

SECURITY INDUSTRY AMENDMENT (LICENCES) BILL 2013

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Bill introduced on motion by Mr Geoff Provest, on behalf of Mr Greg Smith, read a first time and printed.

Second Reading

Mr GEOFF PROVEST (Tweed—Parliamentary Secretary) [10.32 a.m.], on behalf of Mr Greg Smith: I move:

That this bill be now read a second time.

I am pleased to introduce the Security Industry Amendment (Licences) Bill 2013. The main purpose of the Security Industry Amendment (Licences) Bill 2013 is to address the inconsistencies with Australia's commitments under the General Agreement on Trade in Services [GATS]. The bill also will make minor amendments to the regulation of the security industry. Under the existing free trade agreements [FTA], Australia is committed to accord treatment to the service suppliers of its free trade agreement partners that is no less favourable than that accorded to its Australian service suppliers.

Currently, under section 15 of the Security Industry Act 1997 only Australian citizens and permanent residents can obtain a security industry licence in New South Wales. This may restrict the ability of foreign suppliers, individuals or companies to engage in security-related activities in New South Wales. This is inconsistent with Australia's General Agreement on Trade in Services commitments. The most watertight way to address this inconsistency is via legislative amendment to residency and citizenship requirements. Namely, the bill proposes to allow holders of a valid temporary visa that permits employment in Australia, other than a student visa or a working holiday visa, to apply for a New South Wales security industry licence. These applicants will be in addition to Australian citizens and permanent residents who can already apply. Only a small number of additional people are expected to become eligible for the security licence via this means.

Citizenship and permanent residency requirements were introduced in 2002 as a result of the Bali bombings, but the proposed amendments are not expected to impact adversely on public safety in New South Wales. Only the holders of valid work visas, excluding student and working holiday visas, will be added to the list of eligible persons for a New South Wales security licence. The majority of these persons will have been nominated and sponsored by businesses to work in Australia on a temporary basis in an occupation listed in the Australian Government Department of Immigration and Citizenship's Consolidated Sponsorship Occupation List, commonly known as the CSOL. None of the higher-risk manpower-related security occupations, such as security guards or crowd controllers, appear on the Consolidated Sponsorship Occupation List.

Under this bill, a small number of persons will become eligible to come to New South Wales independently to work in the security industry. A locksmith, for instance—an occupation that

is recognised on the Consolidated Sponsorship Occupation List—may become eligible to live and work permanently in New South Wales via a Skilled Independent (subclass 189) visa. Dog handlers or dog trainers who are licensed under the Act may also become eligible to live and work permanently in New South Wales if nominated by the New South Wales Government via a subclass 190 visa. People who apply for either a subclass 189 or a subclass 190 visa must meet the relevant visa requirements, which include character requirements.

Each applicant and their dependants who are aged 16 years or older, whether they are migrating or not, must provide police certificates from each country they have lived in for 12 months or more over the past 10 years. Foreign service suppliers who apply for a security industry licence under the proposed provisions in the Act will be subject to a probity check similar to those for Australian citizens, permanent residents and applicants for certain visa categories, including subclass 189 or subclass 190 visas. The proposed procedures for these applicants are that they will provide the NSW Police Force with a police certificate from each country they have lived in for 12 months or more over the previous 10 years since turning 16; pay for the cost of the police certificate or certificates and any required translation costs; obtain verification of police certificates from the relevant countries, embassies or consulates in Australia; and submit verified police certificates in English to the NSW Police Force at the time of making the application for the security industry licence.

These procedures aim to ensure that public safety is maintained in New South Wales and that Australia meets its obligations under the General Agreement on Trade in Services. Failing to address inconsistencies in our national General Agreement on Trade in Services commitments may make Australia vulnerable to dispute action in the World Trade Organization. In examining this issue, priority was given to identifying a solution that imposes reasonable administrative requirements on overseas applicants while ensuring that the probity standards in New South Wales can be maintained. The bill also incorporates miscellaneous amendments to the Act and to the Firearms Act 1996 that are consequential to the Security Industry Amendment Act 2012—the amending Act.

These amendments aim primarily to streamline licence procedures. Specifically, subsection 14 (2) (b) of the Act provides that an application for a security licence must be accompanied by such information and particulars as prescribed by the regulation. These include evidence of the applicant's competence and experience. The bill amends the Act to clarify that this information does not need to accompany the application form but must be lodged prior to the granting of a licence. This will expedite the granting of a licence because the application processing and probity checking will be able to be done in parallel with training.

Subsections 35 (2) and 36 (3) were inserted by the amending bill and refer to security licences that have been lost, stolen, destroyed, defaced or mutilated. It is proposed that these provisions will be expanded beyond deliberate acts to include "or become illegible". This acknowledges that a licence may simply become illegible over time and exempts the person from producing the damaged licence if the application form has been lodged for a replacement. The amendment will ensure alignment with clauses 22 and 23 of the Security

Industry Regulation 2007. Section 48 of the Act provides for the making of regulations in respect of a number of issues, including methods and practices relating to uniforms and vehicle signage for the security industry. Clause 40 of the regulation specifies in more detail the types of information to be included in these guidelines and states that a reference to the guidelines refers to those in force at the commencement of the regulation.

It is proposed to amend section 48 to include a regulation-making power to allow updates to the guidelines as required from time to time. These updates will be subject to the usual New South Wales Government procedures applying to the amendment of regulations. Without this regulation-making power in the legislation the guidelines will be unable to be amended to reflect contemporary standards. It also proposed to make minor amendments to the Firearms Act 1996 to rectify the unintended consequence of the amended Act in that the definition of "direct supervision" was not carried over to the Firearms Act 1996 in regard to the holders of provisional firearms licences. The changes proposed in this bill will ensure that New South Wales meets its obligations under the General Agreement on Trade in Services while ensuring that public safety is maintained. I stress that public safety will be maintained under these amendments. I commend the bill to the House.

Debate adjourned on motion by Ms Noreen Hay and set down as an order of the day for a future day.