



## NSW Legislative Assembly Hansard

### Security Industry Amendment Bill

Extract from NSW Legislative Assembly Hansard and Papers Tuesday 21 June 2005.

#### Second Reading

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [7.32 p.m.], on behalf of Mr Carl Scully: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Security Industry Amendment Bill 2005. The Government's achievements in cleaning up the security industry are impressive. However, we need to continue our program of reforms to ensure a professional, high-quality industry. The bill represents the third wave of reforms to the security industry, and will ensure that the New South Wales security industry is the most tightly regulated in Australia.

This bill is based on the report of the statutory review of the Security Industry Act 1997 and the Security Industry Regulation 1998, which was tabled in Parliament on 20 October 2004. The report made 30 recommendations for further improvements to the security industry including expansion of the licensing categories within the existing licence classes to better reflect the type of activities being undertaken by licence holders, and ensuring that guards who are performing specialist services have the appropriate training and qualifications. Under the current system, the classifications cover a very large range of activities, which do not recognise that different skills and proper training are required to carry out each individual activity.

Under the new arrangements, every security industry employee will be required to undertake a basic level of training. But for those security activities that present a higher risk to the community, and require security personnel to possess higher levels of competence, such as armed guarding, guarding with dogs, or body guarding, additional and more specific training will be required. By expanding the licence categories we can also more appropriately link criminal and other exclusions to the different licence categories. This will have the effect of enforcing higher standards on those members of the industry who are performing more specialised security work, such as armed guarding. We will also introduce a provisional licensing system.

New entrants to the industry will be required to undertake a pre-licensing course, which has been developed by TAFE and approved by the Commissioner of Police. This course will provide new entrants with the critical foundation knowledge necessary to obtain a provisional licence and subsequently a job in the industry. The provisional licensing scheme also will ensure that a new entrant to the industry has supervised on-the-job training from an appropriately qualified security employee so that he or she can learn the required practical skills to carry out their duties effectively. This on-the-job training will be assessed in the workplace before a new entrant can be deemed eligible to apply for a full licence.

When the Commissioner relies on police intelligence to refuse a licence application, the bill will also protect that intelligence from being released to unsuccessful applicants if they appeal to the Administrative Decisions Tribunal [ADT]. This provision is not designed to circumvent the appeals process or hinder the ADT or the courts in the exercise of their review functions. These bodies will still have the same opportunity to consider and weigh the probative value of the intelligence the commissioner has relied on to make his decision. However, the bill will prevent the release of intelligence directly to the person to whom the intelligence relates. This will protect the safety of police informants and prevent the disclosure of police information holdings and the details of police methodology.

The bill will ensure that applicants renewing their licences have been performing security work for a significant term of their existing licence, or have been offered future contracts within the security industry. At the time of re-licensing, applicants will need to demonstrate ongoing competence in the industry. This will prevent a person from obtaining a licence for purposes other than employment, for example, in order to access firearms. The bill will introduce an additional ground for refusal of a licence in circumstances where the applicant was the subject of a prescribed civil penalty imposed in the last five years. This provision recognises that the court system provides for a wide range of punishments following a finding of guilt that do not impose a conviction. These may nevertheless impact on a person's suitability to hold a licence, for example, a breach pursuant to the Industrial Relations Act 1996.

Some security licence holders are permitted to hold and store firearms in residential premises. The bill will prevent them from storing firearms in the place of residence of a person who has been convicted of any offence that would exclude them from holding a licence. This provision will help to keep firearms out of the hands of criminals, which is a very important facet of the legislation. Harsh penalties will apply for a breach of this condition—up to \$22,000 for corporations, or \$11,000 or six months gaol, or both, for individuals. The bill will

extend the commissioner's power to investigate applications and applicants including close associates of an applicant for a master licence. Section 5 of the Act provides a definition of "close associate", which addresses the issue of people who may exert control or influence over a licence holder.

