1 Introduction

The *Security Providers Act 1993* ('the Act') and *Security Providers Regulation 1995* ('the Regulation') are currently being reviewed as part of the Queensland Government's commitment under National Competition Policy to review all legislation that restricts competition.

The Act creates a licensing regime for private investigators, crowd controllers, security officers and security firms. Currently there are a total of 14,487 licence holders in Queensland.

This Public Benefit Test ('PBT') Report examines the current regulation of private investigators, crowd controllers, security officers and firms in Queensland and specifically considers a range of issues relating to the anti-competitive restrictions contained in the Act and Regulation and potential alternatives to the current regulatory regime.

The results of stakeholder consultation are highlighted throughout this draft PBT Report. Stakeholders raised many relevant issues relating to regulation of the industry and current operation of the Act, which are outside the scope of this NCP Review. However, the review team has attempted to raise those relevant comments throughout this Report and appropriate recommendations for further investigation have been made.

2 Review Parameters

2.1 Title of the Legislation

- *Security Providers Act 1993*; and
- *Security Providers Regulation 1995.*

2.2 Reasons for the Review

In April 1995, the Commonwealth, State and Territory Governments signed a set of agreements to implement National Competition Policy ('NCP'). This includes the Competition Principles Agreement ('CPA') which, among other matters, requires each participating jurisdiction to review and, where necessary, reform all legislation that contained measures restricting competition.

The key elements of NCP include:

- the extension of the competitive conduct rules of the *Trade Practices Act 1974 (Cth)* to all businesses and State and local government enterprises;
- structural reform of public monopolies;
- third party access to essential infrastructure facilities;
- competitive neutrality between the public and private sectors;
- prices oversight of government business enterprises; and
- legislation review.

The Queensland Legislation Review Timetable identified potential restrictions on competition in the *Security Providers Act 1993* ('the Act') and the *Security Providers Regulation 1995* ('the Regulation'). Under NCP, a PBT is required of these restrictions and an assessment of alternative means of meeting the objectives of the legislation.

2.2 Public Benefit Test Methodology

The guiding principle for a PBT, as specified in Clause 5(1) of the CPA, is that legislation should not restrict competition unless it can be demonstrated that:

(a) the benefits of the restriction to the community as a whole outweigh the costs; and

(b) the objectives of the legislation can only be achieved by restricting competition.

This PBT is being conducted in accordance with the Queensland Government's *Public Benefit Test Guidelines* ('the PBT Guidelines'). It examines the current regulation of private investigators, crowd controllers, security officers and firms in Queensland and specifically considers a range of issues

relating to the anti-competitive restrictions contained in the Act and the Regulation and potential alternatives to the current regulatory regime.

2.3 NCP Review Terms of Reference

The Terms of Reference for this NCP Review of the Act and the Regulation are attached at Appendix A. Specifically the review will examine the extent to which it is in the public interest for competition to be restricted under the current legislation and will seek to:

- clarify the objectives of the legislation;
- identify the nature of restrictions on competition;
- analyse the likely effects of the restrictions on competition and on the economy generally;
- assess and balance the costs and benefits of the restrictions identified by conducting a PBT; and
- consider other means for achieving the same results including alternative legislative or non-legislative approaches.

Additionally, the review will consider the likely impact of reform measures.

2.4 Government Priority Outcomes

The PBT Guidelines require that only those options that are consistent with, and support, the Queensland Government's Priority Outcomes should proceed for further consideration. The Government Priority Outcomes are:

- More Jobs for Queensland - Skills and Innovation - The Smart State
- Safer and More Supportive Communities
- Community Engagement and a Better Quality of Life
- Valuing the Environment
- Building Queensland's Regions.

The Government Priority Outcomes will be considered in conjunction with the cost/benefit assessments undertaken in this review.

2.5 Conduct of the Review

The review was conducted as a targeted public review in accordance with the criteria outlined in the PBT Guidelines. The NCP Unit of the Office of Fair Trading undertook the review, with the assistance of an inter-Departmental Reference Group.

An Issues Paper was released in December 2001 seeking stakeholder input on issues relating to the restrictive provisions identified in the Act, namely the licensing regime and business conduct requirements. The Issues Paper was advertised on the Office of Fair Trading website and in the *Courier Mail*. In total, 105 Issues Papers were distributed and 40 submissions were received. Results

of consultation received in response to the Issues Paper are outlined throughout this draft PBT Report and summarised in Appendix B.

A draft PBT Report was released in June 2002 seeking further stakeholder comments on the preliminary findings of the PBT. The draft PBT was prepared to give stakeholders a further opportunity to put forward their views with regard to the regulation of security providers in Queensland. During the course of this review stakeholders raised a number of relevant issues that are outside the scope of this NCP Review. Such issues have been acknowledged in the PBT Report and further consideration is recommended where appropriate.

In total 95 stakeholders received notice of the availability of the draft PBT Report and the Report was made available on the Queensland OFT's website. Approximately 25 responses were received in relation to the draft PBT Report. Most stakeholders were supportive of the conclusions and recommendations contained in the draft PBT Report. Any comments raised in relation to specific issues have been highlighted throughout the final PBT Report and all relevant issues that have fallen outside the scope of this NCP Review have been listed in sections 16.3 and in Appendix B.

Submissions received on the draft PBT Report have been further assessed in relation to the benefits and costs of the current regulatory regime and alternative options.

3 Legislative Framework

3.1 Security Providers Act 1993

The *Security Providers Act 1993* ('the Act') was granted assent on 17 December 1993, with the majority of provisions commencing on 17 February 1995. Prior to introduction of the Act, security officers and private investigators were regulated under the *Invasion of Privacy Act 1971* ('the Invasion of Privacy Act'), which contained licensing and conduct requirements. Crowd controllers were unregulated before introduction of the Act.

The Act provides a comprehensive legislative code for the regulation in Queensland of the following occupations, which are collectively defined as 'security providers':

- Private Investigators;
- Crowd Controllers;
- Security Officers; and
- Security Firms.

The legislation seeks to ensure that:

- only persons of an 'acceptable character' enter the industry and operate as security providers;
- operators possess basic levels of competency in the delivery of their services to members of the public; and
- industry/market participants behave according to community expectations.

With the introduction of the Act, all applicants for licenses as security officers, crowd controllers or private investigators were required, for the first time, to undertake an approved training course prior to obtaining a licence to operate. However, a small number of security providers who were previously licensed under the Invasion of Privacy Act and who had not allowed their licences to lapse, were given exemptions from undertaking prescribed training.

Competency and appropriate person tests are the primary means of achieving the objectives of the Act in ensuring that only appropriate persons, who meet community expectations and promote public safety, operate within the industry.

3.2 *Security Providers Regulation 1995*

The Regulation commenced on 17 February 1995. In summary, the Regulation covers:

- details of the licensing scheme, including documents which must accompany applications and licence particulars;
- register requirements for security providers;
- training courses;
- crowd controllers visible identification requirements; and
- fees payable under the Act.

4 The Security Industry

4.1 Queensland

Private investigators are typically operators who investigate missing persons, conduct covert surveillance operations and factual investigations, obtain photographic evidence and conduct background checks on behalf of their clients.

Crowd controllers or 'bouncers' are employed to keep order around public places such as nightclubs and hotels. Security officers provide services such as mobile and dog patrols, act as armed and unarmed guards and respond to alarms.

For the year ending 30 June 2001, a total of 14,487 licences, including applications and renewals, were processed under the Act. Over 59% of the licences issued were dual security officer/crowd controller licences, which allow the holder to work in either of these two occupational classes.

The following is the total number of licenses (new and renewals) issued under the Act for the last three (3) years:

Year	1998/99	1999/2000	2000/2001
No. of Licences	13,255	13,833	14,487
Annual Growth	--	4.4%	4.7%

A breakdown of the licences processed within the 2000/01 financial year is as follows:

Category	New Licenses	Renewals	Total
Crowd Controller	24	73	97
Security Officer	54	640	694
Security Officer/Crowd Controller	3,371	8,568	11,939
Private Investigator	217	959	1,176
Security Firm	157	424	581
Total	3,823	10,664	14,487

4.2 National Market

According to the Australian Bureau of Statistics (ABS), as at June 1999, there were 1,714 businesses nationwide in the security services industry. Of those, static guards and crowd control services were the main activity of 811 (47%) businesses[1]. Mobile patrol services were the main activity of 420 businesses and 368 business were primarily involved in private investigative and enquiry services[2]. The remaining businesses were involved in providing security monitoring services (54) and cash-in-transit/armoured car services (26)[3].

[1] Australian Bureau of Statistics, Security Services, 1998-99, p3
[2] Ibid
[3] Ibid

Nationally, the ABS reported that the security services industry generated $1,395 million of income during 1998-99 and employed a total of 31,752 persons[4]. For the same period, the expenses of the industry were $1,304 million, with $756 million in labour costs[5]. The average labour cost per employee was $24,200 with a large number of casual and part time employees in the industry, reducing the average labour cost[6].

Of the 1,714 businesses in the security industry at the end of June 1999, 781 or 46% of businesses operated from within New South Wales, where 34% of the population reside and Victoria accounted for 28% of the industry, where 25% of the population reside[7]. The other states and territories held smaller proportions of industry members in comparison with residents, but 3% of businesses were operating from the Australian Capital Territory ('the ACT'), which is a large percentage compared with its 1.6% share of the population[8]. Interestingly, the ACT is the only jurisdiction that uses a registration system. The ACT model is highlighted further in Appendix C.

Those employed in the security industry are spread across the following activities:

Mobile guards	21.1%
Static guards/Crowd Controllers	50.9%
Monitoring room operators	1.9%
Investigators	1.5%[9]
TOTAL	75.4%

Of the 31,752 persons employed nationally in the security services business, 25,678 were male and 6,074 were female[10].

At the end of June 1999, Queensland security services businesses accounted for 285 of the 1,714 businesses operating nationally.

[4] Ibid
[5] Ibid
[6] Ibid
[7] Ibid, p4
[8] Ibid
[9] The remaining percentage of employees were managerial, administrative and other persons, accounting for 24.7% of the industry. Ibid, p4
[10] Ibid

5 Objectives of the Legislation

Clause 9 of the CPA states that reviews should clarify the objectives of the legislation. The objectives of the Act are not stated explicitly in the legislation, however the circumstances, which led to its introduction and the Government's response to those circumstances, provide a strong indication of the Government's intention in that regard.

The move to regulate operators in these industries followed increased public concern over a number of reported incidents involving assaults by crowd controllers on patrons of licensed premises in the early 1990s[11]. At this time there were reported incidents of private investigators who attempted to extort money, were manipulating people, operating in unethical, improper and dishonest ways. It was alleged that some private investigators were bugging offices then approaching the tenants to 'sweep' the office to remove the bugs and that persons with a criminal history were operating allegedly inefficient training academies[12].

The Second Reading Speech for the Act discussed several incidents relating to the conduct of private investigators and crowd controllers where consumers were disadvantaged by 'shonky' private investigators or seriously injured by crowd controllers or 'bouncers'. In particular, the speech highlighted that the number of reports on incidences of injury and thuggery in respect to nightclub 'bouncers' steadily increased from 1989[13]. In 1989 at least ten persons per week were treated at the Gold Coast Hospital for injuries inflicted by bouncers. The then Member for Burleigh, Mrs Gamin, highlighted that it was quite apparent that 'bashings, quite apart from the suffering of the victims, caused a disgraceful waste of hospital and medical resources'[14].

It was further recognised that patrons often drink too much and can become rude and aggressive and contribute to a potentially volatile situation[15]. This being the case, it was contended there was strong argument to both protect patrons and ensure that crowd controllers were adequately trained to handle hostile situations and possess adequate negotiation skills. There was strong support for persons to be screened prior to entering the industry to ensure they did not have a criminal history that may indicate the person is not appropriate to act responsibly and efficiently in fulfilling the duties of a crowd controller. In debate, the Legislative Assembly strongly supported the initiative to protect patrons from security providers who may cause or contribute toward injuries to members of the public.

In summary the objectives of the Act are to ensure that:

- the community is protected from unacceptable behaviour of security providers;
- only persons of an 'acceptable character' enter and operate as security providers;
- operators possess a minimum level of competency in the delivery of their services to members of the public; and

[11] Hansard, 2 December 1993, p6427
[12] Ibid, p6417
[13] Ibid, p6419
[14] Ibid, p6420
[15] Ibid

- industry or market participants behave according to community expectations.

6 Other Legislation

6.1 *Mutual Recognition (Qld) Act 1992* and *Trans-Tasman Mutual Recognition (Qld) Act 1999*

The *Mutual Recognition (Qld) Act 1992* and the *Trans-Tasman Mutual Recognition (Qld) Act 1999* establish a legislative regime providing for the recognition, within Queensland, of regulatory standards adopted in other Australian jurisdictions and New Zealand in relation to goods and occupations.

As a result, the *Trans-Tasman Mutual Recognition (Queensland) Act 1999* allows for an equivalent Queensland security provider licence to be granted to the holder of a New Zealand security provider occupational licence. The granting of this equivalent licence also requires written proof of the specific function/s previously performed by the applicant, which they believe makes them eligible to obtain that particular licence in Queensland.

The Mutual Recognition laws have assisted in ensuring that skills, training and abilities gained in other Australian or New Zealand jurisdictions are appropriately recognised. Persons are now able to freely move into another state or territory and obtain an occupational licence similar to that which they previously held or hold in their jurisdiction of origin.

Consequently, an applicant may make application to have their licence mutually recognised in Queensland, if they are a holder of an equivalent security provider occupational licence in another state or territory under the *Mutual Recognition (Qld) Act 1992*. The acceptability of their application will be dependent on supporting documentation.

Many issues have arisen during the course of this Review in relation to Mutual Recognition laws. While most of these issues are outside the scope of this NCP review, the issues are highlighted throughout this PBT Report.

6.2 Weapons Act 1990

Under section 123 of the *Weapons Act 1990* ('the Weapons Act') a person who performs the duties of a security guard cannot physically possess a weapon unless the person holds a security licence (guard). A security guard is defined for the purpose of the Weapons Act as being a person who patrols, protects, watches over or guards ('protects') the person's property or other persons or other person's property in the course of carrying on a business or in the course of employment[16].

The object of the Weapons Act 'is to prevent the misuse of weapons'[17] and to ensure that public and individual safety is improved through the imposition of strict controls on weapons, including the mode

[16] Section 6B of the Weapons Act
[17] Section 3(2) – Principles and objects of the Act

of carriage, licensing, storage and training. The Queensland Police Service administers the Weapons Act and is responsible for the issue of weapons licences to 'security guards' and 'security organisations'[18]. Importantly, before a security guard or organisation (as defined in the Weapons Act) can obtain a weapon licence of any kind, the applicant must be the holder of a relevant security provider licence issued under the Act[19].

As at July 2001, the Queensland Police Service had issued weapons licences to 1,874 security guards and 215 security organisations[20].

6.3 Other Venue-Related Security Legislation

There are several other pieces of legislation, which regulate specific sectors of the security industry, some of which include:

- *State Buildings Protective Security Act 1983*;
- *Health Services Act 1991;*
- *South Bank Corporation By-law 1992* and *South Bank Corporation Regulation 1992;*
- *Mental Health Regulation 1985;* and
- *Casino Control Act 1982.*

In summary, these statues provide for the conduct of security providers in specific geographical locations, such as South Bank, Queensland casinos and hospitals. Persons whose activities are covered by the above legislation are not required to hold a licence under the Act.

Specific legislation was passed to give the South Bank Corporation the power to redevelop the South Bank area and to establish and enforce specialised security arrangements for the area[21]. The *State Buildings Protective Security Services Act 1983* was introduced originally to 'provide for the security of state buildings of other buildings', specifically court buildings. This was expanded to include State Government buildings and all property therein[22]. The health services related legislation allows for specific security services to be provided to hospital and mental health institutions.

Security officers who operate under the *Casino Control Act 1982* are specifically exempt from the requirements of the Act. The rationale behind this is that the criteria for employees under the *Casino Control Act 1982* requires scrutiny of criminal records and associations, financial dealings and employment records for 10 years prior to the application. These requirements go over and above the requirements of the Act.

[18] Part 4 – Possession and Use of Weapons, Division 8 Security guards and security organisations
[19] Section 48(1) of the *Weapons Regulation 1996*
[20] These licenses remain current.
[21] Hansard, 13 April 1989, p4671
[22] Hansard, 24 March 1983, p3854

6.4 Other Jurisdictions

Security officers, security firms or agents, crowd controllers and private investigators or inquiry agents are regulated, to varying degrees, in all jurisdictions. A comparison of the legislative requirements in each jurisdiction appears at Appendix C to this Report.

