

Getting a Security Licence

1 Who issues security licences

Security licences are issued by the Security Licensing & Enforcement Directorate (SLED), which is a Division of the NSW Police Force.

You can find out more about SLED at:

https://www.police.nsw.gov.au/online_services/security_licensing_and_enforcement_directorate

2 Types of security licence

For a summary of the different types of licences see:

https://www.police.nsw.gov.au/online_services/security_licensing_and_enforcement_directorate/security_licenses/about_security_licenses.

There are two groups of licences (see *Security Industry Act 1997*, Part 2, Division 2):

- **Master Licence** - for employers and registered training organisations.
- **Operator Licence** – for individuals. All holders of an Operator Licence must be employed by someone with a Master Licence.

This document only deals with Operator Licences.

There are two sub-classes of Operator Licence. Both are available for a one or five-year period.

- **Class 1** Licences for manpower services. There are 6 different subclasses. You can apply for more than one subclass to be covered by your Class 1 Licence. For more information, such as fees and eligibility, see <https://ablis.business.gov.au/service/nsw/class-1-security-licence/16607>
 - **Class 2** Licences for technical services, sales and training. There are 6 different subclasses. You can apply for more than one subclass to be covered by your Class 2 Licence. For more information, such as fees and eligibility, see <https://ablis.business.gov.au/service/nsw/class-2-security-licence/16556>
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3 Eligibility for a security licence

The eligibility criteria for Class 1 and Class 2 Operating Licences are the same. See these links:

<https://ablis.business.gov.au/service/nsw/class-1-security-licence/16607>

<https://ablis.business.gov.au/service/nsw/class-2-security-licence/16556>

See also the Eligibility Fact Sheet:

https://www.police.nsw.gov.au/data/assets/pdf_file/0011/286139/SEC-Fact_Sheet_6-Am_I_Eligible_for_a_NSW_Security_Licence-Security.pdf

In summary, to be eligible for a security licence you must:

- Be 18 years of age or over.
- Be an Australian/New Zealand citizen or permanent Australian resident or hold a visa that entitles you to work in Australia (other than a student or working holiday visa). If you are not an Australian/New Zealand citizen or permanent Australian resident, you will need to provide police certificates, which must be translated into English, for each country you have lived in for 12 months or more over the previous 10 years since turning 16.

- Have a driver's licence, photo card or customer number from NSW Roads and Maritime Services.
- Be a fit and proper person to hold the class of licence sought (see more details below).
- Have the relevant competencies and experience required. This means you must have completed all necessary training and obtained all necessary qualifications for the type of licence you are applying for. For more information about the competency requirements for Class 1 Operating Licences see https://www.police.nsw.gov.au/_data/assets/pdf_file/0008/278684/Competency_Requirements_for_Class_1_Licences_-_v_5_-26_June_2017.pdf
- Be fully aware of the entitlements and restrictions of the licence you are applying for.

4 Criminal history restrictions

4.1 Restrictions on granting licence – criminal history

Section 16 of the *Security Industry Act* 1997 says that the police *must* refuse to grant your security licence application if you have:

- In the last ten years, been convicted; or
- In the last five years, found guilty (but with no conviction recorded)

of an offence prescribed by the *Security Industry Regulation* 2016. See below for a list of prescribed offences.

4.2 What does it mean to be “convicted”?

If you are found guilty of an offence committed when you are over 18, a conviction will automatically be recorded unless your charge is dealt with under section 10 of the *Crimes (Sentencing Procedure) Act*.

If you are found guilty of an offence committed when you are under 18, the Court may decide whether or not to record a conviction. If you are under 16 and dealt with by the Children's Court, no conviction will be recorded.

If you receive a police caution or go to a youth justice conference instead of going to court, you are *not* deemed to have been found guilty of the offence. However, you might still fail the “fit and proper person” test.

4.3 Prescribed offences

These offences are (information taken from *Security Industry Regulation* 2016, clause 15):

- Some firearms or weapons offences;
- Most types of drug offences (including an offence committed overseas if it would be illegal in Australia);
- An offence involving assault of any description where the penalty imposed includes any term of imprisonment (whether suspended or not), a good behaviour bond, a community service order, or a fine of \$200 or more.
- An offence involving fraud, dishonesty or stealing where the maximum penalty is imprisonment for 3 months or more (*in practice this means just about every dishonesty offence*);
- An offence involving robbery;
- Certain industrial relations offences;
- An offence relating to riot;
- Affray;
- An offence involving stalking or intimidation;

- (j) An offence relating to reckless conduct causing death in a workplace;
- (k) Most terrorism offences; and
- (l) Certain offences involving organised criminal groups.

