

Security Providers and Another Regulation Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 55

made under the

Security Providers Act 1993
State Penalties Enforcement Act 1999

General Outline

Short title

Security Providers and Another Regulation Amendment Regulation (No. 1) 2014

Authorising law

Section 54 of the *Security Providers Act 1993*
Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The objectives of the amendments are to:

1. address privacy and safety concerns that have been raised by the security provider industry regarding the potential misuse of crowd controllers' residential addresses that are required to be recorded on the crowd controller register under sections 18(3)(a) and 21(4)(a) of the *Security Providers Regulation 2008*; and
2. improve the operation of the *Security Providers Regulation 2008* and make consequential amendments to the *State Penalties Enforcement Regulation 2000*.

Amendments to sections 18(3) and 21(4) to remove the residential address requirement

Section 18(1) of the *Security Providers Regulation 2008* (the Regulation) requires a liquor licensee to keep a register of persons engaged by the liquor licensee to carry out the functions of a crowd controller for reward at the public place. Section 18(3) requires the register to state particular details as stipulated.

Section 21(1) of the Regulation states that a security firm is required to maintain a register if (a) the security firm supplies crowd controller services at a particular place and (b) a liquor

licensee is not required to keep a register of crowd controllers for the place under subdivision 1. Like section 18(3), section 21(4) also requires the register to state particular details as stipulated.

One of the details that must be stated in the register is the crowd controller's residential address (sections 18(3)(a) and 21(4)(a)).

Although a liquor licensee or security firm is required to keep the register in a secure place (sections 18(2) and 21(3)(b)), because of the bound format of the register, privacy of the information cannot always be assured. It is relatively easy for a crowd controller to see other entries in the register when making their own entry, and other staff may have access to the register through the course of their work.

Industry participants and their representatives have highlighted their concerns regarding the residential address requirement and the ability for this personal information to be accessed relatively easily and misused, for example, in order to stalk or threaten other crowd controllers.

Moreover, due to the Government's zero tolerance crackdown on criminal gangs and amendments to the *Liquor Act 1992* to prohibit the wearing and display of bikie 'colours' at liquor licensed premises, crowd controllers fear that associates of criminal gang members who may have access to the crowd controller register may obtain their residential address for improper purposes, such as exacting revenge on a crowd controller who has caused a gang member's removal from a licensed premises.

In order to address the privacy and safety concerns of the security provider industry, the only means by which this can be achieved is through legislative amendment to remove from sections 18(3)(a) and 21(4)(a) the requirement for crowd controllers to include their residential address in the crowd controller register.

Amendments to clarify the intention of sections 18(3) and 21(4)

Sections 18(3)(a) and 21(4)(a) require the crowd controller's full name, residential address and licence number, to be written in ink and so that they are easily legible. However, the requirement for such details to be written in ink and so that they are easily legible does not appear to relate to any of the other prescribed details that must be included in the register under sections 18(3) and 21(4).

All the information that is required to be included in the register is important, and may contribute crucial evidence should an incident occur in the public place. Accordingly, all the information should, at the least, be legible. When drafting the amendment, the Office of Queensland Parliamentary Counsel has commented that the requirement for certain entries to be written in ink and to be legible would be better placed to apply equally to all entries made in the register.

Sections 18 and 21 will be amended so that this requirement will be removed from only applying to the crowd controller's name and licence number, and will instead apply to all of the entry details required in the register.

Achievement of policy objectives

Amendments to the Security Providers Regulation 2008

The policy objectives will be achieved by amending sections 18(3) and 21(4) of the Regulation to remove the requirement for crowd controllers to state their residential address on the register.

The amendments will also omit the phrase 'written in ink and so that they are easily legible' from sections 18(3)(a) and 21(4)(a). A new subsection will be inserted under section 18 and under section 21, requiring all entries to the register to be written in ink and be easily legible. This amendment will ensure that the requirement for details to be written in ink and easily legible applies to all of the required details.

Accordingly, the amendments address the privacy and safety concerns raised by the security provider industry (removal of the residential address requirement), clarify the details that must be written in ink and be easily legible and improve the operation of the legislation.