All jurisdictions licence a wide variety of security-related activities, which are detailed below:

Category	WA	Qld	Vic	SA	NSW	NT	TAS	ACT
Companies	√	√	√	√	√	√	√	√
Guards (contract)	√	√	√	√	√	√	√	√
Guards (in-house)++	-	-	-	√	√	-	-	-
Crowd controllers	√	√	√	√	√	√	√	√
Bodyguards	-	-	-	√	√	-	-	√
Inquiry agents	√	√	√	√	√	-	√	-
Consultants	√	-	-	√**	√	-	-	√
Control room operators	√	-	-	√	√	-	-	√
Installers and repairers	√	-	-	√	√	-	-	-
Hardware	√	-	-	-	√	-	-	√
Locksmiths	√	-	-	-	√	-	-	√
Trainers	-	-	-	-	√**	-	-	-

* Registration: similar to standard licensing

** Partial

++ Includes loss prevention officers.
Generic terms as used for licence categories[23]

[23] Security Journal, v12 number 3, p7-17: *A Survey of Security Legislation and Regulatory Strategies in Australia,* Tim Prenzler and Rick Sarre

7 Restrictions on Competition

This section discusses the nature of the restriction on competition. The Act contains a number of provisions that have been identified as potential restrictions on competition, including licensing and business conduct requirements.

7.1 Licensing

Section 9(1) provides that unless a person holds the appropriate licence, the person must not carry out the functions of a security provider, or advertise, or in any way hold out, that the person carries out or is willing to carry out the functions of a security provider.

Section 9(2) provides that a person must not, directly or indirectly, engage a person to carry out, for reward, the functions of a security provider unless the other person holds the appropriate licence.

The licensing requirements for security providers include that the person must be over 18 years of age, appropriate to hold a particular licence, have successfully completed a training course approved by the Chief Executive and must pay the prescribed fee.

7.2 Business Conduct

Section 47 of the Regulation provides that all crowd controllers, other than body guards must wear clearly visible identification at all times while on duty.

Section 17 of the Regulation provides that an entity that directly or indirectly engages a person to carry out, for reward the functions of a crowd controller at a public place, to maintain a register as a 'sign-on' and 'sign-off' point for crowd controllers. The Register must contain details of all incidents requiring the removal of any person from a public place and must be open to inspection by Police and authorised officers under the Act.

Security firms must also keep a register of security providers employed by the firm[24]. Security firms are required to note the name, licence number and expiry date of licence for each of their employees along with the date of commencement and (if applicable) termination of employment. The register also keeps note of which identification number each security officer/crowd controller is wearing at any given time.

Both registers are required to be kept for a period of seven years after the last entry is made in the register.

[24] Section 18 of the Regulation – Security firm to keep register of security providers

7.3 General Rationale for Regulation of Security Providers

In general, the main reason for governments to intervene in markets is to address the failure by markets to operate efficiently or deliver outcomes that reflect community standards. The main forms of market failure that are relevant in relation to security-related services are based on:

- the propensity for information problems, usually referred to as information asymmetry's; and
- the likelihood of adverse third party effects, often referred to as negative externalities.

In this instance, information problems arise because users of security services are often at a severe information disadvantage compared with those individuals and firms providing the services. The scope of the information problem is even greater when users are first time or irregular purchasers. The third party effects arise because inappropriate behaviour can impact adversely on individual members of the community, the reputation and business of responsible service providers and the general community.

The nature of the problem is such that it is too costly for individual users of security services to overcome the information problems and third party effects without some form of government intervention. Without some form of assistance, many purchasers of security services are likely to have difficulty in assessing in advance whether those contracted to provide the services are likely to meet acceptable behavioural and competency standards.

It is often argued that as long as consumers, in this case users of security services, are aware of potential risks and their implications, they should be free to choose whether to assume the risk or take action to reduce the risks accordingly. However, relying on consumers assessing the risks and taking individual actions in response also ignores the often substantial transactions costs associated with overcoming the information problem relative to the efficiency of some form of government intervention. That is, the costs of identifying quality service providers and rectifying problems can reduce the effectiveness of market mechanisms and provide an important argument for some form of regulation to improve efficiency.

Regular users of security services will usually be in a better position to assess the experience, integrity and skills of potential service providers, thereby lessening but not entirely removing the information problem for these consumers at least. Such consumers are often termed "educated buyers". Information irregularity will be even less of a problem, and the need for government intervention further reduced, where businesses choose to employ people in-house to provide prescribed security services on a long term basis. However, most consumers would generally face serious information problems and even educated buyers may face similar problems when employing a security provider for the first time. Furthermore, poor performers within the ranks of security providers could simply move on to other industry sectors or locations where potential consumers are unaware of their sub-standard work. As a result, the penalty for poor performance may be weak in an unregulated market.

The potential for adverse third party effects is also an important consideration that distinguishes security-related activities from many other services and products. Negative externalities or adverse third party effects occur where individuals other than the purchasers and/or providers of security services are affected. These could occur where security providers employed by the operators of the venue assault patrons at an entertainment venue, or an individual's privacy is compromised by inappropriate actions by private investigators.

Besides adversely affecting the ability of consumers to make fully informed choices, information problems can also adversely affect more responsible security providers. If potential consumers are unable to assess quality standards through market mechanisms, service providers offering better quality services can find it difficult to receive an appropriate reward for the additional effort and expenditure required. This reduces the incentive to provide higher quality services or in the worst case, adhere to minimum service standards. Providers seeking to offer higher quality services may leave the market or be forced to lower their standards over time.

Consideration of the issues suggests that licensing or similar regulation is an appropriate mechanism to address problems faced by consumers of security services in obtaining adequate information and minimising third party effects. Licensing of security providers gives consumers an indication that a potential supplier has been examined and assessed as having the character and skills required to undertake the work covered by the licence. This helps consumers choose between good and poor quality service providers. This is particularly important given the public safety concerns, which gave rise to this legislation in the first instance.

Although a strong economic argument can be made for some form of regulation, particular activities determining the most appropriate form is more difficult. In this respect, intervention should:

- focus on addressing the market failure while minimising any spill-over effects; and
- minimise administrative and regulatory costs consistent with meeting the objectives of the regulation.

8 Licensing

The Act contains market entry restrictions in the form of licensing requirements. Applicants are required to meet certain criteria before they will qualify for a licence, therefore persons who do not meet the licensing criteria will be excluded from operating in the industry.

The licensing criteria differ slightly across the different occupational groups and licence categories. In the case of a crowd controller, private investigator or security officer, applicants must:

- be an individual;
- be over 18 years of age;
- be an appropriate person to hold a licence;
- have successfully completed training approved by the Chief Executive Officer ('Chief Executive'); and
- pay the prescribed fee.

In the case of a security corporation or firm licence:

- the applicant must be an officer of the corporation;
- each person who is an officer of the corporation, or partner if a partnership, must be an appropriate person and must not have been convicted of a disqualifying offence; and
- each security firm licence must specify as a condition what function or services are to be provided by the firm. Under the Act, for example, it must specify that the firm is licensed to provide specific services such as crowd control, private investigations or to provide security officers.

The Regulation prescribes fees, specifies the way security providers conduct themselves and specific documents that must be submitted when applying for a licence.

All applicants have the right to appeal to a court of competent jurisdiction against a refusal to grant a licence, decision in relation to conditions or amendments to conditions, suspension, cancellation, refusal to renew or refusal to replace a licence under section 26 of the Act. The Act sets out the process for commencing an appeal[25], hearing procedures[26] and grants the Court power to grant a stay of a decision[27]. The Act states that an appeal is to be by way of re-hearing, unaffected by a decision by the Chief Executive[28] and, in deciding the appeal, the court is not bound by the rules of evidence and must observe natural justice[29]. The court has the power to confirm the decision appealed against, set aside the decision and substitute another decision or set aside the decision and return the matter to the Chief Executive with directions that the court considers appropriate[30]. When substituting another

[25] Section 27 – How to start appeal
[26] Section 29 – Hearing Procedures
[27] Section 28 – Stay of operation of decisions
[28] Section 29(3)
[29] Section 29(4)
[30] Section 30(1) – Powers of Court on appeal

decision, the Court has the same powers as the Chief Executive[31] and that decision, for the purpose of the Act, is taken to be the Chief Executive's decision[32].

Another avenue for review open to any person who is aggrieved by a decision is to apply to a court of competent jurisdiction for a statutory order of review in relation to the decision pursuant to the *Judicial Review Act 1991*[33]. Application for review may be made on the following grounds

- breach of natural justice;
- failure to observe procedures in accordance with law;
- decision beyond jurisdiction;
- decision not authorised by statute;
- improper exercise of power;
- error of law;
- decision induced or affected by fraud;
- decision not supported by evidence, or
- decision was contrary to law[34].

8.1 Applicants must be 18 years of age

Section 11(2)(a) of the Act requires that licence applicants be over 18 years of age. This restriction creates a barrier to entry for all persons under 18 years.

Lowering the age would create complications and inconsistencies under other pieces of legislation. The *Juvenile Justice Act 1992* defines a child as a person who has not turned 18 years. Any persons committing an offence under the Act must be over 18 years in order to be prosecuted as an adult.

The *Liquor Act 1992* precludes minors from being on premises, which hold a liquor licence, other than exempt minors. Persons who are employed at licensed premises are exempt from this provision of the *Liquor Act 1992* and as such can be employed at licensed premises. To remove the age restriction from the Act may open the market to the extent that persons under 18 years of age could work as security providers in licensed premises.

Stakeholder response to this issue was that a consistent approach should be taken with other legislation. All other jurisdictions, but ACT require applicants to be over 18 years of age.

Almost all stakeholders agreed that the restriction on the age of applicants to be over 18 is appropriate. A few stakeholders suggested 21 was a more appropriate age and a smaller number suggested that the restriction should be lowered, mainly to account for apprenticeships or traineeships.

The typical work carried out by a security provider, whether it is protecting a property or persons, controlling crowds or obtaining confidential information, requires a certain level of maturity and the

[31] Section 30(2)
[32] Section 30(3)
[33] Section 20(1) – Application for review of decision
[34] Ibid, section 20(2)

ability to make decisions under pressure. Security providers are regularly faced with emergency or highly volatile situations where rash and ill-considered actions could result in serious or life threatening incidents. The role of security provider requires responsible personnel with integrity and maturity.

Many stakeholders responded that persons under 18 years lack the necessary maturity and/or life skills to perform roles that require responsibility for the welfare and safety of people. The objectives of the Act are more likely to be compromised if they are not responsible and mature enough to handle conflict and violent situations.

Allowing minors to operate as security providers, in often hostile and violent situations is inconsistent with the Government's priority of creating safer communities, especially for teenagers who may be easily tempted to enter an industry which can be perceived as exciting.

Conclusion

Based on the above assessment, it is considered that the current age restriction is justified in the public interest and should be retained.

8.2 Appropriate Person

In deciding whether the person is an appropriate person to hold a licence, the Chief Executive may consider whether the person:

- has been involved in any dealings where the person has shown dishonesty, a lack of integrity or used harassing tactics;
- associates with a criminal in a way that indicates involvement in unlawful activity;
- has been a debtor under the laws of bankruptcy; or
- has been convicted of an offence.

A person is not an appropriate person to hold a licence if the person has been convicted of a 'disqualifying offence' in any jurisdiction within ten years of applying for a licence. A list of 'disqualifying offences' under the Act appears at Appendix D.

Section 12 of the Act allows the Chief Executive to make inquiries about a person to assist in deciding an applicant or licensee's appropriateness to hold a licence. If requested by the Chief Executive, the Commissioner[35] must give the Chief Executive a written report about the person's criminal history that is either in the Commissioner's possession or to which the Commissioner 'ordinarily' has access through arrangements with the police services of the Commonwealth, another State or a Territory[36].

The Queensland Police Service believes that, to the extent that inappropriate persons enter and operate in the industry, the objects of the Act are not being met to an acceptable standard. It has advised that

[35] Defined in section 3 as the Commissioner of the Police Service
[36] Section 12 – Inquiries about person's appropriateness to hold a licence

it is aware of criminal interests infiltrating the security industry and using the role of security providers as a method for the commission of property and other related crimes. It considers the appropriate person test is crucial in ensuring only appropriate persons enter and operate in the industry and that an enhanced test would ensure those persons who are unsuitable cannot obtain a licence. It also considers that public safety needs, addressed partially through an appropriate person test, outweigh the needs for extended competition within the industry.

Training provider stakeholders advise that there is a tendency for inappropriate persons to enter the industry and, if appropriate persons checks were discontinued the industry would be open to corruption and or unethical practices. They further commented that industry and the community usually unwittingly regulates this part of the industry by clients refusing to employ, terminating employment, or not returning their business to this type of operator. Training providers believed that the costs of conducting appropriate person tests were minor and that the benefits certainly outweighed any costs.

The Chief Executive considers issues relating to dishonesty, integrity, harassment, and association with a criminal indicating involvement in unlawful activity when assessing an application prior to granting a licence and when considering suspension, cancellation or refusal to renew. However, the Chief Executive is limited in what evidence and information can be assessed and must ensure that all applicants are afforded natural justice and procedural fairness.

All stakeholders agreed that the appropriate person test, particularly the criteria that applicants be honest, show integrity and have no criminal history (as defined) is important, if not essential, to maintaining industry standards and ensuring only persons of good character enter the industry. Stakeholders further submit that the appropriate person test contributes toward maintaining public confidence in the industry and its participants.

8.2.1 Dishonesty, integrity or harassing tactics

Most stakeholders agreed that any dishonesty, lack of integrity or harassing tactics on the part of applicants, are important factors to consider when determining a licence application and to dispense with the criteria would be unacceptable.

The Office of Fair Trading has used this section of the Act to request persons to show cause where they have been convicted of offences which indicate that the person is dishonest, have shown a lack of integrity or have used harassing tactics. For example, the Office of Fair Trading recently issued show cause proceedings against a licensee who was convicted of industrial relations offences relating to non-payment of award wages.

Using an appropriate person test to assess honesty and integrity increases the benefit to the public and clients of security providers who are aware that if they use a licensed security provider, they can presume the operator is, therefore, appropriate, honest and trustworthy.

Many stakeholders commented on the benefit to employers of knowing that if a potential employee holds a licence, then that person has satisfied certain criteria and is considered appropriate to hold that

licence and perform the relevant functions.

Conclusion

The benefits to all stakeholders of giving the Chief Executive discretion to assess whether a person has shown dishonesty, lack of integrity or harassing tactics outweigh costs to all stakeholders and should remain.

8.2.2 Association with a criminal that indicates involvement in criminal activities

Section 11(4)(b) states that the Chief Executive may consider whether a person associates with a criminal in a way that indicates involvement in unlawful activity, when determining appropriateness to hold a licence.

A number of other pieces of Queensland legislation, such as the *Property Agents and Motor Dealers Act* 2000, the *Keno Act 1996* and the *Interactive Gambling (Player Protection) Act 1998*, include similar provisions that allow the respective Chief Executive Officer to make investigations about the suitability or character of the applicant's associates. The provision is designed primarily to discourage the entry of criminal elements into sensitive industries through the use of seemingly honest associates as front men for illegal or unethical activities.

This section creates a barrier to entry, albeit very small. This provision of the Act has rarely been used to prevent a person from entering the industry, or to remove any persons from the industry. It is unlikely that the Chief Executive would ever refuse to licence an applicant on such grounds without strong evidence or submissions that a person associates with a criminal that may indicate involvement in criminal activity. Nevertheless, it is an important check on potential criminal infiltration into a sensitive industry such as security provision.

The community benefits from this restriction in that it enhances the protection of the public from persons who may be involved with criminals in a way that indicates involvement in criminal activities. There are negligible costs passed on to the community in relation to this restriction. There is a small cost to Government of assessing applications in terms of this provision. The Government benefits in that it meets its priority of a safer community.

Conclusion

The provision provides a net benefit to the community and as such, it is recommended that this provision be retained.

8.2.3 Debtor under bankruptcy laws

The Office of Fair Trading requests applicants to indicate whether or not they have been a debtor

under the bankruptcy laws in accordance with section 11(4)(c). There have been a number of instances where a person has disclosed that he or she has been declared bankrupt either personally or as a corporation. The Chief Executive considers each application individually, and would refuse the application if the bankruptcy indicated dishonesty or a lack of integrity.

The discretion to refuse a licence due to bankruptcy remains a valid discretion, given that dishonesty or a lack of integrity indicates inappropriateness to hold a licence. The benefits to the community outweigh any costs to industry or government of assessing persons with a history of bankruptcy.

Stakeholders agree that this is a relevant consideration in determining appropriateness.

Conclusion

This provision produces a net benefit to the community and as such, there should be no change to the discretion to consider bankruptcy as a criterion.

