

Master Licence applicants whose company are established as a Trust should read the following.

### **Trusts and ABNs**

- Clause 13 of the Security Industry Regulation 2007 provides that an application for a Master licence may only be made by an individual, corporation, or government agency/public authority. Clause 13 requires applications for Master licences (regardless of the applicant type) to include "the applicant's Australian Business Number".
- A Master licence authorises the licensee to employ or provide licensed security operatives. A person (in the broad legal sense) that employs or provides licensed security operatives in NSW must hold a Master security licence.
- Information on the NSW Government's website for Small Business states that "*A trust is not a legal entity; however the trustee must be a legal entity, such as a person or company, in whose name all assets of the trust are held*".
- The ATO advises that "*a trust is a set of equitable rights and obligations and has no legal persona*", however the ABN Act specifically recognises 'trust' as an entity for the purposes of ABN registration.
- The ABN was introduced by the Australian Government to serve two major purposes: 1. as a GST registration number, and 2. as a unique identifying number that businesses can use to identify themselves reliably in all their dealings with the Australian Government, including State, Territory and local government regulatory bodies.
- The NSW Police Force has adopted the ABN as a mandatory requirement for Master licence applicants in relation to its secondary purpose (ie. as a unique identifying number). In this respect, it is necessary that the supplied ABN be registered to the licence applicant.

In summary, the security industry legislation does not recognise trusts. Trusts are not legal entities and cannot be licensed under the Security Industry Act 1997. Where a corporation applying for a Master licence acts as trustee for a trust, the corporation is required to supply its ABN in the Master licence application, not the trust's ABN.

A Master licence authorises only the employment and/or provision of persons to carry on security activities. If a Master licence is issued by the Security Industry Registry to Prime Protection Services (NSW) Pty Ltd, then it must be the employer of the security licensees carrying on the relevant security activities. If the security operatives are employed by another legal entity, then that entity must be the Master licence applicant (provided it is an eligible applicant type). If the security operatives are currently employed by an entity that is not eligible to apply for a Master licence, then appropriate changes will need to be made to those employment arrangements. It is not a defence under Section 7(1)(a) of the Security Industry Act 1997 that the "person" is not eligible to hold a Master licence.

Please note also that if a Master licensee acts as trustee for a trust, and that relationship is relevant to the security activities carried on under the authority of the licence, then the trust beneficiaries will be considered to have a financial interest in the business of the Master licensee and accordingly they must be disclosed as close associates.