Amendments to the State Penalties Enforcement Regulation 2000

The *State Penalties Enforcement Regulation 2000* requires minor consequential amendments to reflect the changed numbering of the provisions.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objects of the Act, including requiring employers of crowd controllers to maintain registers which recorded details of crowd controllers on duty and any violent incidents which occurred at the venue.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The proposed amendment was the only approach which adequately addressed the safety and privacy concerns of the security provider industry without increasing regulation and costs for industry and the Government. For these reasons, the proposed amendment is the preferred option.

Other options, which were considered and are not preferred, include:

(a) Separate non-sequential 'residential address' register

This option would require a liquor licensee or security firm to keep two registers; one register for signing in and out at the commencement and completion of a shift and a second register, only accessible by a liquor licensee or security firm, specifically for the residential address.

The negatives of this option include:

- i. low operational workability; and
- ii. increased regulatory and cost burdens upon industry; and
- iii. partially balances privacy and information access.

For these reasons, this option was not adopted.

(b) Electronic register with discreet login

This option would require crowd controllers to register their residential address details onto a secure electronic register upon commencement of each shift, which should only be accessible to the liquor licensee or security firm. This option would place the onus on the liquor licensee or security provider to ensure other security providers' residential address details were not viewable upon login.

The negatives of this option include:

- i. very low operational workability; and
- ii. high regulatory burden; and
- iii. partially balances privacy and information access.

For these reasons, this option was not adopted.

(c) Downloadable forms

This option would require crowd controllers to complete a downloadable form prior to commencing their shift, which would include the crowd controller's residential address details. The completed form would be provided to the liquor licensee or security firm who would be required to store it in a secure location.

The negatives of this option include:

- i. low operational workability; and
- ii. partially balances privacy and information access; and
- iii. potentially does not fully address privacy issues where storage is less secure.

For these reasons, this option was not adopted.

(d) Computer database – increased accessibility

This option would require the Office of Fair Trading (OFT) to develop and maintain a computer database containing all relevant personal information available to OFT staff and QPS at all times, or make the OFT database available to QPS officers electronically.

The negatives of this option include:

- i. low operational workability; and
- ii. high regulatory burden; and
- iii. issues around privacy and use of information obtained by government agencies; and
- iv. increased costs associated with creating and maintaining the computer database.

Accordingly, this option was not adopted.

(e) Telephone number in lieu of residential address

The Regulation could be amended to require a crowd controller's private telephone number (contactable at all times) in lieu of a residential address.

The negatives of this option include:

- i. low compliance assistance; and
- ii. partially balances informational privacy and access.

For these reasons, this option was not adopted.

(f) Chief Executive special exemption of residential address requirement

Section 54(2)(e) of the Act permits the making of a regulation for the purpose of regulating the conduct of security providers.

Accordingly, an amendment could be made exempting specific crowd controllers from having to state their residential address in the crowd controller register. In doing so, crowd controllers would only be required to partially comply with sections 18 and 21 of the Regulation, and security firms and liquor licensees with sections 19 and 22 of the Regulation, respectively.

The negatives of this option include:

- i. does not achieve objectives.

Accordingly, this option was not adopted.

(g) Sanctions for misuse of information obtained from register

Section 48 of the Act prohibits a person from disclosing, using or recording information gained by the person through involvement in administration of the Act.

A provision similar to section 48 could be mirrored to prohibit security providers from misusing information gained in the performance of their obligations under the Act.

The negatives of this option include:

- i. very low operational workability; and
- ii. high regulatory burden; and
- iii. only applies to other security providers and not other persons gaining access to the register information; and
- iv. fails to balance information privacy and access.

For these reasons, this option was not adopted.

Benefits and costs of implementation

Implementation of the amendment will address the privacy and safety concerns raised by the security provider industry.

Implementation of the amendment will also serve to reduce regulation and red tape, in line with the Government's commitment.

Implementation of the amendment will not impose additional costs upon industry or the Government.

Consistency with fundamental legislative principles

The proposed amendments are consistent with fundamental legislative principles.

Consultation

Industry participants and their representatives initially raised the privacy and safety concerns with respect to the residential address requirement currently imposed by the Regulation.

The Honourable Jack Dempsey MP, Minister for Police, Fire and Emergency Services was consulted on, and supports, the proposed amendments. Minister Dempsey also directly consulted with the Queensland Police Service in relation to the proposed amendments.

The Queensland Competition Authority's Office of Best Practice Regulation was consulted and has assessed the amendment as being excluded from the Regulatory Impact Statement system, with no further analysis being required under the Treasurer's guidelines.