8.2.4 Has been convicted of an offence

When the Chief Executive obtains a criminal history report on an applicant, it obtains details of all convictions of any offences against the applicant. The Chief Executive has power under section 11(4)(e) to refuse to grant a licence if he/she considers the offence indicates the person may not be appropriate. This may cover matters such as industrial relations, workplace health and safety and domestic and other violence offences, but not simply domestic violence orders.

The Queensland Police Service submits that the requirement that a person has not been convicted of an offence is ineffective. It has become aware of situations where persons who hold licenses have been convicted of offences involving violence and found guilty of the offence without a conviction being recorded. Under the Act a conviction must be recorded before the offence will disqualify a person from obtaining a licence.

The Queensland Police Service also submits that consideration should be given to allowing the public interest to be considered when determining appropriateness. It submits that consideration should be given to whether or not the person has been involved in a course of conduct demonstrating inappropriate use of violence, or threatened use of violence or violent behaviour, for example, continued domestic violence.

Many industry members submit that the appropriate person test should be revised to include persons with domestic violence orders, especially if threats were made involving a weapon. The comment was made that there appeared to be little difference between the commission of a disqualifying offence against a member of the public or against a member of his or her own family as an indicator of appropriateness. Some domestic violence orders are obtained through the courts without the respondent being given the opportunity to respond to the claims. Procedural fairness is not afforded in these cases and evidence to prove the claim is not required to the same standard as in other cases, either on the balance of probabilities or beyond reasonable doubt. A domestic violence order is not an offence until the person the subject of the order breaches that order. A magistrate may also err on the

side of caution when issuing domestic violence orders and to refuse to grant a licence that may affect a person's livelihood would go against the principles of natural justice. For these reasons it is not considered appropriate to include such orders in the test.

The Master Locksmith Association of Australasia Limited submits that does not support domestic violence orders being included as offences where the Chief Executive has discretion to refuse a licence and has reservations in respect of occupational health and safety and industrial relations offences regulated by other legislation.

Stakeholders also suggested that offences committed under the *Trade Practices Act 1974* or the *Fair Trading Act 1989* (Qld) form part of the appropriate person test. Stakeholders further suggest that there are many incidents of licensee firms charged with industrial relation or workplace health and safety offences directly related to the operation of security businesses. It is suggested that in order to maintain the general standard and reputation of the industry and to increase the benefits to the community and industry, consideration should be given to including such work related offences as disqualifying offences for the purpose of the Act. Alternatively, consideration should be given to cancellation or suspension of firms who are found guilty or convicted of workplace offences.

A number of stakeholders suggested that the test be expanded to include any other offences that, in the opinion of the Chief Executive, give sufficient cause to reasonably suggest that the applicant is not an appropriate person.

Section 11(4)(e) currently facilitates the Chief Executive's discretion to consider the above suggestions made by stakeholders for offences, which should be included when assessing appropriateness, so long as the applicant has received a fair hearing under natural justice principles.

Conclusion

The discretion in section 11(4)(e) allowing the Chief Executive to consider conviction of offence/s when considering grant of a licence remain unchanged.

8.2.5 Disqualifying offences

Under the Act, an applicant who has been convicted of a disqualifying offence in Queensland or elsewhere within ten years of applying for a licence is not an appropriate person to hold a licence. A disqualifying offence means an offence against the Weapons Act or the *Drugs Misuse Act 1986* that is punishable by imprisonment for 1 year or more (even if a fine may be imposed in addition or as an alternative), or an offence against a provision of the Criminal Code as mentioned in the Schedule to the Act. A list of disqualifying offences which appear in the Schedule to the Act are at Appendix D.

All stakeholders submitted that the disqualifying offences are relevant and that no disqualifying offences should be removed.

The Office of Fair Trading has found, in some instances, that a criminal history check may not be accurate. Therefore, the Office of Fair Trading policy is to contact the appropriate court to make

further inquiries to confirm criminal history, before making a determination of the person's licence application.

Research undertaken by the Queensland Police Service, indicated that between 1 January 2001 and 11 October 2001, 258 disqualifying offences were committed by offenders who gave their occupation as security provider including serious offences such as arson, grievous bodily harm, fraud and break and enter. This also indicates that there are a number of licensees who are in breach of the Act, in that they have not advised the Chief Executive of the change in their particulars[37].

Some stakeholders suggest that the test should include persons who are found guilty of an offence with no conviction necessarily recorded, with an opportunity to appeal the decision if they consider they can submit mitigating circumstances which indicate that the person is now appropriate. Comments were made that many operators are convicted of disqualifying offences relating to honesty, violence and weapons, which are not recorded, but should be considered when determining appropriateness.

The only additional suggestion made by stakeholders in relation to disqualifying offences was that the Chief Executive should have discretion to include additional disqualifying offences from time to time such as offences under the *Trade Practices Act 1974*.

Some jurisdictions refuse to licence applicants if they have been found guilty of an offence, whether or not a conviction is recorded. In New South Wales applicants can be refused a licence if convicted of a prescribed offence in the last ten years or found guilty (regardless of whether a conviction is recorded) of a prescribed offence within five years.

This means that under Mutual Recognition laws an applicant from a State with no such restriction can become licensed in Queensland, then transfer their licence back to the original jurisdiction. It should be noted however, that the Office of Fair Trading has received minimal requests for details from New South Wales in relation to Queensland licence holders applying under Mutual Recognition laws for a licence in New South Wales to date.

Determining whether or not unrecorded convictions for prescribed offences should be considered, the relevance of offences other than those currently contained in the Schedule of Disqualifying Offences and whether or not additional offences should be placed within the schedule are issues beyond the scope of this NCP review. These issues have, however, been noted and will be referred to the Office of Fair Trading for further investigation.

At present the Office of Fair Trading conducts random criminal history checks upon receipt of licence renewal applications. As every renewal application is not screened, inappropriate persons may not be removed from the industry, which may compromise the objectives of the Act. The issue of the random criminal history checks on renewal applications rather than compulsory verification of every licensee, has received strong criticism from stakeholders.

[37] Section 12 of the Regulation – Change to information about the licensee

Conclusion

It is recommended that the Office of Fair Trading:

- assess current disqualifying offences with a view to determining whether the current offences remain relevant and whether any other offences should be recognised as a disqualifying offence; and
- review its current administrative practice when assessing the criminal history of applicants for licence renewal.

8.3 Disclosure of Offences and Criminal Rehabilitation

Under the *Penalties and Sentences Act 1992* the Court has discretion to record or not record convictions against offenders[38], having regard to all circumstances of the case including the impact that recording a conviction will have on the offender's economic or social wellbeing or chances of finding employment[39]. It is likely that security providers who appear before the court on summary offences will not have a conviction recorded against them, as it will adversely affect the person's likelihood of retaining a security providers licence and, therefore, on employment opportunities.

The *Criminal Law (Rehabilitation of Offenders) Act 1986* is an Act with respect to the rehabilitation of persons convicted of offences. Section 6[40] states that where the rehabilitation period has expired in relation to a conviction recorded against any person, neither that person nor any other person shall disclose the conviction unless the person wishes to. It defines the rehabilitation period, in relation to a conviction upon indictment, as a period of ten years, and in relation to a summary conviction as a period of five years.

However, the *Criminal Law (Rehabilitation of Offenders) Act 1986* prescribes special cases where information as to the person's criminal history must be disclosed, one of which is where a person wishes to apply for a licence under the Act. The *Criminal Law (Rehabilitation of Offenders) Act 1986* provides that a person applying for a security provider's licence must disclose his/her criminal history[41] concerning contraventions of any law, whether committed in Queensland or elsewhere, irrespective of whether the rehabilitation period has expired or not.

The Department of Justice has commented that in certain circumstances it may be difficult to justify maintaining unlimited statutory disclosure for applicants in every case.

To address the concerns raised by stakeholders, one option would be to require applicants to disclose

[38] Section 12(1) - Court to consider whether or not to record conviction
[39] Section 12(2)
[40] Section 6 - Non-Disclosure of convictions upon expiration of rehabilitation period
[41] In relation to any person, the convictions recorded against that person in respect of offences - *Criminal Law (Rehabilitation of Offenders) Act 1986* - s3(1) Interpretation - "criminal history"

whether they have been found guilty of a disqualifying offence within the last five years irrespective of whether a conviction was recorded. An appeal process could be put in place to ensure that applicants are afforded procedural fairness and the right to be heard in relation to any mitigating circumstances demonstrating the applicant's appropriateness to hold a licence. This approach would be consistent with New South Wales security legislation, and should be explored further, taking into consideration the effect of other Queensland legislation impacting on this issue. In some other jurisdictions, applicants will be refused a licence if they have been found guilty of a prescribed offence within the last five years but have not had a conviction recorded. An applicant could obtain a licence in Queensland and then, under Mutual Recognition laws, apply for an equivalent licence in one of these other jurisdictions, effectively by-passing the higher standard of appropriateness. This issue should also be considered further.

All stakeholders submitted that the requirement that disclosure of offences was reasonable and promotes high integrity and honesty in the industry. There was overall agreement that the benefits of disclosing criminal offences outweigh any costs, given that licensees can reasonably expect to deal with valuable assets and the safety of patrons and the community in general.

Overall, stakeholders wanted a higher standard of disclosure when assessing appropriateness. However, many acknowledged that applicants should be given an opportunity to argue mitigating circumstances which may show the offence was minor or a long time ago and should not adversely affect appropriateness.

The Queensland Police Service considers the disclosure requirements to be reasonable given that all persons who wish to perform the functions of a security provider should have the highest level of integrity and trustworthiness because of the nature of their employment. It considers that disclosure is necessary to identify a course of conduct in relation to applicants which assists determine appropriateness.

The community clearly expects only the most appropriate persons are allowed to operate in the industry. For example, the community would not consider a person previously convicted of rape to be an appropriate person to be licensed and potentially in charge of supervising intoxicated females at licensed premises. The community benefits from the reassurance that persons were strictly screened for criminal offences. Government would be more adequately achieving the objectives of the Act by ensuring security providers meet expected standards and do not compromise the safety of persons or property.

More restrictive disclosure of criminal offences would promote the Government priority of a safer community. Industry would benefit through an increase in the profile and reputation of the industry. On the other hand, requiring applicants to disclose if they have been found guilty of a summary offence within the last five years may, potentially, further restrict entry into the market. However, these applicants would be afforded an opportunity to be heard if he/she believes that mitigating circumstances exist which may show that the applicant is now an appropriate person in terms of the Act. A more extensive consideration of the likely stakeholder impacts of greater disclosure would be necessary as well as less restrictive options for achieving these objectives is required.

Conclusion

It is recommended that the current disclosure requirements remain unchanged at this time but that the Office of Fair Trading investigate the legislative and stakeholder impacts of requiring applicants to disclose criminal history of offences committed within the last five years irrespective of whether a conviction was recorded.

8.4 Testimonials

On applying for a licence, the Regulation[42] specifies that the following documents must accompany an individual's application:

- three testimonials by reputable persons, about the applicant's character;
- two recent passport sized certified photographs; and
- a certified copy of, or extract from, the applicant's birth certificate, or other evidence satisfactory to the Chief Executive of the nominee's name, date and place of birth.

Where an applicant for a security firm licence is a corporation, the applicant must nominate an officer of the corporation to be the licensee's nominee and must also provide three testimonials by reputable persons about the nominee's character and a certified copy or extract of the nominee's birth certificate[43]. In the case of partnerships, a partner must be nominated as the nominee. Where a licence is granted, the person nominated is taken to be the licensee's nominee. In the conduct of the business of a security firm the nominee must:

- complete and sign all documents required under the Act for the corporation or partnership, and
- ensure the corporation or partnership complies with the requirements of the Act.

Stakeholders concede that testimonials go some way toward assessing appropriateness and that it is important that applicants are appraised as vigilantly as is practical to ensure good character prior to being issued with a licence. Most stakeholders submit that testimonials are appropriate.

However, some stakeholders from industry and government submit that testimonials are not sufficient to assess a person's appropriateness, especially for firms as they lack objectivity.

Some stakeholders submit that the requirement for corporations or partnerships to provide a nominee with three testimonials in relation to that nominee is not sufficient to assess a corporation's appropriateness.

However, not only does the corporation/partnership have to provide a nominee (who is subject to a criminal history check), but it must satisfy the Chief Executive that each officer of the corporation or partner in the partnership is an appropriate person to be an officer or partner[44].

[42] Section 3 of the Regulation – Documents accompanying application
[43] Ibid
[44] Section 13(3) – Entitlement to licences – corporations or firms

Even though the effectiveness of testimonials may be questionable, they provide some check on appropriateness without being a significant impost on industry. The benefits, although small, are considered to outweigh the costs.

Conclusion

Overall, testimonials go toward assessing appropriateness and combined with other criteria, which are used to assess appropriateness, should remain a requirement.

8.5 Training Requirements

The assessment of training requirements is considered as part of the assessment of each licence category (see Sections 9.3, 10.2 and 11.2).

8.6 Fees

8.6.1 Application and Annual Fees

A licensed security provider must, initially apply for a licence, then each year, pay the fee fixed by the Regulation to obtain and continue to hold a relevant licence. The same fee is paid each year to renew the licence. The impact of fees on competition is being assessed because in certain circumstances, the imposition of a fee may create a barrier to entry into an industry, particularly for small or part time operators. For security providers, the fees for each licence are as follows:

- Security Officer - $91.50
- Crowd Controller - $91.50
- Private Investigator - $91.50
- Dual Security Officer/Crowd Controller - $115
- Security Firm - $459

The cost to the Office of Fair Trading includes administrative costs for wages, leasing and equipment costs and other incidental costs such as purchasing identification card sleeves and production of licenses. A comparison of interstate fees can be found at Appendix C.

Comments were made that the licence fee in general was not a significant barrier in the case of a firm and that if an organisation cannot meet minimal financial obligations they may not be suitable to hold a licence. However, some stakeholders were of the view that fees for firms were too high, compared with individuals where the cost of assessing the application and producing the licence would be similar. A few stakeholders commented that fees for individual licence holders were too high in an industry that is comprised of a high proportion of casual or part time workers.

Some stakeholders raised other options for payment of fees such as a pro rata charge system based on

the number of employees, an increase to $5,000 for firms, or that a bond of say $10,000 be paid to the Office of Fair Trading as is the case in some jurisdictions. In most cases the higher fees or requirements for a bond have resulted from firms not paying employee entitlements and/or where there is a system allowing claims for pecuniary loss caused as a result of dealings with a security firm to be made against a fund. While the Office of Fair Trading is notified occasionally of offences against industrial law, the Office of Fair Trading has not received a sufficient level of complaints to indicate that such a charge or bond for firms is warranted.

The licence fee for firms is higher due to the increased level of compliance and monitoring involved with checking for unlicensed personnel and compliance with the Register requirements.

The Office of Fair Trading pays the Queensland Police Service a fee to conduct Queensland criminal history checks on applicants, which is offset by licensing fees paid by applicants. In the event that something adverse appears on the person's history check to indicate that the applicant may have a criminal history in a jurisdiction other than Queensland, the applicant pays the additional cost of a criminal history check in that other jurisdiction. If the offence occurred in Queensland, the applicant incurs no further costs.

The Police Commissioner is not ordinarily in possession of criminal history records from other jurisdictions and is bound by obligations in the *Criminal Law (Rehabilitation of Offenders) Act 1986,* which prohibits disclosure of certain information in certain circumstances[45].

The Queensland Police Service receives information from other jurisdictions through a national database. Each jurisdiction places different conditions on disclosure of information to other Police Departments. For example, in NSW information is given on the condition that it is not passed on to any third party (such as the Office of Fair Trading in this case). In most circumstances such information is not ordinarily in the possession of the Queensland Police Commissioner. Consequently the Queensland Police Service will only inform the Office of Fair Trading of the fact that a history exists in New South Wales, but will not provide any details. Applicants who possess a criminal history in New South Wales are notified by the Office of Fair Trading and required to obtain and provide details of the relevant history to the Office of Fair Trading for assessment. The applicant bears the costs of interstate criminal history checks, which are:

Federal Police	$36
South Australian Police	$43
New South Wales Police	$30
Northern Territory Police	$25
Victorian Police	$24
Western Australian Police	$17.60
Tasmanian Police	Nil

Licence fees create a financial burden for applicants. However, in this case the costs of licence fees are not a significant barrier to entry. Nationally, security licensing fees account for 0.1% of the overall costs of running a security business, which is the lowest item of expenditure for a security

[45] Sections 5-9 of the *Criminal Law (Rehabilitation of Offenders) Act 1986*

business.

The licence fees appear low enough to facilitate substantial entry of providers into the market, and therefore do not restrict consumer choice and should not materially impact on the price paid by consumers. The costs incurred by the Office of Fair Trading in monitoring compliance and enforcing the Act are, to some extent, offset by the licence fees collected from the industry.

