

Security Industry Amendment Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Security Industry Act 1997* (***the Principal Act***) as follows:

- (a) to provide that security industry licensees must be Australian citizens or permanent Australian residents,
- (b) to provide that the Commissioner of Police (***the Commissioner***) may have regard to any criminal intelligence report or other criminal information held in relation to an applicant for a security industry licence when determining whether the applicant is a fit and proper person to hold the licence,
- (c) to provide that the Commissioner may require an applicant for a security industry licence to provide a photograph of the applicant or consent to having his or her photograph or fingerprints taken in order to confirm the applicant's identity and that the application must be refused if the applicant fails to comply,
- (d) to provide that security industry licensees who are armed security guards must wear recognisable security guard uniforms while carrying firearms,
- (e) to provide that security industry master licence holders who employ armed security guards must on request submit their firearms to the Commissioner for ballistics testing,
- (f) to make further provision relating to the powers of entry to premises and seizure of documents by police officers acting under the Principal Act,
- (g) to provide that proceedings for any offence under the Principal Act or the regulations may be commenced within 3 years (rather than 6 months) from when the offence was alleged to have been committed,
- (h) to provide that offences under the Principal Act or the regulations may be dealt with by way of penalty notice.

This Bill also:

- (a) makes a consequential amendment to the *Fines Act 1996*, and
- (b) amends the *Firearms Act 1996* to enable police officers to inspect the firearms (and the security and safe storage of those firearms) held by security industry master licensees who are armed security guards or employ armed security guards, and
- (c) makes amendments to the *Road Transport (Driver Licensing) Act 1998* relating to the use of photographs of security industry licensees.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Security Industry Act 1997* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments set out in Schedule 2 to the Acts specified in that Schedule.

Schedule 1 Amendment of Security Industry Act 1997

Schedule 1 [2] inserts proposed section 15 (1) (e) into the Principal Act to provide that the Commissioner must not grant a licence under that Act unless the applicant is an Australian citizen or a permanent Australian resident.

Schedule 1 [1] amends section 3 (1) of the Principal Act to provide for a definition of ***permanent Australian resident***.

Schedule 1 [3] inserts proposed section 15 (6) into the Principal Act to provide that for the purpose of determining whether an applicant for a licence under that Act is a fit and proper person, the Commissioner may have regard to any criminal intelligence report or other criminal information held in relation to the applicant that:

- (a) is relevant to the activities carried out under the class of licence sought by the applicant, or
- (b) causes the Commissioner to conclude that improper conduct is likely to occur if the applicant were granted the licence, or
- (c) causes the Commissioner not to have confidence that improper conduct will not occur if the applicant were granted the licence.

Proposed section 15 (7) provides that the Commissioner is not, under the Principal Act or any other Act or law, required to give any reasons for not granting a licence if the giving of those reasons would disclose the existence or content of that criminal intelligence report or other criminal information.

Schedule 1 [4] amends section 18 of the Principal Act to provide that the Commissioner may require an applicant for a licence to provide the Commissioner with a photograph of the applicant or consent to having his or her photograph or fingerprints taken in order to confirm the applicant's identity. The Commissioner must refuse to grant the licence if the applicant has not provided a photograph or been photographed or fingerprinted in accordance with any such requirement. A person who formerly held a licence, but is not currently a licensee, or who was an applicant for, but was never granted, a licence, may apply to the Commissioner to have such photographs or fingerprints destroyed. The Commissioner may grant or refuse the application as the Commissioner sees fit.

Schedule 1 [7] inserts proposed section 23A into the Principal Act. The proposed section imposes conditions on security guard licence holders and master licence holders under the Principal Act to require security guards who are licensed under the *Firearms Act 1996* to wear recognisable security guard uniforms while carrying firearms. The proposed section also provides for the consequences of a breach of any of these conditions and allows the Commissioner to exempt a security guard from the operation of the provisions if the Commissioner is satisfied there is a genuine reason. **Schedule 1 [1]** amends section 3 (1) of the Principal Act to provide for a definition of ***armed security guard***.

Schedule 1 [5] and [6] make consequential amendments.