This provision will enable the commissioner to investigate not only an applicant for a licence but also his or her close associates. The commissioner may refuse to grant that licence when one or more of the applicant's close associates would be prevented from holding a security licence had they applied for one. This may be because of criminal history or other disqualifying criteria. The bill will require all subcontracts to be approved by clients and by all companies involved in the contracts. Subcontracting is a real issue for the security industry. It has led to a number of dangerous practices including the use of unlicensed security guards, and poor training and assessment practices. This occurs because of pressure on registered training organisations to process a high number of guards quickly so they can obtain conditional licences and meet the supply needs of the industry.

This provision will allow greater scrutiny of any subcontracting arrangements, and will ensure greater accountability and transparency. It will also greatly reduce the reliance on unlicensed guards in order to meet the terms of the subcontract in the industry. This reform will ensure that the client is aware of how services are being provided, and that providers are clearly aware of their contractual responsibilities. I am pleased to announce that the bill will give formal legislative recognition of the Security Industry Council as an advisory body to the Minister. The Security Industry Council was established in 1999 to provide a co-ordinated advocacy to the Government of New South Wales on behalf of the security industry; and to provide the community of New South Wales with a competent and credible industry providing professional security services.

The Security Industry Council has been responsible for putting in place mechanisms that have enabled a sense of cohesion between the many diverse sectors of the industry. In 2001 it devised a strategic plan for the industry designed to address areas of deficiency within the industry and to rid the industry of undesirable elements. The council developed an internal program for compliance inspections of all master licensees, prepared a revised code of practice for the security industry, and developed a plan for professionalising the industry and removing those undesirable elements. In order to give the council a more formal standing and clarify its role as the premier security industry advisory body, both police and industry submissions to the review recommended that the council's role be formalised in the legislation.

To achieve this, the Security Industry Council will be equipped with the appropriate expertise and skills to improve the security industry, including representatives from providers, users, government and consumers. It will be charged with monitoring and advising on the regulation of the industry, establishing and promoting industry standards, conducting industry research into industry statistics and trends, making recommendations of licence fees and charges, monitoring performance and obligations of approved industry associations, reviewing legislation and making recommendations and, very importantly, arranging independent audits of approved industry associations. The bill significantly increases penalties for breaches of the Act and the regulation to bring them into line with community expectations.

The Government has introduced a stringent licensing regime to ensure that persons carrying on security activities are appropriately trained and properly qualified. People previously disqualified or ineligible to hold a licence who operate shonky security businesses or conduct security activities pose significant risks. Consumers and the industry itself need to be protected against unlicensed, untrained and undesirable people from operating as if they were legitimate security operators. There is no room in New South Wales for Dodge Brothers Security, who strap some saucepans to their car and call it an armoured vehicle. These changes will send a clear message that breaches of the Act will not be tolerated. The carrying on of unauthorised security activities risks a maximum penalty of \$110,000 for corporations or \$55,000 for individuals, or up to two years gaol, or both.

Across the board, the penalties for offences under the Act have been significantly ramped up to reflect the great risk to the public that breaches may involve. The Government introduced the Security Industry Act 1997, which commenced on 1 July 1998, to improve standards in the security industry and provide greater safety for the public and security guards. The Act introduced a new licensing and appeal system, largely based on an Industrial Relations Commission inquiry into the cash-in-transit sector of the industry. Its objective is to ensure proper accountability and integrity in the security industry. This was achieved through the introduction of stringent licensing criteria, which had the effect of excluding inappropriate persons from employment in the security industry. Additional measures aimed at continuing and fine-tuning the reform process were introduced in late 2002. These have been successful in decreasing the risk of criminal activity within the security industry, and increasing enforcement of current licensing requirements.

The Government also tightened up controls over firearms to limit the opportunity for the security industry to be a soft target for criminals seeking access to firearms. In excess of 1,000 firearms have been removed from the industry as a result of these changes. The Government's program of security industry reforms has seen a significant and much needed change in the culture of the industry. This bill will ensure that the security industry continues to strive for improvement and professionalism and offers appropriate protections to the people of New South Wales. The changes will ensure also that people currently working in the industry have the skills they

need to properly and safely engage in the security activities they have been licensed to undertake. I strongly commend the bill to the House.