8.6.2 Three year renewals

On 21 May 2001, Queensland Cabinet approved the Business Licence Rationalisation project aimed at extending the term of business licenses granted by the Queensland Government. This initiative is part of the Queensland Government's commitment to rationalise the number of business licenses issued, where approximately 500 business licences have been reduced by 50% and over 100 licences are being extended in tern throughout the Queensland Government. It is noted that when the Office of Fair Trading implements its obligations under this project the Act will be amended to give licensees an option to renew their licence for one, two or three year period. The Office of State Development supports the extension in term to licences from one year to an optional one, two or three year licence.

The Department of State Development submits that the Business Licence Rationalisation Project also includes the introduction of single licences as part of the 50% reduction. This is to be achieved by incorporating a number of similar licences into one licence with separate categories, similar to a driver's licence. Under a single licence, all licensing requirements still remain for the separate categories. The Review Committee notes that Cabinet has approved introduction of a Security Licence that incorporates the following existing licences:

- Private investigator;
- Security officer;
- Security officer/crowd controller;
- Security firm; and
- Crowd controller.

Many stakeholders assumed that a three year licence would be the only licence available under the Act, which would create a large burden on some part time/casual licensees and small firms if they were to pay a three year fee at the one time. This is not the case. Persons will continue to have the option of renewing yearly or every two or three years.

The comments that were made in relation to three year renewals were that:

1. they are appropriate as long as the applicant is aware that a breach may result in rescinding the licence without recompense for the unused licence fee;
2. they reduce the administrative burden for Government, are reasonable and more economical and convenient;
3. they minimise responsibility upon employers to ensure each yearly expiry date is recorded and reviewed;
4. firms should remain annual renewals to ensure appropriateness;

5. there is a cost to government in that security providers may become inappropriate during three years. However, if three year renewals were combined with the requirement that licensees inform the Office of Fair Trading of any chance in circumstance, this cost would be lowered;
6. they minimise the cost of reproducing licenses yearly; and
7. persons may change persona regularly (hair colour, facial hair, hair length, glasses etc) and a photograph may not be current for a three year period.

It is noted that the Act will be amended in due course to:

- allow applicants to apply for either a one, two or three year licence; and
- to introduce a system that incorporates single licence for separate categories of security provider.

Conclusion

Whilst variations exist between jurisdictions and occupational categories, in general terms, the fees charged in Queensland are not considered excessive and do not represent a restriction on entry into the industry or impact significantly on competition.

8.7 Offences for Non-Compliance

It is an offence for a person to carry out the functions, or advertise that they are able to carry out the functions, of a security provider unless they hold an appropriate licence. The Act also contains offences for non-compliance with conditions on a licence, failing to return a licence for alteration, failing to produce the licensee's licence for inspection by an inspector or police officer and failing to return a suspended or cancelled licence. The Regulation contains offences for carrying on business in another name, not notifying the Chief Executive of any change in particulars and for failing to maintain a crowd controller register or a firm register.

The maximum penalty for persons who undertake the duties of a security provider without holder the appropriate licence is $7,500 for an individual. Under the *Penalties and Sentences Act 1992* the maximum penalty for a corporation is $37,500. Firms and other persons who engage another person to carry out the functions of a security provider must ensure that person holds the appropriate licence. If the firm does engage another person who does not hold the appropriate licence, the maximum penalty is also $7,500 for an individual or $37,500 for a corporation.

The penalties handed down by the courts can vary significantly, depending on the circumstances of the matter. Anecdotal evidence indicates that when the Office of Fair Trading has successfully prosecuted unlicensed security providers penalties have varied from as high as $3,000 for individuals who have a history of assault or violent behaviour down to as low as $200.

All stakeholders submit that the penalties for non-compliance act appropriately as a deterrent. Stakeholders also submitted that more prosecutions would strengthen the position of legitimate industry members while enhancing the image of the industry. Some stakeholders suggested that the penalty for a firm should be larger.

Several stakeholders indicate that the objectives of the Act are being compromised due to a lack of policing and that background inquiries are not being continued when licenses are renewed to confirm that information remains current, true and correct. Persons may be convicted of an offence, or act dishonestly or unethically, and not advise the Office of Fair Trading as required under the Act. The Regulation prescribes a maximum penalty of $750 for failure to give written notice of any change in particulars, including a charge against or conviction for a disqualifying offence.

Conclusion

The current offences and penalties for operating or employing a person to operate whilst unlicensed are an adequate deterrent to persons carrying out the functions of a security provider without a licence.

8.8 Conditions of Licence

The Chief Executive may grant a conditional licence. Where a conditional licence is granted the condition is stated on the licence.

Currently, there are three conditional individual security licences. All three licences specify that the holder may only fulfil the function of a crowd controller. Each of the three individuals has been issued a Queensland licence in accordance with the mutual recognition principles and come from New South Wales where there is a separate licence category for bodyguards.

Every security firm has a condition placed on their licence. The conditions placed on such licences depend on the type of function that they intend to perform. The conditions imposed and number of licensees who hold security firm licences subject to those conditions appears below:

Condition Code (CC)	**No. of licensees**
CC1 - Private Investigators, Security officers and Crowd Controllers	246
CC2 - Private Investigators only	45
CC3 - Security Officers only	63
CC4 - Crowd Controllers only	5
CC5 - Private Investigators and Security Officers only	5
CC6 - Private Investigators and Crowd Controllers only	Nil
CC7 - Security Officers and Crowd Controllers only	217
CC999 - Miscellaneous Condition[46]	2

Applicants who are granted a conditional licence also have the option of appealing against the Chief Executive's decision to grant the licence subject to the condition/s as per discussion above at the beginning of this section.

[46] A Miscellaneous Condition on a security firm's licence would be used in the case of an applicant who applies under mutual recognition where the licence was conditions under a category in the first jurisdiction that is not recognised in Queensland

Conclusion

Nothing adverse has arisen in relation to conditional licences and the Chief Executive's discretion to issue licences subject to conditions should be retained.

8.9 Conclusions and Recommendations – Licensing applicable to all applicants

In summary it is concluded that:

- the current age restriction is justified in the public interest and should be retained.
- the criteria for determining whether applicants are 'appropriate persons' to holder a licence are appropriate and should be retained.
- the criminal history disclosure requirements under the Act should remain unchanged;
- the requirement that testimonials be provided should be retained;
- the fees charged in Queensland are not considered excessive and do not represent a restriction on entry into the industry or impact significantly on competition.
- the current offences and penalties for operating or employing a person to operate whilst unlicensed are an adequate deterrent to persons carrying out the functions of a security provider without a licence.
- the Chief Executive's discretion to issue licences subject to conditions should be retained.

It is recommended that the Office of Fair Trading:

- assess the current disqualifying offences with a view to determining whether the current offences remain relevant and whether any other offences should be recognised as a disqualifying offence; and
- investigate the legislative and stakeholder impacts of requiring applicants to disclose criminal history of offences committed within the last five years irrespective of whether a conviction was recorded.

9 Private Investigators

9.1 Background

A report titled, *Private Investigators in Australia: Work, Law, Ethics and Regulation*, was prepared for the Criminology Research Council (the PI Report) in July 2001. The PI Report resulted from an analysis of the nature of the private investigation industry and included a consideration of ethical and regulatory issues based on a study of forty private investigators and commercial agents. The PI Report found the private investigator industry comprises four broad areas of work, namely anti-fraud, legal, commercial and domestic investigation.

It was found that anti-fraud work was conducted mainly for large insurance firms, some self-insured private firms and government insurance agencies. This type of work includes both factual (interviews and further enquiries) and surveillance and tracking work. The cases usually involve physical disability claims where private investigators attempt to discover evidence contrary to that given by the claimants. Insurance work can also include investigation into welfare, unemployment benefit, arson, accidents and stolen vehicles fraud.

Legal work is the mainstay of many investigators, including background or factual work for lawyers in civil and some criminal cases. This largely involves locating and interviewing possible witnesses or claimants. Private investigators may also conduct surveillance to gather evidence, locate and analyse forensic evidence, investigate the financial capacity of persons to pay court-ordered compensation and conduct process service duties.

The PI Report indicates that the commercial inquiry aspect of private investigation is a growing area where businesses are turning to private investigators to undertake electronic counter-measures (debugging), liability investigations, workplace investigations into theft or harassment and pre-employment checks. This category also includes trademark and copyright investigations, risk and security assessments, bodyguard work for executives, theft recoveries and investigation of computer based attacks on business. Repossession and debt collection to enforce legal contracts and obligations are also captured within this category.

The PI Report indicates that domestic investigations include checking for fidelity, teenage drug use, abducted child recoveries, missing persons and private legal matters.

The PI Report found that most of the interviewees agreed that compliance with regulatory regimes has increased substantially in the last decade. This has been especially since the New South Wales Independent Commission Against Corruption Inquiry into the unauthorised release of government information, which revealed a widespread corrupt trade in confidential government information by State and Commonwealth officers and members of the private sector.

The Queensland Criminal Justice Commission published a report in relation to protecting confidential

information in November 2000. This report commented on the weak regulatory regime currently in place for private investigators and of the urgent need to review practices in Queensland. It concluded that 'for both the commercial agent and private investigator industries, the current regime of government regulation was not sufficient to ensure even the minimum level of professionalism and integrity'.

The 1983 Australian Law Reform Commission Report titled *Privacy* found that private investigators can be highly vulnerable to misconduct and can be tempted to engage in breaches of privacy. It concluded that they might commit trespass, conspire with others on what may amount to criminal or civil conspiracy, obtain and disclose information in circumstances which breach confidence in the legal sense and may breach legislation aimed at making certain activities criminal, such as that relating to official secrets, interception of telecommunications and the use of listening devices.

9.2 Licensing Requirements

The Act provides that all private investigators must be licensed. A 'private investigator' is defined for the purpose of the Act, as a person who for reward obtains and gives information about another person. The Act contains a number of exemptions, which are discussed in section 8.1.3.

The majority of industry members who made submissions thought the definition of private investigators was appropriate. The Queensland Police Service commented that the current definition is adequate and broad enough to encompass a wide array of persons and situations. Some stakeholders felt that all or some of the exemptions were appropriate, but some felt the exemptions from holding a licence were not appropriate. Exemptions from holding a private investigator licence are discussed further in sections 9.5.

Analysis of training requirements for private investigators is discussed further in section 9.4.

Since the Act commenced, the Office of Fair Trading has received approximately 37 complaints, seven of which were in relation to alleged unlicensed private investigators, with two resulting in successful prosecutions for operating without the appropriate licence. These two prosecutions involve a firm who employed a person without a relevant licence to carry out the functions of a private investigator. Both the firm and the individual were successfully prosecuted. In comparison to complaints about other security providers, the Office of Fair Trading has received minimal complaints in relation to allegedly unlicensed private investigators.

9.2.1 Benefits and Costs

Community

The licensing of private investigators under the Act helps to ensures that the privacy of individuals is protected from persons who collect and use confidential information or make inquiries that may lead to a breach of privacy laws. The Act ensures that private investigators have a level of competency and knowledge that protects the community from disrepute and invasions of privacy, thereby contributing

toward the Government priority of a safer community.

Licensing also helps to ensure that persons operating within the industry meet certain community expectations that private investigators are trained adequately. The community benefits from the reassurance that private investigators are appropriate and responsible persons. A greater level of protection is afforded to consumers through compliance and enforcement measures, which identify and address private investigators who do not comply with the Act.

The community benefits from the licensing of appropriate persons as private investigators in a number of other ways. It assists in the location of debtors and in obtaining the subsequent payment of debts and prevents commercial debts being passed on to the public[47]. Private investigators have taken a role in preventing loss and enhancing ethics within the broader community in cases where they have obtained evidence which has resulted in suspect insurance claims being dropped, criminal convictions being obtained or the termination of employment of offenders. Inquiries made by private investigators contribute toward peace of mind of clients in sensitive domestic situations. Where private investigators gather information for legal cases, the community benefits from well trained private investigators that have an understanding of evidentiary and other court related matters.

The community as a whole benefits by ensuring that private investigators are appropriate people who hold relevant experience and knowledge of the industry, who are ethical and do not contribute toward criminal behaviour in the community.

The costs to the community of regulating private investigators are the financial costs of licensing ($91.50 for an individual applicant, $459 for a firm) and of training (between $300 and $5,500 per applicant) are inevitably incorporated in the costs passed on to the end user, however, these costs would be minimal when spread out over all clients, annually.

Industry

The licensing of private investigators creates a benefit to the private investigations industry in ensuring a level playing field for all Queensland industry members. Appropriate training benefits industry by ensuring that the services provided are of a high standard thereby increasing efficiency of those who operate in the industry. The requirement that licensees are appropriate and are adequately trained enhances the reputation of private investigators generally.

Licensing and appropriate training to a recognised standard provides consistency between jurisdictions to enable Mutual Recognition Laws to be applied so that a licensee who wishes to transfer interstate can easily be recognised for their skills and training in another state, producing a benefit to industry.

The licensing requirements create a barrier to entry for industry members. These barriers include the cost of licensing fees of $91.50 per annum for an individual and $459 per annum for a firm, which are borne directly by the applicant. The costs of training courses (between $300 and $5,500) are borne by

[47] T Prenzler, *Private Investigators in Australia: Work, Law, Ethics and Regulation*, Criminology Research Council, 13 July 2001, p34

the applicant.

Licensing makes it more difficult for inappropriate persons and persons who do not possess the requisite knowledge and skills required to carry out the function of private investigator from entering the industry.

Government

The Government aims to provide a safer community for Queenslanders, and it is contributing toward this priority by producing a skilled security industry that protects rather than contributes toward injuries of the public. Through licensing, Government is able to provide a greater level of protection to consumers by identifying and dealing with private investigators that do not comply with the Act.

Private investigators are often requested to do illegal or ethically questionable services such as placing listening devices in homes or offices, service of threats, breaking and entering to search for evidence, location of people that the client wishes to harass or assault, or finding spouses who have gone into hiding[48]. Untrained private investigators without sufficient knowledge or ethics may assist in the commission of criminal offences through ignorance of the law and by not giving adequate explanations to clients of penalties that apply for breaches.

Government incurs a financial and administrative burden of licensing and ensuring compliance. These costs are offset to some extent by fees obtained from new entrants and on-going licensees. Compliance costs are generally high, with several authorised officers required at any given time to conduct spot checks or react to complaints received in relation to private investigators. The costs of taking a matter to court is also borne by the regulating agency, which may include crown law costs, barrister's fees, court filing costs and other incidentals.

Conclusion

Overall the benefits of licensing private investigators to the community as a whole outweigh the costs to stakeholders and it is recommended that the entry restriction for private investigators be retained.

9.3 Business Conduct

Private Investigators are not required to adhere to any legislative business conduct requirements. They are free to negotiate contractual arrangements with their clients and, as such, are subject to common law obligations to the client. Often these contracts create a relationship of agency between the contractor and the private investigator. A contract of agency is one where a person has authority or capacity to act on another person's behalf in dealings with a third person. Private investigators may also enter into a contract of service with clients.

The common law imposes a number of duties on agents including a duty to follow instructions, to act in person, to act in the interest of the principal, to take care of the principal's property, to keep

[48] Ibid, p37

separate accounts, and to keep proper accounts available for inspection. Breach of any of these duties may result in a client being awarded damages for loss caused as a result of the breach.

Privacy may be viewed as essential to human dignity and is a key value underpinning freedom of association and freedom of speech. Amendments to the *Privacy Act 1988 (Cth)*, which commenced on 1 July 2001, widen the scope of the Privacy Act to create National Privacy Principles (NPPs) which apply to the activities and practices of organisations within the private sector. These 'organisations' include an individual, bodies corporate, a partnership, or any other unincorporated association, or a trust, but not a small business operator, in some situations. The NPPs set out standards for the collection of data (NPP1), use and disclosure of information (NPP2), data quality (NPP3), data security (NPP4) and openness (NPP5) of personal information by all private sector organisations (Schedule 3 - National Privacy Principles).

All private investigators within the private sector (other than small business operators in certain circumstances) must now comply with the NPPs contained in the Privacy Act or alternatively, organisations may operate under a Code of Conduct, pre-approved by Commonwealth Privacy Commissioner.

9.4 Training

Applicants for a private investigator's licence are required to complete an approved training course.

