

**Attachment to Explanatory Memorandum
to Fair Trading Regulations**

**Fair Trading Act 1992
Fair Trading Regulations**

**Guard and Patrol Services Industry
CODE OF PRACTICE
AMENDMENT (No.1 of 1998)**

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Fair Trading Act 1992
Fair Trading Regulations

**Guard and Patrol Services Industry
CODE OF PRACTICE
AMENDMENT (No.1 of 1998)**

Principal Code

1. In this amendment, "Principal Code" means the *Guard and Patrol Services Industry Code of Practice* prescribed by the *Fair Trading Regulations* as a Code of Practice under the *Fair Trading Act 1992* and commencing on 16 January 1998.

References to ACTSPIIC

2. (1) Clause 2 of the Principal Code is amended by omitting the words "ACTSPIC: ACT Security Protection Industry and Investigation Council Incorporated" and substituting "ACTSPIIC: ACT Security Protection and Investigation Industry Council Incorporated, unless the Minister has approved some other body, in which case; that other body".

(2) The following provisions of the Principal Code are amended by omitting "ACTSPIC" wherever occurring and substituting "ACTSPIIC":

Clause 2, paragraph 8(1)(c), paragraph 10(1)(a), subclause 10(2), paragraph 11(2)(b), paragraph 13(1)(c), clause 17, clause 19 and the Schedule.

Substitution

3. Clause 5 of the Principal Code is repealed and the following clause is substituted:

Principal's obligations

"5. (1) A principal shall not participate in the guard and patrol services industry unless registered by the Director.

(2) A principal shall ensure, in respect to the provision of a guard and patrol service, compliance with the obligations listed in the Schedule.

(3) A principal is responsible for the good conduct of his or her employees in the course their employment.

(4) For the purpose of subclause (1), the Director shall register a principal who:

(a) has provided to the Director a notification in the form of Attachment "A";

(b) in the case of a natural person;

(i) has authorised the Director to undertake a criminal record check of the principal with the Australian Federal Police;

(ii) if convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons, has been certified by the Director for employment in the industry on the ground that the principal is unlikely to reoffend;

(iii) is at least 18 years of age; and

(iv) has produced to the Director two forms of identification to the satisfaction of the Director.

(c) in the case of a body corporate;

(i) has authorised the Director to undertake a criminal record check of the principal with the Australian Federal Police;

(ii) has provided to the Director such details of all relevant influential persons of the body corporate as requested by the Director and has obtained an authorisation from each relevant influential person for the Director to undertake a criminal record check of the person with the Australian Federal Police; and

(iii) if it, or a relevant influential person of the body corporate, has been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons, then each such person has been certified by the Director for employment in the industry on the ground that the person is unlikely to reoffend; and

(d) has paid the registration fee, if any.

(5) Where a person becomes a relevant influential person of a principal after that principal has been registered, the principal shall:

(a) notify the Director within 14 days;

(b) provide the Director, within a reasonable time, with such details of that person as he or she requests; and

(c) obtain, within 14 days, an authorisation from the relevant influential person for the Director to undertake a criminal record check of the person with the Australian Federal Police.

(6) Where the Director is satisfied, having regard to any recommendation of ACTSPIIC and any circumstances that he or she considers relevant, that the criminal record check undertaken in regard to a principal or relevant influential person may not adequately disclose that person's convictions, the Director may require that person to undertake, within 14 days, a fingerprint check with the Australian Federal Police."

Staff

4. Clause 10 of the Principal Code is amended:

(a) by omitting paragraphs (2)(a) and (2)(b) and substituting the following paragraphs in subclause (2):

"(a) who has provided to ACTSPIIC (or, where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) a notification in the form of Attachment "B" and has produced to ACTSPIIC (or, where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) two forms of identification to the satisfaction of ACTSPIIC (or the Director as the case may be);

(b) who has authorised ACTSPIIC (or, where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) to undertake a criminal record check of that person with the Australian Federal Police, the results of which are to be provided to ACTSPIIC (or the Director as the case may be);"; and

(b) by inserting after subclause (7) the following subclause:

"(8) Where ACTSPIIC (or, where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) is satisfied, having regard to any recommendation of the Director and any circumstances that he or she considers relevant, that the criminal record check undertaken in regard to an employee may not adequately disclose that employee's convictions, ACTSPIIC (or the Director as the case may be) may require that employee to undertake, within 14 days, a fingerprint check with the Australian Federal Police."

Administration - Director

5. Clause 18 of the Principal Code is amended by omitting subclause (4) and substituting the following:

"(4) The Director shall deregister a principal where the principal has:

- (a) failed to pay a fee for the maintenance of registration;
- (b) failed to comply, or has a relevant influential person who has failed to comply, with a requirement of the Director under subclause 5(6);
- (c) been convicted in this country or any other country of an offence referred to in subparagraph 5(4)(b)(ii) or 5(4)(c)(iii) and has not obtained a certification under subclause (2) in relation to that offence;
- (d) a relevant influential person who has been convicted in this country or any other country of an offence referred to in subparagraph 5(4)(c)(iii) and has not obtained a certification under subclause (2) in relation to that offence;
- (e) failed to comply with subclause 5(5); or
- (f) given any false or misleading information in relation to an application for, or the maintenance of, registration."