5 “Fit and proper person” restrictions

Even if you do not have a criminal history that would disqualify you, section 15 of the *Security Industry Act* allows the police to refuse you a security licence if you are not a “fit and proper person”.

SLED may take into account any criminal intelligence report or other criminal information that is relevant to the class of licence you are seeking, which may lead them to believe that improper conduct is likely if the licence is granted.

For example, you could be refused a licence if you have been to a youth justice conference for a serious assault, if you have an apprehended violence order (AVO) out against you, if you have had criminal charges dismissed under section 32 of the *Mental Health (Forensic Provisions) Act*, or if there is information on the police computer system to suggest that you are involved in serious criminal activity.

6 How to apply for a security licence

6.1 Application forms

To apply for a security licence, you must make a written application to the Security Licensing and Enforcement Directorate (SLED). The applications you need to fill out and an explanation of the steps you need to take can all be found by following the links at:

https://www.police.nsw.gov.au/online_services/security_licensing_and_enforcement_directorate/security_licenses.

Before starting an application, it may be helpful to visit the Application Assistant webpage to find simple, step-by-step guides to completing and lodging common applications:

https://www.police.nsw.gov.au/online_services/security_licensing_and_enforcement_directorate/security_licenses/application_assistant

A Class 1 or 2 Licence Application is called Form P601. Application forms for Operating Licences (Class 1 and 2) can be downloaded from:

https://www.police.nsw.gov.au/online_services/security_licensing_and_enforcement_directorate/security_licenses/application_forms_and_fees.

This webpage also provides important information for applicants regarding competency and additional eligibility requirements for specific subclasses of Class 1 or Class 2 Licences. Using these links, you can also make an application to amend, vary or renew a licence.

6.2 What must be included with the form

When you submit your application, you must include a certified copy of ONE of the following:

- Full Australian Birth Certificate (extracts and commemorative certificates are NOT acceptable);
- Certificate of Australian or New Zealand Citizenship;
- A current Australian passport (or a recent passport that is not more than two years expired or an acceptable Australian travel document); or
- A non-Australian passport (clearly showing name, date of birth, photograph, passport number, expiry date and country of issue) and visa that entitles the holder to work in Australia (other than a student or working holiday visa).

If you are not a permanent Australian resident or citizen of Australia/New Zealand you must also provide a police certificate from each country that you have lived in for 12 months or more over

the previous 10 years since turning 16. This must be translated into English (if necessary) and verified by the relevant country's embassy/consulate in Australia.

To apply for a NSW security licence, you must also satisfy the following two identification requirements:

- You must hold either a driver licence *or* photo card *or* customer number issued by NSW Roads & Maritime Services (RMS) showing your current name; *and*
- ALL documentation submitted with your application that displays your name must show your name written and spelt in exactly the same way (unless you provide acceptable evidence of a change of name).

You must provide *certified copies* of all documents. Each page that has been photocopied must be signed by a Justice of the Peace, Legal Practitioner or Public Notary as a true and correct copy of the original.

6.3 Fees

You can apply for a licence for a 1-year term or a 5-year term. For a list of fees (correct as at June 2018), see:

https://www.police.nsw.gov.au/online_services/security_licensing_and_enforcement_directorate/security_licenses/application_forms_and_fees

For information about how the application fee can be paid, see the instructions on the Application Form, or see the 'Payment Advice Form' at:

https://www.police.nsw.gov.au/data/assets/pdf_file/0003/282063/Payment_Advice_Form_2018.pdf

6.4 Submitting the application

The application form cannot be submitted online.

Your completed form (with all the supporting documents) must be mailed to The Security Licensing and Enforcement Directorate at:

Security Licensing & Enforcement Directorate
Locked Bag 5099, Parramatta NSW 2124

7 If you have an existing security licence and are charged or convicted of an offence

7.1 Do you have to notify SLED if you are charged or convicted?

SLED (as delegate for the Commissioner of Police) is automatically notified if a security licence holder is charged with an offence in NSW.