Currently, training must be provided in accordance with the selected training criteria listed below as determined by the Chief Executive of the Office of Fair Trading. Applicants must have gained a qualification in a course approved by the Chief Executive and which has been accredited under the National Training Framework and delivered and assessed by a registered training organisation ('RTO') (registered by the Training Recognition Council in Queensland). The Chief Executive will only approve the course if it covers the following selected training criteria:

- Introduction to the institutions, structures, processors and evaluation of Australia's private security industry through to regulation;
- Basic introduction to concepts and methods of investigation;
- Basic introduction to general investigative methodology and structure;
- General techniques and methods for taking clients instructions prior to and during an investigation;
- Introduction to Law – structures and processes associated with the law;
- Basic introduction to the structure and jurisdiction of Australia's court system;
- Introduction to the law as it applies to general and routine types of investigation;
- Responsibilities associated with gathering and imparting advice and information to clients and other persons involved in the investigative process;
- Basic introduction to rules, policies and procedures relating to evidence;
- Basic concepts relating to human behaviour in a variety of situations;
- Interview Techniques;
- Basic and typical sources of information utilised within routine enquiries;
- Basic techniques involved with locating and/or pursuing missing persons; and

- General requirements and processes involved in the compilation of reports and statements.

There are fifteen RTOs who are approved by the Training Recognition Council appointed by the Minister for Employment & Training to provide training courses. All training courses are available in Queensland, with one RTO based in Victoria. The Private Investigations Course is available in Brisbane, Gold Coast, Sunshine Coast, Cairns and far North Queensland. The courses outside of Brisbane and the Gold Coast initially only offered their service once as all RTOs providing the Private Investigators course find it necessary to provide other services, due to the low level of demand for this course. The cost of courses range from $300 to $5,500 (with an average cost of $483.30). The longest course is 300 hours and the shortest is 35 hours (with an average of 92.16 hours). The minimum number of hours, set by the accredited course is 35 hours. Consultation with private investigator trainers indicated private investigators courses are offered approximately 20 – 25 times per annum.

The Office of Fair Trading is currently considering replacing the minimum training standards listed above with units of competency taken from the National Training Package for Asset Security – Security and Investigative Services (PRS98) as follows:

Units of Competency	
PRSIR	Select method of gathering information
PRSIR	Gather information by surveillance
PRSIR	Gather information by factual investigation
PRSIR	Conduct interview and take statements
PRSIR	Compile written report
PRSIR	Prepare evidence for use in court
PRSIR	Give evidence in court
PRSIR	Maintain customer relations
PRSIR	Maintaining occupational health and safety

In the PI Report, most interviewees (97.5%) argued that the current mandated pre-training was inadequate in developing both practical and ethical competencies[49]. Stakeholder submissions suggest that private investigator courses are being conducted over one week, and that in order to reach an appropriate level of competency, a person requires much more extensive training and experience.

The Department of Employment and Training has advised that from July 2002 all RTOs will be audited for compliance against the Australian Quality Training Framework standards for registered training organisations. These standards have strengthened, supplemented and clarified the current standards for training and the application of sanctions. These new standards will also support the improvement of RTO practice and the credibility of their services.

The Department of Industrial Relations which incorporates WorkCover Queensland submits that the training for private investigators appears to be inadequate in developing both practical and ethical competencies and suggests that an investigator requires much more training and experience. The Department supports the recommendation in relation to training of private investigators.

[49] Ibid, p41

Conclusion

The Office of Fair Trading give further consideration to requiring private investigators to complete competency based training in the National Training Package for Asset Security – Security and Investigative Services (PRS98) as the minimum training standard.

9.5 Licence Exemptions

9.5.1 Employee exemptions

For the purposes of the Act, persons who are employees of persons obtaining information for their own purposes about other people are not considered to be private investigators[50]. For example, a retail department store employee who obtains information about the credit standing of a person who has applied for a store credit card, or a human resource department who obtains information from referees about the employment history of applicants for positions are not private investigators. However, where they are rewarded solely for the purpose of obtaining that information they will be, for the purposes of the Act, considered private investigators.

Persons who are credit reporting agents within the meaning of the Invasion of Privacy Act and persons who give information about another person from existing records in the person's possession, or in the possession of the person's employer, are not required to hold a private investigator's licence.

There is no evidence to indicate that employees who assess credit history or perform human resource functions hinder the objectives of the Act by incompetent behaviour that may be unacceptable to the community, to an extent that warrants licensing of employees. The behaviour of persons who are employed by large firms are often controlled by an employee code of conduct or a particular standard for employees prescribed by the firm, where high standards are considered to be competitively advantageous. This is consistent with the policy rationale for exempting the activities of in-house security officers have not caused concern to the community as they have a reputation to up-hold[51].

There have been no complaints received by the Office of Fair Trading in relation to issues arising from employees of persons obtaining information while performing credit and employment references, nor from in-house security officers causing any detriment in anyway to the community. As such, this exemption does not appear to create any unnecessary cost to the community and there appears to be little benefit in requiring this industry group to be subject to restrictive licensing and conduct regulation. Exempting such employees is consistent with the general rationale for regulating security providers discussed in section 7.3.

[50] Section 6(2) of the Act
[51] Hansard, 2 December 1993, p6428

Conclusion

The exemptions for employees are justified, given that they are often controlled by codes of practice of large firms. There have been no complaints to indicate these persons compromise the objectives of the Act by not obtaining a security providers licence, and as such the exemption should remain unchanged.

9.5.2 Legal practitioners and Accountants

An exemption exists for lawyers and accountants and their employees[52]. For the purposes of the Act, an accountant is a person who is a registered auditor under the *Corporations Act*, a member of the CPA Australia (Certified Practicing Accountants), the Institute of Chartered Accountants in Australia, or a member of the National Institute of Accountants as prescribed[53]. For the purposes of the Act, a legal practitioner is defined as a barrister or solicitor in the performance of the practice of a barrister or solicitor[54].

The rationale, as stated by the Honourable PR Delamothe, the then Minister for Justice, for establishing these exemptions was that there was some overlap between the proposed legislation and the proper activities of reputable professional and business persons such as solicitors, accountants and insurance companies[55]. These groups are subject to professional ethical duties and obligations. In contrast, at the time of introduction the Invasion of Privacy Act it was considered that the conduct of private investigators was not subject to any similar duties or obligations[56].

Stakeholder response to this exemption varied. Most believe that it is appropriate that legal practitioners and accountants should be exempt from section 6[57] as they have appropriate professional bodies, which regulate their behaviour and professional conduct. The Queensland Police Service agreed with this approach. However, some stakeholders suggest that assistants or employees of professionals should be required to comply with the Act. Other stakeholders suggest that lawyers have a competitive advantage, as they are not subject to licensing requirements under the Act including the cost of training of between $300 and $5,500 and licensing fees of $91.50 for individuals and $459 for firms. It should be noted, however, that lawyers are subject to an extensive regulatory regime requiring a form of occupational licensing as well as control over business conduct such as requirements for indemnity insurance and fidelity cover.

The rationale behind requiring assistants or employees to comply is that many junior clerks carry out investigative functions. It is considered that these persons have not been assessed as meeting the 'appropriate person test' nor have they completed relevant training. However, there would appear to be little benefit in requiring these persons to be licensed. There have been no known complaints received by the Office of Fair Trading in relation to this group of persons. Further these persons are

[52] Sections 6(2) and (3) – Who is a private investigator
[53] Section 3 - Definitions
[54] As at 51
[55] Hansard, 13 October 1971, p1063
[56] Hansard, 20 October 1971, p1298
[57] As at 52

employed by or are under the control of a trained professional who should instruct the employee appropriately. Ultimately the employer is responsible for the acts of the employee. Exempting assistants and employees of legal practitioners and accountants is consistent with the general rationale for regulating security providers (see section 7.3).

Stakeholders commented that some lawyers who leave their profession and commence work as a private investigator do not obtain the appropriate licence. The Act defines both professions and specifies that a person is not a private investigator if that person is 'carrying out the functions of the person's occupation or employment' as a legal practitioner[58]. The Queensland Act does not exempt lawyers unless that person is in fact employed in the occupation of legal practitioner. A person who ceases to work as a lawyer and commences occupation as a private investigator will need to hold a licence under the Act.

The Queensland exemption is consistent with other legislation, for example South Australia exempts professionals 'whilst practicing in their profession', recognising that some lawyers and accountants may perform private investigations outside of their employment within the legal or accounting industries or subject to any professional and ethical standards that would apply if they were so employed.

Conclusion

The exemption for legal practitioners, accountants and their employees is justified, given that they are subject to professional ethical duties and obligations and employees work under the direct control of the professional. There have been no complaints received in the Office of Fair Trading in relation to this group and this approach is consistent with the approach in other jurisdictions. It is therefore recommended that the exemption in section 6(3)(a) of the Act remain unchanged.

9.5.3 Insurance agents (or employee)

An insurance agent typically liaises between insurance companies and clients and organises the completion of documentation to provide insurance cover for new and existing clients[59]. The tasks that may be performed by insurance agents include interviewing customers to explain insurance policies, making recommendations on the amount and type of cover, compiling lists of prospective clients, making contact with prospective clients to seek interviews and gauge interest, researching new insurance products and collecting premiums[60].

There is some level of self-regulation within the industry at the present time with some larger insurance companies utilising codes of conduct or procedures to ensure employees act and operate appropriately. However, not all firms utilise such codes.

[58] Section 6 (3) – Who is a private investigator
[59] Australian Bureau of Statistics, Australian Standard Classification of Occupations, Second Edition, Structure and Definitions - Insurance Agent
[60] Ibid

Stakeholder submissions have suggested that the exemptions for insurance agents and their employees create a loophole that could be susceptible to misuse. The rationale behind this suggestion is that while insurance investigations are usually subcontracted to licensed investigators, there are some agents who designate personnel to carry out inquiries who may not be trained for the purpose. Such individuals are not restrained by licence provisions as they do not risk disciplinary action, in the form of licence revocation, for inappropriate action or behaviour. Unlicensed insurance agents could be biased and company-orientated in assessments.

Submissions have been received suggesting that insurance agents or assessors carry out the same functions as private investigators, giving insurance agents or assessors a competitive advantage. Suggestions have been made that all persons carrying out investigations of any nature that involve details of another person must be accountable for this information and should either be required to comply with the Act or be subject to a code of practice.

The Queensland Police Service submits that insurance agents and the like are often employed by organisations to investigate insurance claims. They are not licensed or subject to any training or accountability regimes while performing investigative functions. The Queensland Police Service considers that it is appropriate for these persons to be included as part of the definition of 'private investigator', and therefore be subject to suitability checks, adequate training and accountability mechanisms similar to other private investigators.

The exemption for insurance agents and their employees creates an uneven playing field for the industry. On this basis, it could be argued that persons who carry out investigative functions, in their capacity as an insurance agent or employee of an insurance agent, should be suitable persons who are aware of confidentiality issues surrounding the gathering of information in relation to other persons, investigative methods, techniques for client conduct, the applicable laws, policies and procedure relating to evidence and basic concepts relating to human behaviour. Therefore, these persons should be accountable for their actions, similar to licensed private investigators.

However, removing the exemption for insurance agents or their employees will further restrict the market, by introducing a barrier to entry that does not currently exist in relation to this group. Further analysis and consultation with the insurance industry as part of a further investigation is required before it can be determined whether the objectives of the Act are compromised because of this exemption. Given that analysis of a more restrictive approach to the current regulation is outside the scope of NCP Guidelines, it is recommended that this issue be considered as part of a further investigation.

Conclusion

It is recommended that the current exemption for insurance agents and their employees be retained at this stage, but that the Office of Fair Trading conduct inquiries into the costs and benefits of removing this exemption.

9.5.4 Loss Adjusters (or employee)

Loss adjusters typically inspect and assess the damage or loss to insured property or business, estimate insurance costs and act to minimise the cost of claims for an insurance company[61]. The tasks of loss adjusters may include:

- inspecting damaged property to estimate the cost of repairs;
- estimating business loss resulting from fire, theft or other business disruptions;
- reporting the extent of damage and costs to insurers;
- approving repairers' quotes, authorising repair work and supervising progress of repairs;
- interpreting insurance policies and advising insurance on whether claims are valid;
- identifying and selecting experts or consultants to advise on specialised areas; and
- negotiation of settlements between the insurer and the insured[62].

Some stakeholders submitted that the loss adjuster exemption is not appropriate as loss adjusters and their employees also obtain information about other people for reward and should be appropriate persons with adequate training. It is often industry practice that after a loss adjuster has assessed a file and believes that there are suspicious circumstances, that the file is passed on to a private investigator. The private investigator will then often make the same inquiries as those previously conducted by the loss adjuster. If this situation does occur in relation to some loss adjusters, this duplication of private investigators and loss adjusters making the same inquiries may have potential to cause animosity if a client is approached or investigated twice, causing complaints to be made against the private investigator.

In relation to this issue, the Australasian Institute of Chartered Loss Adjusters ('the Institute') submit that when a loss adjuster is unable to readily determine the circumstances relating to a loss, or if fraud is suspected, the loss adjuster, or insurer, will appoint a private investigator whose sold responsibility is to undertake a comprehensive factual investigation into the circumstances of the loss.

The Institute has approximately 180 members in Queensland with 1,000 members throughout Australia. The Institute has opposed the licensing of loss adjusters as its members are bound by a Charter of Objects and Professional Conduct. The industry is self regulated through the Charter and is subject to professional and ethical duties and obligations. They submit that the rationale for the loss adjuster exemption has not changed over time.

The objects of the Institute are to advance the profession for the benefit if its practitioners and the public in general through continual education and encouragement of skilled, ethical and sound practice in the profession[63]. Before successfully becoming an Ordinary Member of the Institute, the applicant must:

- be 18 years of age;
- primarily engaged in the vocation of loss adjusting;
- successfully have competed the institute's entrance examination criteria, being Module INS060 –

[61] Australian Bureau of Statistics, Australian Standard Classification of Occupations, Second Edition, Structure and Definitions, Insurance Loss Adjuster
[62] Ibid
[63] Constitution of Australasian Institute of Chartered Loss Adjusters Limited p2

Loss Adjusting Principles and Practice from the ANSIIF Diploma of Financial Services (Loss Adjusting); and

- agree to comply with requirements of continuing professional development as prescribed by the Institute's Board of Directors.

Compliance with the Charter is mandatory and any member who is guilty of infringing any clause of the Charter may be liable to disciplinary sanction by the institute by way of either caution and/or reprimand, suspension from membership for any period not exceeding two years, or expulsion. The charter specifies that disciplinary action will be conducted in accordance with the principles of natural justice.

The Charter adequately ensures that members are suitably qualified to act as loss adjusters and ensures that members are removed from office for non-compliance with the Charter but are afforded natural justice in the removal process. As such it appears that the exemption for loss adjusters is justified. However, not all loss adjusters form part of the Institute, requiring mandatory compliance with the Charter and expulsion from the Institute does not mean the person will not continue work as a loss adjuster regardless.

It is difficult to ascertain the exact number of loss adjusters operating in Queensland, or nationally. A search of www.yellowpages.com.au indicates there are approximately 140 loss adjusters businesses in Queensland and more than 1,000 loss adjuster businesses nationally. However, it must be noted that this figure indicates the number of businesses registered in the yellow pages only and does not give any indication of the number of individual loss adjusters operating in Queensland or nationally.

There appears to be three main groups, which can be categorised as, members of the Institute, non-members of the Institute and in-house loss adjusters who work directly for and are employed by insurance companies. Traditionally in-house loss adjusters were not able to join the Institute, but the Charter has now been broadened to include this group. It is predicted that this group of the industry will gradually join the Institute.

It seems there may be some argument for requiring loss adjusters or employees who are not either members of the Institute nor in-house loss adjusters working for insurance companies, to comply with the training and licensing requirements that private investigators are subject to. This review has not undertaken targeted wide consultation with loss adjusters and cannot gain a clear indication of the size of the industry in comparison with how many industry members are members of the Institute. There have been no complaints received in the Office of Fair Trading and very little evidence of detriment to consumers as a result of dealings with loss adjusters. No other jurisdiction requires loss adjusters to hold an occupational licence.

Conclusion

The exemption for Loss Adjusters and their employees should remain. However, the Office of Fair Trading, in consultation with the loss adjuster industry should examine the impacts on the community and stakeholders of including a definition of a loss adjuster in the Act that includes members of the Institute only. An assessment of the Institute requirements will need to be conducted to ensure that its

requirements are at least equivalent to the Act. Inclusion of such a definition would require loss adjusters who were not members of the Institute to comply with the Act.

9.6 Conclusions and Recommendations – Private Investigators

In summary it is concluded that:

- the benefits, to the community as a whole, of licensing private investigators outweigh the costs to stakeholders and should be retained.
- the exemptions for employees, legal practitioner, accountants (and their employees) should be retained.
- the exemptions for insurance agents, loss adjusters and their respective employees be retained at this stage.

