s 187

om 2016 No. 62 s 437

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s 59 amd 2016 No. 62 s 438

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s 60 amd 2016 No. 62 s 439

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s 61 sub 2016 No. 62 s 440

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exp 9 March 2019 (see s 77(5))

SCHEDULE 1—DICTIONARY

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def *adverse security determination* om 2016 No. 62 s 446(2)

def *close associate* om 2016 No. 62 s 446(2)

def *charge* ins 2016 No. 62 s 446(3)

def *controlled person* om 2016 No. 62 s 409

def *control order* ins 2016 No. 62 s 446(3)

def *convicted* ins 2016 No. 62 s 446(3)

def *criminal history* ins 2016 No. 62 s 446(3)

def *criminal intelligence* ins 2016 No. 62 s 446(3)

def *fixed premises* ins 2016 No. 62 s 446(3)

def *mobile premises* ins 2016 No. 62 s 446(3)

def *premises* ins 2016 No. 62 s 446(3)

def *prescribed offence* ins 2016 No. 62 s 446(3)

def *registered corresponding control order* ins 2016 No. 62 s 446(3)

def *relevant control order* ins 2016 No. 62 s 446(3)

def *relevant person* ins 2016 No. 62 s 446(3)