

# Security Providers and Another Regulation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 184

made under the

*Security Providers Act 1993*

## General Outline

### Short title

*Security Providers and Another Regulation Amendment Regulation (No. 1) 2015*

### Authorising law

Section 54 of the *Security Providers Act 1993*.

### Policy objectives and the reasons for them

The *Security Providers Act 1993* (Security Providers Act) establishes an occupational licensing system for the private security industry in Queensland. The licensing provisions of the Security Providers Act apply to individuals and businesses providing a range of security services for reward. The *Security Providers Regulation 2008* (Security Providers Regulation) supports the operation of the Security Providers Act.

The policy objectives of the *Security Providers and Another Regulation Amendment Regulation (No. 1) 2015* (the Amendment Regulation) are to:

- reduce unnecessary red tape and regulation for security provider licensees by relaxing current requirements for licensees to provide new photographs when applying for renewal of a licence;
- provide more flexibility in the methods security provider licensees can use to notify the Office of Fair Trading of a change in the licensees particulars, thereby reducing red tape for licensees and improving the currency of licensing data held by the Office of Fair Trading; and
- improve the clarity and readability of the Security Providers Regulation by making minor editorial amendments.

### ***Licence renewal applications – provision of photographs***

Section 6(2)(a) of the Security Providers Regulation provides that applications for licences, as well as applications for renewal of existing licences, must be accompanied by photographs meeting prescribed requirements (unless the applicant has provided photographs in the last two years).

The provision of photographs with applications for new licences is essential as it supports the rigorous tests undertaken by the Office of Fair Trading and the Queensland Police Service for establishing the identity, probity, and suitability of prospective licensees. These tests include 100-point identity verification, fingerprinting, and local and national criminal history checks. Photographs are also included on licences issued to successful licence applicants (section 11 of the Security Providers Regulation).

In contrast, the requirement to provide new photographs with applications for the renewal of licences provides minimal, if any, additional benefit to the public or government, while imposing a largely unnecessary regulatory burden and cost on security provider licensees. Many licensees renew their licence annually, meaning that they are required to provide new photographs every two years.

The private security industry is characterised by a relatively high turnover of personnel. In many cases there is very low risk that the photographs provided by the licensee with their original licence application will become significantly out of date during the life of the licence. It is also noteworthy that other regulatory regimes facilitate the use of photographs for a significantly longer period of time than under the current Security Providers Regulation. For example, photographs for Queensland drivers' licences and ordinary Australian adult passports have a 'shelf-life' of 10 years.

For these reasons, an opportunity to reduce the regulatory burden through a relaxation of requirements for new photographs to accompany security provider licence renewal applications has been identified.

### ***Notifying the Office of Fair Trading of changes to licensees' particulars***

Section 12(1) of the Security Providers Regulation requires licensees to give the chief executive written notice of any change in the licensee's 'particulars' (detailed in section 12(2)) within 7 days after the change. A penalty may be imposed against licensees that fail to comply with this requirement.

A strict requirement for licensees to provide written notification does not facilitate alternative, timely methods for licensees to inform the Office of Fair Trading of changes in their particulars. It is anticipated that as well as reducing red tape, providing licensees with more flexible options for notifying the Office of Fair Trading of changes in their particulars will promote better compliance by licensees and improve the currency and accuracy of licensing information held by the Office of Fair Trading.

### ***Improving the clarity and readability of the Security Providers Regulation***

The Amendment Regulation aims to improve the clarity and readability of the Security Providers Regulation by making minor editorial amendments.

Sections 18 and 21 of the Security Providers Regulation were amended and restructured through the *Security Providers and Another Regulation Amendment Regulation 2014* (SL No. 55 of 2014). Prior to their amendment, sections 18(4)(a) and 21(5)(a) required particular information to be 'written in ink' in prescribed registers. The provisions were appropriately followed by notes making reference to the meaning of 'writing' under the *Acts Interpretation Act 1954*.