It is recommended that the Office of Fair Trading:

- give further consideration to requiring private investigators to complete competency based training in the National Training Package for Asset Security – Security and Investigative Services (PRS98) as the minimum training standard;
- conduct inquiries into the costs and benefits of removing the exemption for insurance agents; and
- in consultation with the loss adjuster industry examine the impacts on the community and stakeholders of including a definition of a loss adjuster in the Act that includes members of the Institute only where loss adjusters who were not members of the Institute would be required to comply with the Act. The assessment should canvass the Institute's requirements for membership to ensure that its requirements are at least equivalent to the Act.

10 Crowd Controllers

10.1 Licensing

The Act provides that all crowd controllers must be licensed. For the purposes of the Act, a 'crowd controller' is defined as a person who, for reward, acts either as a bodyguard or is at a public place principally for the purpose of maintaining order in or about the public place.[64] A person must meet the licensing criteria discussed in Section 8, including the appropriate person test and must complete relevant training, analysis of which is discussed further in Section 10.2.

The crowd controller provisions of the Act were enacted as a result of several incidents around Queensland, especially on the Gold Coast, where increasingly more staff were needed to control crowds at nightclubs and during large events.

During debate of the Act, members identified that there had been increased reports in the media regarding the upward trend incidents of crowd controllers using excessive violence. Debate focussed particularly on one article which estimated that more than 500 people a year were treated at the Gold Coast Hospital for bouncer-related injuries[65].

In 1998, 135 crowd controllers underwent licence checks at 30 Gold Coast venues. As a result five were found to be unlicensed. Two of the five were holding false licences. On the Sunshine Coast 30 crowd controllers underwent licence checks at 12 venues where 100% compliance was observed[66].

It is acknowledged that the Gold Coast and Brisbane are the main metropolitan areas of Queensland holding major events such as Schoolies Week, Indy Race and music festivals. These large events require large numbers of crowd controllers to adequately fulfil their crowd controlling functions. However, large crowds at major events also affect other regional areas such as Toowoomba, the Sunshine Coast and Cairns at peak times such as Schoolies Week[67].

A breakdown of major spot check programs undertaken by the Office of Fair Trading in conjunction with Liquor Licensing Officers and/or Police officers, since 1996 appears below. It should be noted that while prosecution action may have been instituted as a result of spot checks undertaken, the final result of prosecution is not recorded in this table.

Date	Region	Licence checked	Compliance Rate	Comments
October 1996	Brisbane suburbs	13 licences 13 registers	100% licences 4 deficient registers	Spot checks on firms 4 warnings issued
February 1997	Surfers Paradise Broadbeach	Unknown licences 7 registers	7 unlicensed	7 prosecutions

[64] Section 5 of the Act – 'Who is a crowd controller'
[65] As at 51, Mr Nuttall, Member for Sandgate, p6412
[66] As at 51, p5250
[67] Hansard, Questions Without Notice, 24 November 1999, Ms Spence, Minister for Fair Trading, p5249

May 1998	Brisbane Fortitude Valley	165 licences 49 registers	91% licensing 93% register	Many CCs verbally warned for not entering full residential address
October 1998	Gold Coast	58 licences 1 register	100% licensing 100% register	Indy 2000
November 1998	Gold Coast	152 licences 30 registers	91% licensing 83% registers	Schoolies Week 11 prosecutions 5 warnings
December 1998	Ipswich	7 licences 4 registers	100% licensing 4 ID breaches	4 warnings
August 1999	Ipswich	28 licences 5 registers	100% licensing 1 Register breach	1 warning
October 1999	Surfers Paradise	166 licences	100% licensing 7 ID breaches	Indy 300 7 warnings
October 1999	Sunshine Coast	30 licences 12 registers	100% licensing 1 x register breach	1 warning
November 1999	Toowoomba	33 licences 7 registers	100% licensing 1 x register breach	Schoolies Week 1 warning
December 1999	Brisbane Fortitude Valley Paddington	83 licences 31 registers	1 x unlicensed 8 x Register breach	1 prosecution 8 warnings
March 2000	Fortitude Valley	13 licences 6 registers	1 x expired licence 4 x Register breach	5 warnings
June 2000	Toowoomba/ Dalby	11 licences 2 registers	5 x unlicensed 2 x Register breach	No staff used register or wore CC ID
July 2000	Mackay	20 licences 5 registers	1 x unlicensed 100% register compliance	1 prosecution
July 2000	Various	21 spot checks	Unavailable	Unavailable
August 2000	Various	7 spot checks	Unavailable	Unavailable
September 2000	Various	161 spot checks	Unavailable	Unavailable
September 2000	Gold Coast	47 licences	1 x Register breach	Pre-Indy 300 1 warning issued
October 2000	Gold Coast Indy Track Surfers Paradise Broadbeach	137 licences 23 registers	100% licensing compliance 1 x Register breach	Indy 300 1 warning issued
November 2000	Surfers Paradise	36 licences 12 registers	100% compliance	Schoolies Week
November 2000	Noosa Mooloolaba	31 licences 7 registers	2 x unlicensed 2 x Register breach	Schoolies Week 2 warnings 2 prosecutions
November 2000	Toowoomba	61 licences 18 registers	93.3% licence 94.4% register	Schoolies Week
December 2000	Various	2 spot checks	Unavailable	Unavailable
December 2000	Mackay	21 licences 11 registers	100% compliance	Airlie Beach
January 2001	Various	5 spot checks	Unavailable	Unavailable
February 2001	Various	3 spot checks	Unavailable	Unavailable
March 2001	Various	2 spot checks	Unavailable	Unavailable
April 2001	Various	3 spot checks	Unavailable	Unavailable
May 2001	Various	3 spot checks	Unavailable	Unavailable
June 2001	Various	1 spot check	Unavailable	Unavailable

July 2001	Various	7 spot checks	Unavailable	Unavailable
August 2001	Various	20 spot checks	Unavailable	Unavailable
September 2001	Various	1 spot checks	Unavailable	Unavailable
November 2001	Gold Coast	43 licences 10 registers	100% compliance	Schoolies Week
January 2002	Various	5 spot checks	Unavailable	Unavailable
February 2002	Various	1 spot check	Unavailable	Unavailable
March 2002	Various	8 spot checks	Unavailable	Unavailable

NOTE: The data for regions defined as 'various' does not contain corresponding information on the outcome of each spot check and the level of compliance. These figures have been produced from monthly reporting of the Investigations Branch of the Office of Fair Trading, which does not contain specific investigation details. Other figures have been obtained from Reports that are produced after individual spot checks programs, rather that routine pro-active compliance checks.

It is clear from the above compliance results that while the industry is complying with the Act for the most part, there remains an element of the industry that continues to attempt to operate without holding an appropriate licence.

Generally the level of compliance during events such as schoolies week and Indy 300 are very high. This is due to a greater awareness of the licensing requirements within the industry and through active enforcement, resulting in employers and event organisers being more conscious of employing licensed security providers, which contributes toward greater overall levels of compliance.

All stakeholders including the Queensland Police Service commented that the requirement for crowd controllers and bodyguards to be licensed remains an appropriate and relevant requirement. Some stakeholders make suggestions that bodyguards should be subject to requirements separate to crowd controllers and some comments were made in relation to whether or not volunteers should also be captured by the definition of crowd controller. The Queensland Police Service submits that there are issues with the term 'principally', which may compromise the objectives of the Act. This issue falls outside the scope of this review, but has been noted below in Section 16.

The Queensland Hotel Association ('the Hotel Association') submit that it is keenly aware of its responsibility to protect the health and well-being of fellow Queenslanders who patronise their premises and that the hotel industry is a significant participant in the live entertainment industry where bands and entertainers are hired to perform. The Hotel Association submits that the Australian music industry would suffer a significant set back if hotels were to cease providing live entertainment because of the litigation fears through not being confident that the crowd controllers hired at venues were of acceptable character, behaved appropriately and had obtained an acceptable level of competency training.

10.1.1 Costs and Benefits

Community

The community benefits from the licensing of crowd controllers in that licensing ensures persons meet community expectations that crowd controllers are trained adequately. The public is reassured that

crowd controllers are responsible persons, appropriate to hold such a position. The Act provides a greater level of protection to consumers by identifying and sanctioning crowd controllers who do not comply with the Act and promotes confidence throughout the community that crowd controllers can adequately manage large crowds and night club/hotel patrons. The cost to consumers is minimal as a small percentage of licensing ($91.50 for individuals and $459 for firms annually) and training costs (average of $625.58[68]) will be passed from the licensees to individual consumers.

Industry

The industry benefits from licensing of crowd controllers as it ensures there is a level playing field for all industry members. Appropriate training ensures that the services provided are of a high standard thereby increasing efficiency and the reputation of the industry is increased through the public perception that suitable persons only are able to operate as crowd controllers. Crowd control is a high-risk occupation. As stated in an Australian Institute of Criminology Report[69], 'generally any employees who come into contact with clients likely to be violent are at risk'. Adequate training benefits industry members by educating them of the risks associated by providing awareness of crowd management techniques, thereby increasing the safety of not only crowd controllers but the general public with whom which they come into contact.

The costs to the industry include the licensing fee of $91.50 for individuals or $459 for firms, which is borne directly by the licensee, as are the costs of attending appropriate training courses of approximately $1,845[70] (training costs are discussed further in section 10.2). Excluding inappropriate persons who may want to enter into the industry, may potentially reduce the numbers of participants or prospective employees in the industry. The Hotel Association highlighted potential costs if security providers were not used in that the public confidence in the safety of hotels may be diminished.

Government

The cost to Government of licensing crowd controllers includes the administrative cost of checking licence applications and renewals to determine the applicant's appropriateness. This cost includes wages of staff used to assess applications, the cost of obtaining criminal history reports from the Queensland Police Service and the cost of producing individual licences. The Government also incurs the cost of compliance and monitoring of the industry. These costs are offset by the benefit of revenue obtained from licence fees from applicants.

The licensing of crowd controllers under the Act provides a greater level of protection to consumers by identifying and addressing licensees who do not comply with the Act, thereby meeting the Government's priority of creating safer communities. The Government aims to provide a safer community for Queenslanders, and it is contributing toward this priority by producing a skilled

[68] Based on average cost of training through RTOs for security officer/crowd controller training, with an average of 109 hours

[69] *Preventing Client-Initiated Violence: A practical handbook*, Claire Mayhew, Australian Institute of Criminology, Research and Public Policy Series No. 30, July 2000, p8

[70] Based on PRS20198 Certificate II in Security (Guarding) approved hours 246 @ $7.50 per hour (South East Queensland rate)

security industry that protects rather than contributes toward injuries of the public.

Conclusion

Overall the net benefits to the community and Government of licensing crowd controllers outweigh any cost to stakeholders and should remain unchanged.

10.2 Training Requirements

Under the Act all individuals who apply for a licence must have successfully completed a training course approved by the Chief Executive[71].

When the Act commenced, training providers were approved by the Chief Executive if they were a 'Registered Training Organisation' (RTO) with the Vocational Education, Training and Employment Commission (VETEC) within the then Department of Employment Training and Industrial Relations and the course was accredited by VETEC as a short course. These courses were modular-based to address knowledge and skill requirements and did not recognise the achievement of units of competency.

Over the years since the introduction of the Act, there has been a shift toward competency-based training. A set of competency standards received endorsement by the Australian National Training Authority in March 1996 and in December 1998 the 'National Training Package for Asset Security – Security and Investigative Services (PRS98)' was endorsed by the Australian National Training Authority. On 1 January 2001, this National Training Package was adopted in Queensland. Persons applying for a security officer or crowd controller's licence, who have not previously undertaken any training prior to 1 January 2001 must now complete the national training package competency standards. Applicants who were trained prior to 2001 and who had previously obtained a licence may still rely on their old training certificate/statement of attainment.

The specific units of competency from the National Training Package required to be undertaken in order for applicants to qualify for a security officer or a crowd controller's licence appear below:

Units of Competency		Approved Hours	Crowd Controller	Security Officer
PRSSGO1A	Maintain the security of premises and property	10	X	✓
PRSSGO3A	Maintain safety of premises and personnel	8	✓	✓
PRSSGO4A	Communicate in the workplace	10	✓	✓
PRSSGO5A	Manage conflict	20	✓	✓
PRSSGO6A	Maintain occupational health and safety	6	✓	✓
PRSSGO7A	Manage own performance	2	✓	✓
PRSSGO8A	Operate basic security equipment	8	✓	✓
PRSSG11A	Escort and carry valuables	10	✓	✓
PRSSG12A	Provide for safety of persons	80	✓	✓
PRSSG13A	Control crowds	20	✓	X
PRSSG17A	Maintain an effective relationship with	3	✓	✓

[71] Section 11 – Entitlement to licences - individuals

	clients/customers			
PRSSG18A	Work as part of a security team	3	✓	✓
PRSSG25A	Provide emergency first aid	24	✓	✓
PRSSG28A	Interpret and comply with legal and procedural requirements	**70**	✓	✓
THHBTHS04A	Manage intoxicated persons	10	✓	✓

Currently, training providers who wish to offer Certificate II training must first be approved as a RTO through the Department of Employment and Training. There are approximately 70-80 RTOs including some that operate from interstate, who offer courses to Queensland residents. There are three RTOs in North Queensland, three in central Queensland, one in South West Queensland and one in Far North Queensland.

Training is critical to ensuring persons who enter and operate in the industry have acceptable levels of competency, knowledge and skills prior to obtaining a licence under the Act. The training requirements reassure the community that the security officers and crowd controllers, who successfully obtain a licence, have the competency and skills necessary to ensure the safety of those who they protect.

Many stakeholders agreed that the introduction of Certificate II qualification for security guards has been a positive move to raise the level of qualifications, skills and knowledge of security officers and crowd controllers. However, some stakeholders have advised that the objectives of the Act are being compromised due to short courses being offered which do not adequately cover the core units required. However, under the competency based system the hours for courses are 'nominal hours' only and there are no set hours which providers must spend on courses.

Some stakeholders suggest that training should encompass the duties and responsibilities under all relevant legislation, such as Industrial Relations law and the Criminal Code. The Queensland Police Service considered that basic levels of competencies or skills require improvement, which needs to be conducted through accredited training courses. This will improve not only professional performance of security officers and crowd controllers, but also public confidence in their role within the Queensland community.

Information obtained through stakeholder responses indicates that some RTOs issue statements of attainment of competency after less than two weeks training where the nominated completion time of Certificate II PRS98 course is six weeks. It has been submitted that such courses teach the basic skills and knowledge required, but do not produce a person with suitable skills to practice investigation or security work, which can be damaging to lives, reputation and credibility.

Anecdotal evidence suggests that the rationale behind RTOs conducting courses in a shorter time frame appears to be to obtain financial advantage by enabling them to offer more courses annually than competitors. In this regard, it appears that the objectives of the Act are not being met.

The National Training Package is presently subject to a national review as part of a process of continuous improvement with completion expected in mid 2002. This review will evaluate whether the package meets current and anticipated vocational assessment and training needs for this industry

and should result in an improved training package that may address some of the criticism regarding the level of skills being delivered through accredited training.

The Department of Employment and Training has advised that from July 2002 all RTOs will be audited for compliance against the Australian Quality Training Framework standards for registered training organisations. These standards have strengthened, supplemented and clarified the current standards for training and the application of sanctions. These new standards will also support the improvement of RTO practice and the credibility of their services.

The Act currently does not provide for any offences for training providers who do not conduct training modules appropriately. However, this is managed through the *Training and Employment Act 2000.*

Conclusion

The current training requirements under the Act for crowd controllers and security guards produce a net benefit to all stakeholders and remain appropriate. The training requirements should remain unchanged. However, the Office of Fair Trading should consider the recommendations made during the national review of the National Training Package for Asset Security – Security and Investigative Services (PRS98).

10.3 Other Issues

10.3.1 Bodyguards

The Act requires that all crowd controller licensees complete training in accordance with the National Training Package. This requirement applies regardless of whether the licensee performs crowd controller or bodyguard duties. There may be some cases where a crowd controller does not require the close personal protection component of training, and where bodyguards will not utilise the crowd control training as much as the personal protection component. However, for the purpose of the Act, both bodyguards and crowd controllers must receive adequate training in each type of protection, enhancing their skills to act in both capacities.

Given that bodyguards and crowd controllers in Queensland complete the same training, a split between the two categories would further restrict the duties that a licensees is able to fulfil. Currently, a crowd controller can also be a bodyguard and vice versa, which is not the case in other jurisdictions. If Queensland were to split the two categories, this would restrict Queensland licensees from applying under Mutual Recognition laws to other jurisdictions that similarly have a combined definition, which will cause the licensee to obtain a conditional licence only (as is the case in Queensland).