Court outcomes are monitored by SLED and licence holders do not need to update SLED with court outcomes.

7.2 Suspension or revocation of licence

A licence **may be suspended** by SLED if a person is **charged** with a prescribed offence. It may also be suspended by a court in some other situations.

A licence will be **automatically revoked** if a licensee is found guilty/convicted of a prescribed offence (for details about prescribed offences see section 4.3 of this document).

SLED **may** decide to revoke your licence in other situations, eg. if you are found guilty of another type of offence. For more information about suspension and revocation of licences, see below.

8 Suspension and revocation of licences

8.1 Suspension of licence

Suspension by the Commissioner

Under section 25 of the *Security Industry Act 1997*, The Commissioner (which in practice means SLED) may suspend a person's licence if they are satisfied there may be grounds for revoking a licence. Grounds for revoking a licence can include supplying false information in a licence application, breaching a provision of the *Security Industry Act*, or breaching any condition of the licence.

If a licensee is *charged* with *any offence* in NSW, their licence *may* be suspended before a court outcome. SLED's Adjudication team will review all the information available to the police and make a decision about the suitability of a licence holder to keep their licence based on fit and proper/public interest considerations. SLED will consider factors including the nature and seriousness of the offence, and whether the charges are directly related to the duties the licence holder was performing at the time of the offence.

The Commissioner does not have to give a licensee an opportunity to be heard before suspending a licence.

The Commissioner will notify a person that their licence is suspended and explain the reasons for suspending it. The suspension will take effect when the notice is served. The notification will also request that the licensee provide the Commissioner with reasons why the licence *should not be revoked*. Failure to respond to this could mean that the licence is revoked permanently.

The suspension cannot last for more than 60 days at a time, but this period can be extended.

If a licence is suspended, the licensee cannot carry on *any* security activity for the period of time specified in the notice.

Suspension by the Court

A court also has the power to suspend a licence under section 40 of the *Security Industry Act 1997*, for example, if the court finds the person guilty of certain types of offences.

The court can order that the licence be suspended for no longer than 28 days and that the licence be submitted to the court.

The licence will then be sent to the Commissioner (in practice, SLED) who will either return the licence to the licensee or take action to suspend or revoke the licence.

8.2 Revocation of licence

Automatic revocation if found guilty of a prescribed offence

If a licence holder is found guilty/convicted of a prescribed offence, the licence will be automatically revoked. See part 4.3 of this document for details of prescribed offences. SLED has no discretion in these types of matters.

If the licence holder has been convicted of an offence that is *not* a prescribed offence, SLED has discretion to revoke the licence based on whether they think the licence holder is a fit and proper person to hold a security licence or whether it is in the public interest to revoke their licence.

Revocation in other situations

Under section 26 of the *Security Industry Act 1997*, a licence *may* be revoked if

- The licensee supplied information that they knew was false or misleading in connection with an application for the licence or for a renewal of a licence;
- The licensee breaches a provision of the *Security Industry Act 1997* or the *Security Industry Regulation 2016*, regardless of whether or not they have been convicted of an offence;
- The licensee breaches any condition of the licence; or
- If SLED considers that it would be contrary to the public interest for the person to continue to hold it (see clause 25 of the *Security Industry Regulation 2016*).

SLED **must** revoke a licence if they are satisfied that, if the licensee were applying for a new licence, the application would be refused.

SLED will serve a notice on the licensee stating that the licence is revoked and the reasons why. The revocation of a licence takes effect when the notice is served, or on a date specified in the notice.

8.3 If your security licence is suspended or revoked

If a security licence is suspended or revoked, the licensee must immediately surrender the licence. The maximum penalty for non-compliance is 100 penalty units (a fine of \$11,000) or imprisonment for 6 months, or both (section 31 *Security Industry Act 1997*).

9 How to appeal against the refusal, suspension or revocation of a licence

9.1 Internal review

When a licence application is refused or a licence is suspended or revoked, a notice is served on the licence applicant/holder (either in person or by post).

The notice explains why the application was refused or the licence was suspended or revoked. There will also be information about the person's right of review.