Administration - ACTSPIIC

6. Clause 19 of the Principal Code is amended by omitting subclause (5) and substituting the following:

"(5) ACTSPIIC (or, where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) shall deregister a person where the person has:

- (a) failed to pay a fee for the maintenance of registration;
- (b) failed to comply with a requirement of ACTSPIIC (or, where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) under subclause 10(8);
- (c) been convicted in this country or any other country of an offence referred to in paragraph 10(2)(c) and has not obtained a certification under subclause (2) in relation to that offence; or
- (d) given any false or misleading information in relation to an application for, or the maintenance of, registration."

Substitution

7. Attachment A of the Principal Code is repealed and the following is substituted:

"Attachment A

APPLICANT WHO IS A COMPANY

Notification of Participation in the ACT Security (Protection) Industry as a Principal
Warning: Please read the notification carefully. Providing false or misleading information will result in automatic disqualification.

To the Director of Consumer Affairs

Applicant name: [enter full name of company and ACN number]

Contact details: [enter full contact details]

The following are relevant influential persons in relation to the applicant: [list the names (including prior names and aliases), full contact details of each relevant influential person and that person's position in, or relationship to, the company].

NB: A "relevant influential person" is, in relation to a body corporate:

- (a) a director or secretary of the body; or
- (b) a person who is:
 - (i) substantially concerned in the management of the body; or
 - (ii) able to control, or to substantially influence, the body's activities or internal affairs.

The applicant proposes to participate in the Security Protection Industry as a principal in the: [mark one or more as appropriate]

guard and patrol services industry

crowd marshals industry

bodyguard industry

cash transit industry

The applicant has authorised the Director to undertake a criminal record check of the applicant with the Australian Federal Police AND the applicant has obtained an authorisation from each relevant influential person for the Director to undertake a criminal record check of that person with the Australian Federal Police.

The applicant has not been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons; OR

The applicant has been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons and the applicant will make an application for certification by the Director of Consumer Affairs for participation in the industry.

None of the relevant influential persons in relation to this company have been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons; OR

For each relevant influential person who has been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons, an application has been made by that person for certification by the Director for participation in the industry.

The results of criminal record checks shall only be made available to the Director.

The applicant notes that principals may become members of ACTSPIIC.

The applicant understands that a relevant Code of Practice applies to each abovementioned industry in which the applicant participates and the applicant agrees to abide by each relevant code.

This notification is a public notification.

Signed for and on behalf of the applicant:

Dated:

APPLICANT WHO IS AN INDIVIDUAL

Notification of Participation in the ACT Security (Protection) Industry as a Principal
Warning: Please read the notification carefully. Providing false or misleading information will result in automatic disqualification.

To the Director of Consumer Affairs

I: [enter full name and provide details of any alias, previous name or trade name]

of: [enter full contact details]

My date of birth is:

I propose to participate in the Security Protection Industry as a principal in the:
[mark one or more as appropriate]

guard and patrol services industry
crowd marshals industry
bodyguard industry
cash transit industry

I have produced to the Director the following two forms of identification:
[please describe each form of identification and state any reference number and expiry date]

I am at least 18 years of age.

I have authorised the Director to undertake a criminal record check regarding myself with the Australian Federal Police.

I have not been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons;
OR

I have been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons and I will make an application for certification by the Director for participation in the industry as a principal.

The results of the criminal record check shall only be made available to the Director.

I note that I may become a member of ACTSPIIC.

I understand that the Code of Practice relevant to the industry in which I propose to

participate will apply to me, and I agree to abide by the Code.

This notification is a public notification.

Signed:

Dated:"

Substitution

8. Attachment B of the Principal Code is repealed and the following is substituted:

"Attachment B

Notification of Participation in the ACT Security (Protection) Industry as an Employee *Warning: Please read the notification carefully. Providing false or misleading information will result in automatic disqualification.*

To the ACT Security Protection and Investigation Industry Council Incorporated (ACTSPIIC), or, where ACTSPIIC has entered an agreement with the Director of Consumer Affairs under subclause 19(7), the Director

I: [enter full name details of any alias or previous name]

of: [enter full contact details]

My date of birth is:

I propose to participate in the Security Protection Industry as an employee in the:
[mark one or more as appropriate]

guard and patrol service industry
crowd marshals industry
bodyguard industry
cash transit industry

I have produced to ACTSPIIC (or, where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) the following two forms of identification:

[describe each form of identification and state any reference number and expiry date]

I am at least 18 years of age.

I have not been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons;
OR

I have been convicted in this country or any other country of an offence for which imprisonment has been prescribed involving dishonesty, violence, drugs or weapons

and I will make an application for certification by ACTSPIIC for employment in the industry on the ground that I am unlikely to reoffend.

I have authorised ACTSPIIC (or , where ACTSPIIC has entered an agreement with the Director under subclause 19(7), the Director) to undertake a criminal record check regarding myself with the Australian Federal Police.

The result of the criminal record check will be made available to ACTSPIIC and the Director and may be made available to your employer or any prospective employer.

My current employer is:
My prospective employer is:

I understand that the information in this notification may be made available as follows:
my name will be publicly available; and
my contact details be made available to a registered principal, the Director and ACTSPIIC.

Signed:

Dated:"