In New South Wales, the legislation splits the category of licence of bodyguards and crowd controllers. One of the key differences is that while bodyguard applicants must complete the same

training course as crowd controllers and security officers[72], they are not required to complete all the units of competency that Queensland crowd controllers must complete. The separate categories of licence in New South Wales has caused some problems under Mutual Recognition laws, resulting in persons who are licensed originally in New South Wales only being able to obtain a conditional Queensland crowd controllers licence. This issue is overcome in Queensland by placing a condition on persons who held an original bodyguard licence in New South Wales that they can fulfil the duties of a bodyguard only and not a crowd controller whilst operating in Queensland.

To obtain this category of licence in Queensland an applicant must have successfully completed specific components of the national training package for Asset Security – Security and Investigative Services (PRS98). However, if a person holding a Bodyguard licence in NSW applies under Mutual Recognition for an equivalent licence in Queensland, they need to have completed all modules of the national training package before being eligible to obtain the equivalent licence. If applicants choose not to complete additional prerequisite training to bring them on par with Queensland crowd controllers, a specific condition will be put on a crowd controller's licence issued to them.

Most stakeholders felt that while the definition was appropriate, the 'bodyguard' category should attract a different license with specific criteria. The rationale behind this comment is that bodyguards are used more for personal protection, rather than protection of property or for crowd control and bodyguards specialise in close personal protection rather than crowd control, which requires different skills and training. The training for bodyguards could be increased to include training for personal protection such as the defence arts. However, the Act sets minimum standards only and there is no reason why a bodyguard could not go over and above the minimum standard to ensure he/she is adequately trained in defence. There have been no complaints received by the Office of Fair Trading in relation to bodyguards that indicate any consumer detriment, or that mandatory training requirements for bodyguards are inadequate and indicate a greater level of training is required for bodyguards.

Conclusion

There is negligible benefit for industry, consumers or Government in splitting the definition of crowd controller into two categories of crowd controller and bodyguard.

10.3.2 Volunteers

Some stakeholders suggested that the current definition of a crowd controller is not appropriate as it includes persons not intended to be controlled or regulated by legislation such as volunteers at school functions such as dances and fetes, or church and sporting groups. However, this is not the case, as one element of the offence[73] for operating whilst not licensed includes that the person must be operating 'for reward'.

Conclusion

[72] Certificate II in Security Guarding
[73] Section 9 of the Act – Requirement to be licensed

Volunteers are not captured by the current definition of crowd controller and it is not recommended that volunteers be included as security providers in any capacity.

10.3.3 'Principally' for the purpose

The definition of a crowd controller is a person who... is at a public place 'principally' for the purpose of maintaining order...[74].

The word 'principally' means a person having prime responsibility for an obligation[75]. This was subject of some debate during the second reading speech. Members of the Legislative Assembly raised the possibility of some parts of the hospitality industry saying that an employee is not a crowd controller if his principal function is a cashier or to remove glasses. This will give people an opportunity to become part-time bouncers and escape licensing under the Act[76].

The Office of Fair Trading has found, during spot check programs that many employees who have appeared to be acting in a crowd control capacity have advised inspectors that those particular persons fulfil the function of 'glassie' only and as such are exempt from the licensing provisions of the Act.

Many stakeholders suggest that the word 'principally' within the definition may exclude those who perform security as a secondary function and that these people should be appropriately trained in this secondary function.

The Queensland Police Service submits that the component of employees in licensed premises who act as glass collectors, but are utilised at times to perform crowd control functions, circumvents the licensing system. The Queensland Police Service submit that the words 'principally' and 'reward' contributes toward allowing persons who are untrained to perform crowd control functions.

Conclusion

It is recommended that the current definition of crowd controller be retained. However, the use of the word 'principally' in the definition of a crowd controller has continued to cause potential problems in the industry, which may compromise the objectives of the Act by allowing persons to avoid proper training at the potential detriment of the public. The definition of crowd controller, particularly use of the word 'principally' should be considered further by the Office of Fair Trading.

10.4 Conclusions and Recommendations – Crowd Controllers

The licensing of crowd controllers (including bodyguards) remains relevant today, enhances the

[74] Section 5 of the Act
[75] Butterworths Concise Australian Legal Dictionary, Second Edition, 1998, p346
[76] As at 51, Mr Healy, Member for Toowoomba North, p6414

objectives of the Act and produces a net benefit for all stakeholders and should be retained.

The current training requirements under the Act for crowd controllers and security guards produce a net benefit to all stakeholders and remain appropriate. The training requirements should remain unchanged.

There is negligible benefit for industry, consumers or Government in splitting the definition of crowd controller into two categories of crowd controller and bodyguard. It is recommended that the current definition of crowd controller be retained.

Volunteers are not captured by the current definition of crowd controller and it is not recommended that volunteers be included as security providers in any capacity.

The use of the word 'principally' in the definition of a crowd controller has continued to cause potential problems in the industry, which may compromise the objectives of the Act by allowing persons to avoid proper training at the potential detriment of the public.

The Office of Fair Trading should further consider:

- the recommendations made during the national review of the National Training Package for Asset Security – Security and Investigative Services (PRS98) and
- the definition of crowd controller, particularly use of the word 'principally' should be considered further by the Office of Fair Trading. If it is determined that the word 'principally' be removed from the definition, further consideration should be given to clarifying the words 'maintaining order' with potential exemptions where necessary.

11 Security Officers

11.1 Licensing

The Act provides that all security officers must be licensed. For the purpose of the Act a 'security officer' is defined as a person who, for reward, patrols or guards another person's property.[77]

However, a person is not a security officer merely because the person, as an employee, patrols or guards his or her employer's own property.[78] As a result, persons who are not defined for the purpose of the Act as security officers include in-house security officers, factory guards or those engaged in cash-in-transit security. When the Act was introduced, it was considered that large employers would not employ security officers who would potentially harm their reputation through improper conduct[79] and that exemptions to this group were warranted.

Security officers patrol and guard properties such as industrial and other commercial premises, and may provide armed escort services for the transport of cash and other valuables[80]. Tasks may include:

- patrolling areas and checking doors, windows and gates for unauthorised entry;
- watching for irregularities such as fire hazards, malfunctions of machinery or equipment;
- issuing security passes to authorised visitors and giving directions, regarding times of entry and departure of authorised persons and times of inspections;
- monitoring alarms and contacting supervisors, fire brigades or police by radio or phone if security is breached;
- picking up and ensuring safe delivery of cash, payroll or valuables;
- operating and servicing coin and currency machines;
- carrying out cash counting and packaging functions;
- detecting and investigating shoplifting, fraud and other unlawful acts of employees or patrons of business establishments;
- preparing reports, obtains statements and gives evidence in court;
- patrolling areas to maintain order and prevent vandalism; and
- checking persons and hand luggage to detect concealed weapons and explosives[81].

The licensing of security providers commenced with the introduction of the Invasion of Privacy Act. The purpose of licensing security providers under the Act was due to the steady increase in the business of supplying guards and watchmen for security purposes[82]. The introduction of licensing for this market consisted of a suitability test only with no training requirements.

[77] Section 7 of the Act – 'Who is a security officer'
[78] Section 7(2) – Who is a security officer
[79] As at 51, p6428
[80] Australian Bureau of Statistics, Australian Standard Classification of Occupations, Second Edition, Structure and Definitions, Guards and Security Officers
[81] Ibid
[82] Hansard, 13 October 1971, Hon. PR Delemothe, Member for Bowen and Minister for Justice, p1063

When the Act was introduced in 1995, it was decided that all security personnel should fall under the one piece of legislation and as such, security officers were also captured by the Act and their entry requirements were extended to include pre-requisite training. Persons who were licensed as security officers under the Invasion of Privacy Act had their licence transferred directly under the new Act.

The provision of security services continues to be a popular occupation. Officers are increasingly taking a more active role in duties that were traditionally performed by members of the Police force, such as neighbourhood policing, alarm call outs and large events such as Indy 300. Security officers are responsible for the patrolling or guarding other person's premises or property. In some cases officers are privy to information and premises which can lead to easy access to criminal activities such as robbery and possibly manipulation. Licensing of security officers benefits the community, both physically and emotionally, through reassurance that a licensed officer is suitable to operate in that position and by ensuring that they have adequate training to efficiently complete the job.

The Australian Institute of Criminology has produced several reports on regulation and the security industry, including *Regulation Private Security Industry in Australia*[83] which discusses recent problems in the industry, including:

- prosecutions of leading security companies for misrepresentation of patrol and alarm monitoring services;
- corrupt relations between police and security officers trading in confidential information and preferential treatment for security repair firms;
- an enormous waste of police resources responding to false alarms; and
- shoot outs between armed robbers and cash-in-transit personnel involving death, injury and serious threats to public safety[84].

While these incidents are not a reflection on the whole industry, they are of sufficient concern to warrant continued regulation of persons who are in positions of responsibility, who require adequate training for the protection of themselves and of the general public. The above cases demonstrate the potential for abuse inherent in the security industry[85].

All stakeholders agree that licensing of security officers is appropriate. Some stakeholders however submit that exemptions are discriminatory, may create a competitive disadvantage and that all officers that come in contact with the public should be trained and licensed appropriately. However, most were satisfied with the exemptions for police, military and other similar organisations, and with the factory guard exemption, provided the person only watches one site belonging to his/her employer.

There were very strong submissions received to indicate that alarm installers and repairers, locksmiths, security consultants, security trainers, control room and CCTV (or close circuit television) monitoring staff and other similar staff should be required to hold a licence under the Act. While

[83] Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice, *Regulating Private Security in Australia*, November 1998, Tim Prenzler and Rick Sarre
[84] Ibid, at p3
[85] Ibid

officers who respond to alarm call-outs fall within the definition of security officer under the Act, the persons who actually install alarms are privy to security access codes for property and as such are in a position of trust. Very good arguments have been put forward from members of the industry and the Queensland Police Service in relation to the potential misuse of information by alarm installers.

The Australian Security Industry Association (ASIAL) in its response to the draft PBT Report concurs with the recommendation that the impact of expanding the definition of security officer to include other pertinent occupations should be explored further by the Office of Fair Trading.

A submission received from QR, or Queensland Rail acknowledged that the Act does not apply to QR employees as officers of the State of Queensland[86]. However, it submits that if the Act were amended to apply to QR employees it has concerns that a large number of QR positions may be considered as security responsibilities. As such removal of the exemption would add substantially to QR's cost burden through the additional need to licence, train and administer these staff. Particularly, QR refers to the recommendation that the Office of Fair Trading consider the impact of expanding the definition to include CCTV monitoring staff, stating that QR employees are responsible for monitoring approximately 3,000 CCTV cameras throughout the railway network at approximately 120 Citytrain railway stations, in approximately 85% of trains and at 85% of all stations with car parks. This report makes no suggestion that the exemptions contained in Section 4(3) of the Act should be amended. However, it is noted that QR has requested that the Office of Fair Trading formally consult with it if any change to these exemptions is considered.

Submissions received from the Master Locksmiths Association of Australasia Limited ('Master Locksmiths') object to the licensing of locksmiths. The Master Locksmiths has a policy of conducting criminal history checks before admitting persons to membership and any conviction for offences such as theft would generally result in refusal.

Master Locksmiths refers specifically to the New South Wales model which it submits is imposing large costs upon business, particularly small business and produced no public benefit in respect of locksmithing. Master Locksmiths submits that it could not be demonstrated that any public benefit would result if licensing of locksmiths, particularly the lack of public complaints against locksmith would not warrant any increased restriction on competition.

Master Locksmiths further submit that if locksmiths were licensed and other sectors that compete with them for business such as key cutters, motoring organisations that open locked vehicles, hardware stores that sell locks, tradesmen that fit locks to buildings etc. are not licensed then locksmiths will be placed at a severe competitive disadvantage. In addition to these comments, Master Locksmiths states that in the normal course of business locksmiths consult and sell. If qualifications in these fields in addition to locksmithing trade qualification become necessary, then entry into the industry will become too difficult causing a loss of employment and a reduction in community security.

In relation to the age restriction contained in the Act Master Locksmiths submit that it must be recognised that the trade based industry of locksmithing would not be able to train apprentices in the industry thereby potentially reducing the numbers of apprentices required to maintain the necessary

[86] Section 4(3)(c) of the Act – Who is a security provider

skill base compromising the security of the community.

The Office of Fair Trading should give consideration to whether or not the objectives of the Act are being compromised due to some security personnel falling outside its scope. It is recommended that consideration be given to expanding the definition to include some or all of these security related personnel.

11.1.1 Costs and Benefits

Community

The community benefits from licensing of security officers as it ensures persons meet certain community expectations that security officers are trained adequately. Licensing under the Act reassures the public that security officers are responsible persons and appropriate to hold such a position. Consumers are provided with a greater level of protection through identifying and sanctioning security officers who do not comply with the Act. The licensing requirements promotes confidence in the community that security officers are adequately trained to guard and patrol private and commercial premises and can react appropriately when incidents arise. The cost to consumers is minimal, but some small percentage of licensing ($91.50 for individuals and $459 for firms annually) and training costs (average of $625.58[87]) will inevitably be passed from the licensees to the end consumer in the form of an increased cost of service.

Industry

The industry benefits from licensing of security officers as it ensures there is a level playing field for all industry members. The training requirement ensures that the services provided by security providers are of a high standard thereby increasing efficiency and promoting the industry and lifting its reputation.

The cost to industry includes the licensing fee of $91.50 for individuals or $459 for firms, which is borne directly by the licensee as are the costs of attending training courses. There is a cost for inappropriate persons who may want to enter the industry, in that they will be excluded from entering the market and potentially reduce the numbers of participants or prospective employees in the industry.

Government

The cost to Government of licensing security officers includes the administrative cost of checking licence applications and renewals to determine applicant's appropriateness. The cost includes wages of staff used to assess applications, the cost of obtaining criminal history reports from the Queensland Police and the cost of producing individual licences. The Government also incurs the cost of compliance and monitoring the industry, which is, to some extent, offset by the receipt of licence fees.

[87] Based on average cost of training through Registered Training Organisations for security officer/crowd controller training

The licensing requirements in the Act provide a greater level of protection to consumers by identifying and addressing security officers who do not comply. The Government aims to provide a safer community for Queenslanders, and it is contributing toward this priority by producing a skilled security industry that protects rather than contributes toward injuries of the public.

Conclusion

Overall the licensing of security officers produces a greater benefit to all stakeholders which outweighs the cost to the community. The licensing restriction enhances the reputation and skills of the industry, increases protection to the community thereby meeting the objectives of the Act and promotes the Government's priority of a safer community. The licensing restriction for security officers should remain unchanged.

11.2 Training Requirements

The prescribed training requirements for security officers are the same as that for crowd controllers and are discussed above at Section 10.2.

11.3 Exemptions

The Act exempts persons who, as an employee, patrol or guard an employer's property.[88] The type of persons exempt, as a result of this provision include in-house security officers, factory guards or those engaged in cash-in-transit security.

When the Act was introduced, it was considered that large employers would not employ security officers who would potentially harm their reputation through improper conduct.[89]

Most stakeholders felt strongly that there should be no exemptions under the Act and that any person who performs the function of a security provider should be required to complete training, meet the suitability requirements that enable the person to hold an appropriate licence.

In-house security officers include those persons employed to patrol or guard property belonging to the officer's employer, which includes large retail department stores and factory guards. There have been no complaints received in relation to the activities of in-house security officers. In-house security officers are usually subject to rigorous security procedures and background checks, which relate specifically to the property the person is protecting or guarding.

Cash-in-transit security personnel usually specialise in knowingly transporting other person's cash for a fee or reward[90]. Of the 1,714 security service businesses at the end of June 1999, there were 26

[88] Section 7(2) – Who is a security officer
[89] As at 51, p6428
[90] Report of the Queensland Industrial Relations Commission, *Industrial Matters Relating to the Cash-in-transit Industry*

businesses specialising in cash-in-transit or armoured car services[91].

Most cash-in-transit officers carry weapons. Under the Weapons Act all persons who wish to hold a gun licence must declare the purpose for requiring a licence. For cash-in-transit officers, the purpose would be for security reasons, either in the capacity of a security guard or a security organisation[92]. It is a requirement under the Weapons Act that all persons requiring a licence for the purpose of operating as a security guard or organisation must first hold a security officers licence under the *Security Providers Act 1993*. Therefore, cash-in-transit officers who are required hold a weapon as part of their core duties must first obtain a licence pursuant to the Act.

The exemption for cash-in-transit officers does not in itself completely exempt this group from holding a licence, as they still require a security officer licence if he/she wishes to hold the weapon's licence, which is a prerequisite for cash-in-transit security officers.