Section 26 (1) (a) of the Principal Act currently provides that a licence may be revoked for any reason for which the licensee would be required by the Principal Act to be refused a licence of that class. **Schedule 1 [8] and [9]** omit that paragraph and insert section 26 (1A) into the Principal Act to provide that the Commissioner must revoke a licence for any of those reasons.

Schedule 1 [10] inserts proposed section 39A into the Principal Act. The proposed section provides that if a master licensee under the Principal Act is authorised under the *Firearms Act 1996* to possess any firearms by reason of holding that master licence (that is, the master licensee has a firearms licence for the purposes of the master licensee's security industry business), the master licensee must, on request by the Commissioner, submit all the master licensee's firearms to a police officer for ballistics testing. The proposed section also provides that if a firearm so tested is modified in a manner that would change the characteristics of the firearm's firing, the master licensee must notify the Commissioner of that modification and on request by the Commissioner submit the firearm to a police officer for further ballistics testing. Failure to comply with these provisions will constitute an offence with a maximum penalty of 50

penalty units or 2 years imprisonment, or both.

Schedule 1 [11] inserts proposed section 42A into the Principal Act. The proposed section provides that, in the exercise of any power to enter the premises of a master licensee under the Principal Act or any other Act, a police officer may, if the police officer considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence, seize any registers, books, records or other documents relating to the business being carried on under the authority of the master licence. The proposed section also provides that a police officer may, if the police officer considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence, require any person to answer questions relating to any registers, books, records or other documents or any other relevant matter required to be kept by a licensee by or under the Principal Act. The proposed section makes it clear that if a police officer is authorised under the Principal Act or any other Act to make copies of entries in the registers, books, records or other documents, the police officer may take those registers, books, records or other documents from the premises for the purpose of copying them and must return them after that copying is completed.

Schedule 1 [12] amends section 45 of the Principal Act to provide that proceedings for offences under the Principal Act or the regulations must be commenced within 3 years (rather than 6 months) from when the offence was alleged to have been committed.

Schedule 1 [13] inserts proposed section 45A into the Principal Act to provide that prescribed offences against the Principal Act or the regulations may be dealt with by way of penalty notice.

Schedule 1 [14], [15] and [16] make amendments of a savings and transitional nature.

Schedule 2 Amendment of other Acts

Schedule 2.1 makes a consequential amendment to the *Fines Act 1996*.

Schedule 2.2 [1] inserts proposed section 24 (1A) into the *Firearms Act 1996*. The proposed subsection provides that the Commissioner must revoke a firearms licence that is held for the purpose of employment as a security guard if the licensee has failed to undertake any firearm safety training required under the *Firearms Act 1996* or the regulations under that Act.

Schedule 2.2 [2] inserts proposed section 42A into the *Firearms Act 1996*. The proposed section provides that a police officer may, at any time of the day or night, enter the premises of a master licensee under the Principal Act who is licensed under that Act to possess firearms for the purposes of conducting a security business and inspect that master licensee's firearms and the security and safe storage of those firearms. A police officer conducting an inspection under the proposed section is authorised to enter any part of the premises where firearms are being stored (including a part of a building used for residential purposes) and any part of the premises required to give access to those areas. It is an offence with a maximum penalty of 50 penalty units to obstruct, hinder, prevent or interfere with a police officer in the exercise of a power under the proposed section.

Schedule 2.2 [3] makes a consequential amendment to section 80 of the *Firearms Act 1996* which deals with the disposal of surrendered or seized firearms.

Schedule 2.3 [1] omits and replaces section 39 (c) of the *Road Transport (Driver Licensing) Act 1998* to clarify that Part 5 of that Act (Protection of stored photographs) applies to all photographs in the possession of the Roads and Traffic Authority that were taken or provided for the purpose of applications for the issue or renewal by the Commissioner of a licence under the *Firearms Act 1996* or the Principal Act.

Schedule 2.3 [2] inserts proposed section 41 (3) into the *Road Transport (Driver Licensing) Act 1998* to provide that photographs to which Part 5 of that Act applies, and any photographic image or other matter contained in any database of such photographs, must be provided to the Commissioner on request if the request relates to the administration of the Principal Act.