A right of review means the licence applicant/holder may ask SLED to conduct an internal review of the decision by making a written application to SLED within 28 days. The application must be in writing, be addressed to the administrator, specify an address, and should provide information relevant to the refusal/revocation/suspension or why the decision may be wrong.

SLED will finalise an internal review within 21 days of receiving the written application.

The reviewer may *affirm* the decision to revoke/suspend/refuse the licence, *vary* the decision, or set it aside and *make a new decision*.

For more information about internal review, see section 53 of the *Administrative Decisions Review Act 1997*: <https://www.legislation.nsw.gov.au/#/view/act/1997/76/chap3/part2/div3/sec53>

9.2 Application to NSW Civil and Administrative Tribunal (NCAT)

If the applicant/holder is unhappy with the outcome of the internal review, they may request an administrative review of the decision by the NSW Civil and Administrative Tribunal (NCAT). NCAT can be contacted on 1300 006 228 at http://www.ncat.nsw.gov.au/Pages/contact_ncat.aspx.

Usually, an application to NCAT *cannot* be made unless an internal review is done first. However there are some situations where an applicant/holder may go NCAT first. This can be done where the request for internal review is unreasonably refused, if SLED does not respond to the request within the time allowed, or if it is necessary for the Tribunal to deal with the application in order to protect the applicant's interests.

You must fill out the Application for Review form which can be downloaded from: http://www.ncat.nsw.gov.au/Pages/apply_to_ncat/ncat_common_forms.aspx

For information about the application fee, see: http://www.ncat.nsw.gov.au/Pages/apply_to_ncat/fees_and_charges/fees_and_charges.aspx#cd

You will need to lodge the application, either in person or by mail, within 28 days of being notified of the internal review decision. Applications *cannot* be lodged online or by email or fax.

From there, you will be asked to attend a hearing. You will be notified of the Tribunal's decision at the end of the hearing or within a few months afterwards.

During a hearing some of the things NCAT may consider are:

- The standards expected of security licence holders and whether the licence holder has a previous criminal record. (*Sosaiete & Asovale v Commissioner of Police, NSW Police Force* [2015] NSWCATOD 91).

- Protection of the public and public confidence in the administration of security licensing (*Davis v Commissioner of Police, NSW Police Force* [2017 NSWCATOD 16]).
- If the licence was refused, suspended or revoked because of proven or alleged offences, the seriousness of the offence(s) and whether the licensee is a 'fit and proper person' (*Katsonis v Commissioner of Police, NSW Police Force* [2018] NSWCATOD 4).
- Whether the offence was related to security activities. (*Panapa v Commissioner of Police, NSW Police Force* [2018] NSWCATOD 27).

10 Further information and contacts

FAQs

Useful for clarification on how to apply, how to renew a licence, review of decisions to revoke or suspend a licence, training, notifying SLED of change of details and other general questions about being a security guard:

https://www.police.nsw.gov.au/online_services/security_licensing_and_enforcement_directorate/security_licenses/frequently_asked_questions

Security Licensing and Enforcement Directorate

Security Licensing & Enforcement Directorate
 Locked Bag 5099, Parramatta NSW 2124
 Phone: 1300 362 001
 Fax: 1300 362 066
 sled@police.nsw.gov.au
<http://www.police.nsw.gov.au/sled>

Applicants can speak to a member of SLED to ask questions about their application by phone from 8:30am - 4:30pm, Monday to Friday

NSW Civil and Administrative Tribunal (NCAT)

NSW Civil and Administrative Tribunal
 John Maddison Tower, 86-90 Goulbourn Street, Sydney.
 Or PO Box K1026, Haymarket NSW 1240
 Phone: 1300 006 228
http://www.ncat.nsw.gov.au/Pages/contact_ncat.aspx

The Shopfront Youth Legal Centre Updated July 2018

The Shopfront Youth Legal Centre
 356 Victoria Street
 Darlinghurst NSW 2010
 Tel: 02 9322 4808
 Fax: 02 9331 3287
www.theshopfront.org
shopfront@theshopfront.org

The Shopfront Youth Legal Centre is a service provided by Herbert Smith Freehills, in association with Mission Australia and The Salvation Army.

This document was last updated in July 2018 and to the best of our knowledge is an accurate summary of the law in New South Wales at that time.

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