

Statutory Review of the *Private Security Act 2004*

Victorian Government Response

Background

The aim of the *Private Security Act 2004* (the Act) is to ensure public safety and peace, and improve probity and competency standards, through appropriate regulation of the industry. The Act provides for:

- a licensing scheme for the ‘manpower’ sector (crowd controllers, security guards, bodyguards, investigators) which requires strict probity requirements and minimum competency standards to be met, and
- a registration scheme for security equipment installers and security advisers, who must meet probity requirements only.

The Private Security Act was developed after consultation with the private security industry. At the time the Government introduced the Act, it indicated that a review would be conducted after three years to assess the effectiveness of the regulatory arrangements.

Pursuant to section 178 of the Act, a review was undertaken to determine whether the policy objectives of the Act remain valid and whether the provisions of the Act are still appropriate for securing those objectives.

As required by the Act, a report detailing the outcomes of the Review has been tabled in both Houses of Parliament.

The Review

Pricewaterhouse Coopers was engaged to undertake the statutory review of the Private Security Act (the Review) and provide a final report to the Government. The methodology for the Review included a voluntary phone survey of 400 randomly selected private security industry participants and targeted consultation with industry, to inform the development of a discussion paper outlining key issues for the regulation of the industry. The discussion paper was released for public comment, resulting in nineteen written submissions from a cross-section of industry associations, private security businesses and individual operators.

The Review went to great lengths to give private security businesses, individual industry participants and users of private security services, the opportunity to share their experiences and views with regard to the effectiveness of the regulatory system established under the Act.

In particular, the Victorian Security Industry Advisory Council (VSIAC) was extensively consulted throughout the Review. This Council was established in 2005 to provide the Minister for Police and Emergency Services with advice on the operation and possible further reform of the regulatory framework for the Victorian private security industry. The Council’s assistance has been integral to the Review process and will continue to provide valuable advice to the Government as the Review recommendations are further considered and implemented.

The Government is grateful for the time taken by all those who contributed to the Review.

Links to national harmonisation

It is important to note that, alongside the Review of the Private Security Act, the Victorian Government has been working with other State and Territory Governments to progress an agenda for harmonising the regulation of the private security industry nationally.

As a result, on 3 July 2008, the Council of Australian Governments (COAG) agreed to a three-staged approach to harmonising the regulation of the private security industry, focusing initially on the guarding or 'manpower' sector of the industry, to improve the probity, competence and skills of security personnel and the mobility of security industry licences across jurisdictions. The full text of the COAG agreement is at Appendix E of the final report of the Review.

Many of the recommendations of the Review will need to be considered in light of the further discussions and action at the national level. COAG has asked Police Ministers and security industry regulators in respect of this industry to explore options for improving national consistency in the 'technical sector' of the industry (which includes security equipment installers and security advisers) and enhancing mobility of private security business licences, and to report back in mid 2009.

As the Victorian Security Industry Advisory Council and private security operators have told us that national consistency, and the ability to move easily between jurisdictions is a key priority for the industry, it is sensible to await the outcomes of these deliberations before making amendments to these elements of the regulatory scheme in Victoria.

Response to key findings and recommendations

The Government welcomes the final report of the Review which found that, on the whole the legislation, introduced by the Government in 2004, remains appropriate and contributes to reducing risks to public safety, helps promote public peace, and ensures security of property. It notes, however, that some improvements could be made to reduce the regulatory burden on business and provide for a more focussed and targeted regulatory effort.

The Review recommends retaining government regulation and maintaining the Chief Commissioner of Police as the regulator of the private security industry. The Government supports this recommendation and believes that this oversight is necessary to continue to meet the Victorian community's expectation that only suitable persons are able to enter the industry.

The final report of the Review makes 34 recommendations in four broad areas:

- entry to and exclusion from the industry,
- compliance and enforcement,
- training and competence, and
- other matters.

The Review recommends changes that would reduce the regulatory burden on many private security businesses and individual operators, while maintaining strict probity and competency requirements for those sectors of the industry that pose the greatest potential risk to community safety.

The Review provides a range of suggestions to improve the regulation of the private security industry in Victoria. It recommends possible actions to improve awareness of and compliance with the Act, including potential synergies with the liquor licensing

regime. It notes that improvements to the training regime would assist in raising and maintaining appropriate levels of professionalism for security licence holders.

The Government will consider these recommendations, in consultation with the regulator and private security industry representatives, and ensure that any necessary changes are made to continue to deliver on the Government's commitment to improving public safety through appropriate regulation of the industry.

While the Victorian Government will continue to support the national harmonisation of COAG, there are a number of improvements to the regulatory arrangements that can be made now. Consistent with the COAG agreement, the Victorian Government is committed to implementing changes to the probity and competency requirements for the 'manpower sector' as a matter of priority. The Review of the Private Security Act has enabled the Government to seek timely industry feedback on how these changes should be implemented in Victoria.

The Government will now make the necessary amendments to the Private Security Act, or make administrative arrangements, to implement the 2008 COAG agreement, including:

- Introduction of new licensable activities 'guarding with a dog' and 'security trainer';
- Prescription of additional offences and thresholds that will result in mandatory disqualification from licensing for five or ten years if they are committed by an applicant or current licence holder;
- Mandatory fingerprinting of licence applicants for identity verification and ongoing probity monitoring;
- Non-disclosure of the existence and nature of intelligence used in decision making to an applicant, subject to administrative review processes;
- Introduction of measures to enable licensing authorities to refuse the grant of a licence if an applicant's identity or probity cannot be satisfactorily checked; and
- Introduction of a pre-licensing course for all new applicants and a provisional licensing scheme.

These changes will build on the strong regulatory framework put in place by the Government with the introduction of the Private Security Act.

Once these changes have been made, the Government will consider amendments addressing the other issues raised in the Review. Consistent with its commitment to continuously improving the regulation and professionalism of this important industry, these amendments will be subject to further consultation with the private security industry.

The Government would like to thank again all those members of the industry who participated in the Review process.