The notes were not removed when sections 18 and 21 were restructured by SL No. 55 of 2014 and remain in the current reprint of the Security Providers Regulation. The notes are no longer relevant to sections 18(4)(a) or 21(5)(a).

Following the amendments contained in SL No. 55 of 2014, sections 18(3) and 21(4) of the Security Providers Regulation now contain the requirement for registers to be in writing. These provisions currently contain an appropriate note making reference to the meaning of 'writing' under the *Acts Interpretation Act 1954*. The Amendment Regulation will remove the unnecessary notes from sections 18(4)(a) or 21(5)(a).

Section 12(2)(b) of the Security Providers Regulation defines 'particulars' of a corporation that holds a licence for the purposes of section 12. In section 12(2)(b), subsection (vii) uses the term 'a corporation' in referring to the corporation to whom the particulars relate, which is inconsistent with the other subsections in section 12(2)(b), which use the term 'the corporation'.

## **Achievement of policy objectives**

### ***Licence renewal applications – provision of photographs***

Amendments to section 6 of the Security Providers Regulation will remove the existing requirement for applications for renewal of licences to be accompanied by photographs and instead provide discretion to the chief executive to decide whether photographs are required to be provided with licence renewal applications.

In accordance with this amendment, it is anticipated that an administrative policy will be adopted whereby licence renewal applicants will only need to provide new photographs with their renewal application if the licensee applicant has not provided photographs within the previous ten years, or if their appearance has changed significantly since their licence was last renewed (for example, a licensee may acquire facial tattoos). The appropriateness and effectiveness of such an administrative policy will be able to be periodically reviewed by the chief executive.

### ***Notifying the Office of Fair Trading of changes in licensees' particulars***

Section 12(1) of the Security Providers Regulation will be amended to remove the word 'written' from the provision. This amendment will provide licensees with greater flexibility in how they inform the chief executive of a change in their particulars. This could be by written notification (as is currently the case), or by other means such as by telephone or online services. A consequential amendment to this effect will also be made to the *Security Providers (Security Firm Code of Practice) Regulation 2008*.

### ***Minor editorial amendments***

Sections 18(4)(a) and 21(5)(a) of the Security Providers Regulation will be amended to remove the unnecessary notes associated with those provisions. The notes now appropriately follow sections 18(3) and 21(4) of the Security Providers Regulation, as a result of SL No. 55 of 2014.

Section 12(2)(b)(vii) will be amended to replace the reference to ‘a corporation’ with reference to ‘the corporation’. This amendment will ensure subsection (vii) is consistent with its companion subsections and will also clarify that the corporation being referred to in the subsection is the corporation holding the licence.

The making of the minor editorial amendments described above will not impact on the operation of the Security Providers Regulation.

### **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the policy objectives of the Security Providers Act as the amendments will support the operation of the occupational licensing system for the private security industry, which is established under the Security Providers Act and administered by the Office of Fair Trading.

### **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

### **Benefits and costs of implementation**

As well as reducing the unnecessary burden and costs to licensees, the amendment to relax the requirement for photographs to be provided upon licence renewal will also support the Government’s initiative to deliver more cost effective, simpler and easier access to government information and services as part of its ‘One stop shop’ program by enabling licensees to complete their licence renewals online. The Amendment Regulation will also provide licensees with greater flexibility in the ways they may notify the chief executive of changes to their personal details.

The amendments represent cost savings and a reduction in unnecessary regulatory burdens for approximately 30,000 security provider licensees.

Apart from some implementation costs for government, the amendments are not expected to result in any costs for licensees or the broader community.

### **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

The Office of Best Practice Regulation was consulted on the application of the Regulatory Impact Statement System to the proposal to make the Amendment Regulation. The Office of Best Practice Regulation advised that the proposal is unlikely to result in significant adverse impacts and is therefore excluded from further analysis under the Regulatory Impact Statement System guidelines.

The Department of the Premier and Cabinet, Queensland Treasury and the Queensland Police Service have been consulted. No outstanding issues have been identified.