



Security Industry Amendment (Licences) Bill 2013 (Proof)

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SECURITY INDUSTRY AMENDMENT (LICENCES) BILL 2013

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Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.44 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The main purpose of the Security Industry Amendment (Licences) Bill 2013 is to address inconsistencies with Australia's commitments under the General Agreement on Trade in Services (GATS). The bill will also make other minor amendments to the regulation of the security industry.

Under existing Free Trade Agreements (FTA), Australia is committed to accord to the service suppliers of its FTA partners treatment no less favourable than it accords 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 NSW.

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 GATS commitments and 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 a 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 adversely impact public safety in New South Wales.

Only holders of valid work visas (excluding student and working holiday visas) will be added to the eligible persons for a New South Wales security licence.

The majority of these persons will have been nominated and sponsored by a business to work in Australia on a temporary basis in an occupation listed in the Australian Government Department of Immigration and Citizenship's Consolidated Sponsored Occupation List (CSOL).

None of the higher risk manpower-related security occupations, such as security guards or crowd controllers, appear on the CSOL.

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 CSOL ... may become eligible to live and work permanently in New South Wales via a Skilled Independent (sub-class 189) visa.

Dog handlers or 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 sub-class 190 visa.

People who apply for either a sub-class 189 or a sub-class 190 visa must meet relevant visa requirements which include character requirements.

These include that each applicant and their dependants, whether they are migrating or not, who are aged 16 years or

older must provide police certificates from each country they've 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 probity checks similar to those for Australian citizens, permanent residents and applicants for certain visa categories including sub-class 189 or 190 visas.

The proposed procedures for these applicants are that they will:

- provide the NSW Police Force with a police certificate from each country the person has lived in for 12 months or more over the previous 10 years since turning 16;
- pay for the cost of the police certificate/s and pay for any required translation costs;
- obtain verification of the police certificate/s from the relevant countries embassy/consulate in Australia; and
- submit verified police certificate/s in English to the NSW Police Force at the time of making the application for a security industry licence.

These procedures aim to ensure that public safety is maintained in New South Wales and that Australia meets its obligations under GATS.

Failure to address inconsistencies with our national GATS commitments may make Australia vulnerable to dispute action in the World Trade Organisation.

In examining this issue, priority was given to identifying a solution that imposes reasonable administrative requirements on overseas applicants while ensuring that probity standards in New South Wales can be maintained.

This bill also incorporates miscellaneous amendments to the Act and to the Firearms Act 1996 consequential to the Security Industry Amendment Act 2012 ('the Amendment Act').

These amendments primarily aim to streamline licensing processes.

Specifically, subsection 14 (2) (b) of the Act provides that an application form for a security licence must be accompanied by such information and particulars as prescribed by the regulations. This includes evidence of the applicant's competence and experience.

It is proposed to amend the Act to clarify that this information does not need to accompany the application form but must be lodged prior to the granting of the licence. This will expedite the granting of licences as application processing and probity checking can be undertaken in parallel with training.

Subsections 35 (2) and 36 (3) were inserted by the amendment Act and refer to security licences that have been "lost, stolen, destroyed, defaced or mutilated". It is proposed these provisions be expanded beyond deliberate acts to include "or become illegible".

This acknowledges that a licence may simply become illegible over time and exempts a person from producing the damaged licence if an application form has been lodged for a replacement. The amendment will ensure alignment with clauses 22 and 23 of the Security Industry Regulation 2007 ("the Regulation").

Section 48 of the Act provides for the making of regulations with respect to 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 as at the commencement of the Regulation".

It is proposed to amend section 48 of the Act to include a regulation-making power to allow updates to the guidelines as required from time to time. These updates will be subject to usual New South Wales Government procedures to amend regulations.

Without this regulation-making power in the Act, the guidelines will be unable to be amended to reflect contemporary standards.

It is also proposed to make a minor amendment to the Firearms Act 1996 to rectify an unintended consequence of the Amendment Act in that the definition of direct supervision was not carried over to the Firearms Act 1996 in regard to holders of provisional firearms' licences.

The changes proposed in this bill will ensure that New South Wales meets its obligations under GATS while ensuring that public safety is maintained.

I commend the bill to the House.