It not an ideal situation that cash-in-transit officers are exempt from the Act, but by default and as a result of other legislation, namely the Weapons Act, are required to hold a licence. Given that the issue of increasing the restriction by removing the exemption for cash-in-transit officers is outside the scope of this Review it is recommended that the licensing of 'cash-in-transit' officers be considered as part of a further investigation.

In-house security officers can have a more detailed knowledge of the premises of the employer and may provide more efficient security services than a provider who was not specialised. A perceived benefit to industry is that exempt officers do not have to meet appropriate person test and therefore have a cost saving in relation to avoiding licensing and training requirements under the Act. Normally employers conduct in-house training for their employees, which shifts the burden of training costs from the employee to the employer. The Government benefits slightly in that it does not incur the administrative and financial burden of licensing in-house security officers.

The costs to the community are that in some circumstances the employee security officers may not be appropriate persons and the exemption does not ensure that employee security officers are adequately trained. These exemptions create an unbalanced playing field for other industry members. In-house security officers may not be recognised for their services if they have not completed training pursuant to the Act and appropriate person checks when seeking re-employment in the industry. There may be a cost to Government in that it may be seen as favouring large firms or organisations by allowing security officers to operate without appropriate training and character checks.

Conclusion

The exemption for in-house security officers appear to be appropriate, considering there have been minimal complaints in relation to this group and there would be an overall cost to stakeholders if the Government were to increase its licensing restriction by removing these exemptions.

in Queensland, December 1996

[91] Australian Bureau of Statistics, *Service Industries – Selected Business Services*, 1998-99, p2

[92] Licences are called security organisations firms under the Weapons Act and are called security firms under the Act

The exemptions overall do not restrict consumer choice and should not impact on the price paid by consumers as a result of employing in-house security officers. The exemptions do not compromise the Act to the point that warrants further restrictions being placed on this section of the security industry.

The licensing of 'cash-in-transit' officers should be consider as part of a further investigation.

11.4 Conclusions and Recommendations – Security Officers

It is concluded that:

- the security officer licensing requirements be retained; and
- exemptions remain unchanged at this time.

It is recommended that the Office of Fair Trading

- consider the issues, costs and benefits of expanding the definition of security officer to include any or all of the following:
  - alarm installers and repairers;
  - locksmiths;
  - security consultants;
  - security trainers; and
  - control room and CCTV monitoring staff and other similar staff; and
- consider licensing 'cash-in-transit' officers as part of a further investigation.

12 Security Firms

12.1 Licensing

The Act provides that all security firms must be licensed. A 'security firm' is defined as a person who, or partnership that, engages in the business of supplying, for reward, the services of crowd controllers, security officers or private investigators to other persons.[93]

A person must not, directly or indirectly, engage another person to carry out, for reward, the functions of a security provider unless the other person holds the appropriate licence[94]. Unless a person holds the appropriate licence, the person is not entitled to any reward for carrying out the functions of a security provider. The maximum penalty for a breach of section 9(2) is $7,500 for an individual and $37,500[95] for a corporation. It is also an offence for an entity to carry on the business of a firm under a name other than that stated on the firm's licence[96], which also carries a maximum penalty of $1,500 for an individual or $7,500 for a corporation[97].

Each person who is an officer of a corporation, or partner in a partnership where the corporation or partnership applies for a security firm licence, must be an appropriate person to be such an officer if a licence is granted[98]. A person or a partnership may apply for a security firm licence[99] and the Chief Executive has power to make inquiries about a person to assist in determining appropriateness including requests to the Commissioner for Police for a written report about the person's criminal history[100]. Each security firm licence specifies conditions, which correspond to the functions supplied by the firm of a crowd controller, private investigator or security officer[101].

The same procedure is followed for both firms and individuals in relation to decisions on applications, conditions of licence, amendment of conditions and annual renewal of licence. The same grounds (and procedures) apply to firms for suspension, cancellation or refusal to renew a licence, automatic cancellation upon conviction, rights of appeal to the court and hearing procedures. These issues are discussed further in Section 9 of this Report.

Section 54 of the Act empowers the Governor in Council to make regulations for the purpose of this Act to regulate the conduct of security providers. Section 3 of the Regulation states that an application for a corporation must be accompanied by three testimonials from reputable persons about the nominee's character and a certified copy of the nominee's birth certificate. These provisions

[93] Section 8 – What is a security firm
[94] Section 9(2) – Requirement to be licensed
[95] Section 181B of the *Penalties and Sentences Act 1992* – Corporation fines under penalty provision
[96] Section 9 of the Regulation – Office to carry on business in another name
[97] Ibid
[98] Section 13 – Entitlement to licences – corporations or firms
[99] Section 10(1)(b) – Application for licence
[100] Section 12 – Inquiries about person's appropriateness to hold licence
[101] Ibid

apply to individuals also and are discussed further in Section 9 of this Report.

An applicant for a firm licence must nominate an officer or the corporation or a partnership to be the firm's nominee and if a firm is an individual, the applicant does not have a nominee[102]. The nominee is responsible for completing and signing all documents required under the Act on behalf of the corporation or partnership and must ensure the corporation or partnership complies with the requirements of the Act[103]. The nominee must notify the Chief Executive within seven days of any change in the licensee's particulars names, addresses and any charges against or convictions against either the corporation or an officer of the corporation or partnership for a disqualifying offence, as listed in Appendix D.

There was little discussion when the Bill was introduced about the objective of introducing the requirement that security firms hold licences. However, given that each firm licence contains conditions specifying that only specific security functions can be performed, it can be assumed that firms were intended to act as a filter between industry and clients to ensure that only licensed security providers were contracted to specific clients. For example, a hotel may hire a security firm to provide crowd control services to the hotel. This situation eases the burden on the hotel of screening every crowd controller to ensure appropriate licences are held. The rationale behind requiring the firm to be licensed is to ensure that they are aware of their obligations and only employ licensed personnel to provide specific services, without the client having to worry about doing licence checks.

Most stakeholders agreed that the definition of security firms and the requirement to be licensed was appropriate.

In relation to the offence provision, some stakeholders suggest that persons who are caught unlicensed have manipulated the word 'reward'. This can be used as a defence by firms, who may argue that unlicensed security providers are not paid a 'reward' for the service they provide and therefore have not fulfilled that element of the offence, preventing prosecution action from being taken. Suggestions were made that the word 'remuneration' is more appropriate than 'reward', however, this issue is outside the scope of this review. It is recommended that further analysis if this issue be undertaken by the Office of Fair Trading.

One stakeholder commented that sole operators cannot provide the necessary resources to monitor and control their operation to a level that safeguards clients against possible professional indemnity issues and should therefore be required to hold a firm's licence. The comment was made that sole operators are reducing prices and taking short cuts in ethical practices, abusing the system and disadvantaging reputable firms, which is giving sole operators a competitive advantage.

Given that the objects of requiring a firm to hold a licence is not explicit, it is assumed that the objective is to ensure that firms who supply specific security providers to clients are appropriate and accountable for the actions of their employees and, particularly, for ensuring all security providers are licensed. It should be noted that firms' nominees are not required to hold individual licences also. It would seem that sole operators would not be providing the services of more than one security provider

[102] Section 5 of the Regulation - Security firm's nominee
[103] Section 6 of the Regulation - Nominee's duties

and are not required to hold a firm licence. However, if that person is in fact providing other security providers to clients they would be required, as an individual, to hold a security firm licence.

12.1.1 Benefits and Costs

The benefits to consumers of requiring firms to hold licences is to ensure that security providers employed by firms to carry out security functions hold the appropriate licences and are adequately trained to fulfil these specific duties. There is a benefit to both Government and consumers in that firms providing security services are easily identified when incidents occur, which ensures that consumers are adequately protected and that the government meets its priority commitment of providing a safe community for Queenslanders.

The benefits to industry are that it provides a level playing field for all firms who wish to provide security services to clients. It acts as a further screening test to ensures that only appropriate persons operate within the industry. There is a greater chance that unlicensed personnel will be identified by a nominee of a firm who is responsible for ensuring all employees are appropriately licensed. This is facilitated by the use of a firm register where details of each security provider employed by the firm are recorded. Firm registers are discussed further below in Section 14.2 of this Report.

The cost to firms includes the cost of licensing fees as discussed above and the cost of providing testimonials and a birth certificate of the firm's nominee. These costs are considered minimal especially given that there is no requirement for a firm to be a corporation.

Government costs include the administrative cost of checking applications for appropriateness, conducting criminal history checks on relevant persons from the Queensland Police Service and the cost of producing individual licences. The Government also incurs the cost of compliance and monitoring the industry.

Conclusion

The benefits of requiring firms to hold a licence outweigh the costs and requirement that firms hold appropriate licences should be retained.

12.2 Other Issues

The Queensland Police Service did not believe the current definition was appropriate, as it does not include organisations which provide services such as locksmiths, alarm installers and repairers, security consultants, security trainers, control room and close circuit television (or 'CCTV') monitoring staff and other like functions. Requiring these persons to hold licences would ensure they are subject to appropriate person tests and accountability mechanisms similar to other security providers. The rationale for requiring persons to be licensed is that it will ensure these persons, who often work in highly trusted and confidential environments are properly vetted. This would reduce incidents previously experienced in Queensland where, for instance, alarm installers, after installing an alarm at particular premises later return and steal property using the knowledge gained from

installing the alarm.

The issue of requiring further occupations to be licensed is outside the scope of this review. However, given the relevance of the issue raised by the Queensland Police Service, it is recommended that the Office of Fair Trading conduct further investigations to consider expanding the scope of definitions contained in the Act to include appropriate security services that currently fall outside the scope of the Act.

12.3 Conclusions and Recommendations – Security Firms

It is concluded that the benefits of requiring firms to hold a licence outweigh the costs to stakeholders overall and this requirement should be retained.

It is recommended that the Office of Fair Trading:

- consider expanding the scope of firm definitions contained in the Act to include appropriate security firm services such as locksmiths, alarm installers and repairers, security consultants, security trainers, control room and CCTV monitoring staff and other like occupations; and
- analyse the use of 'reward' in relation to security providers to determine whether or not this is a real issue in the market and if so, whether there is a more appropriate word to be used, such as 'remuneration'.

13 Post Licensing Issues

Security providers are subject to a number of ongoing requirements under the Act.

13.1 Licence Renewal

Currently, all licence holders are required to renew their licence on an annual basis. As previously discussed, the option to renew licences every one, two or three years will be introduced.

Ongoing obligations imposed on licence holders include a requirement in the Regulation that licensees must give the Chief Executive written notice of any change in licensee's particulars within seven days of the change. For the purposes of the Act, the term 'particulars' applies to individuals, corporations and partnerships. The requirement that licensees advise the Chief Executive of any change in particulars is reasonable and ensures the integrity of the database of licensed security providers.

At present, approximately 10% of renewal applications to be randomly checked for criminal history. There is concern that this may be compromising the objectives of the Act in ensuring that only appropriate people continue to operate.

The Queensland Police Service does not consider the objects are being met to an acceptable standard in relation to inappropriate persons entering and operating in the industry. It has advised that it is aware of criminal interests infiltrating the security industry and using the role of security providers as a method for the commission of property and other related crimes. The fact that 10% of renewal applications are checked, rather than 100% may be contributing toward this situation.

Stakeholders submit that anything less than a full 100% security check is failing the community and contributing to the problems within the industry. Specifically, the Department of Industrial Relations which encompasses WorkCover Queensland submits that it regularly engages the services of private investigators. As such it places reliance on the Office of Fair Trading as the licensing body to ensure that only appropriate persons enter and operate in the investigations industry. It specifically highlighted that WorkCover Queensland has an expectation that criminal history checks are carried out on all persons requesting a private investigator's licence. The Department of Industrial Relations supports the recommendation that the Office of Fair Trading consider its current practice in relation to the proportion of criminal history checks conducted on renewals.

Conclusion

The current practice of the Office of Fair Trading conducting criminal history checks on 10% of renewal applications only should be investigated further by the Office of Fair Trading to determine the costs and benefits of increasing the percentage of applicants subjected to criminal history checks on licence renewal.

13.2 Grounds for Suspension, Cancellation or Refusal to Renew

A licence may be suspended, cancelled or not renewed on the following grounds:

- The licence was obtained on the basis of incorrect or misleading information; or
- The licensee has contravened a condition of the licence; or
- The licensee has committed an offence against the Act; or
- The licensee (or another person who is required to be an appropriate person such as a company director) is no longer an appropriate person.

All applicants who have a licence suspended, cancelled or not renewed by the Chief Executive have a right to appeal, as outlined in Section 7 of this Report.

Most stakeholders submit that the grounds for suspension, cancellation or refusal to renew are satisfactory and appropriate and benefit the industry and community by keeping strict control of the industry.

Some stakeholders suggested that additional grounds should be included so that convictions in industrial courts and breaches of workplace health and safety laws are considered. The Chief Executive is able to consider these any convictions that may impact on the person's appropriateness, when deciding whether to suspend, cancel, refuse to renew or revoke a licence on grounds of inappropriateness, similar to the requirements specified when the Chief Executive considering appropriateness when granting a licence.

The Queensland Police Service agree that the current grounds are appropriate, but that suspension and removal of persons holding security providers licences should be based upon a finding of guilt rather than having a conviction recorded. It also considers that there should be a provision to require security providers to report to the Chief Executive the fact that they have been convicted of a disqualifying offence, with an offence for non-compliance. In relation to this issue, it is an offence under the Act for a licensee, who fails to notify the Chief Executive of any change in particulars including issues affecting continued appropriateness. This provision[104].requires licensees to advise the Chief Executive within seven days of a change against or conviction of an individual for a disqualifying offence and attracts a maximum penalty of $750 for an individual and $3,500 for a corporation[105]).

It is considered that the grounds for cancellation, suspension or refusal to renew licences are appropriate and allows the Chief Executive to consider other convictions not specified in the Act as disqualifying offences, if the offence itself is relevant to the person's appropriateness.

Conclusion

[104] Section 12 of the Regulation – Change to information about licensee
[105] in accordance with the s181B(3) of the *Penalties and Sentences Act 1992*

The grounds for cancellation, suspension or refusal to renew are appropriate and should remain unchanged.

13.3 Conclusions and Recommendations – Post Licensing

It is concluded that the grounds for cancellation, suspension or refusal to renew are appropriate and should remain unchanged.

The current practice of the Office of Fair Trading conducting criminal history checks on 10% of renewal applications only should be investigated further by the Office of Fair Trading to determine the costs and benefits of increasing the percentage of applicants subjected to criminal history checks on licence renewal.

14 Business Conduct Restrictions

14.1 Identification Requirements for Crowd Controllers

Section 47 of the Act requires all crowd controllers, other than bodyguards, to wear clearly visible identification at all times while on duty. The identification bears a number, which is allocated to each crowd controller when commencing duty on any given date. The crowd controller's licence number and name is not displayed on the identification.

Section 19(1) of the Regulation states that a crowd controller, other than bodyguards, must wear identification on the chest of his/her clothing. It also provides that the identification must contain a number at least 3cm high and 4mm thick with the word 'SECURITY' in letters at least 1cm high and 2mm thick written in black on white background. Each crowd controller at a public place must wear a different number.

The purpose of requiring crowd controllers to wear identification is to enable patrons to identify crowd controllers who display unacceptable behaviour[106]. When the Act was introduced the importance of clearly visible identification was recognised during debate by Mr Pearce. Mr Pearce considered that awareness among security providers that could be identified by reference to a number, would lead to greater accountability[107] and would act as a deterrent to prevent improper conduct[108]. The intention of the requirement to wear identification was in an attempt to curb the trend of gratuitous violence[109].

Most stakeholders commented that identification cards were appropriate and contribute toward credibility, accountability and professionalism of the industry. Stakeholders also commented that the requirement that crowd controllers wear identification cards would be flawed if it was not combined with an adequate register system.

Most industry stakeholders believe it is an important requirement that identification should not contain the licence number or name of the crowd controller, to maintain a degree of autonomy and to protect their personal privacy. However, some submissions considered that identification should disclose the full name and licence number of crowd controllers. At the other end of the spectrum, some stakeholders submitted that there should be no identification. A few stakeholders commented that crowd controllers should not have to wear numbers as it exposes them to vindictive or vexatious patrons. The stakeholders who commented in this regard did, however, recognise that there was no alternative to the current identification system. On the other hand, some stakeholders believe a name

[106] As per 51, Mr Nuttall (Member for Sandgate), p6413
[107] As per 51, Mr Pearce (Member for Fitzroy), p 6425
[108] Ibid
[109] Ibid

badge would make it easier for police and investigations officers to identify crowd controllers. The current number based identification system appears to be a good medium.

The Queensland Police Service submits that the identification requirement is not effective or appropriate and that a requirement to wear photographic identification would assist to identify and investigate crowd controllers who are acting in an inappropriate manner. The Queensland Police Service has submitted that anecdotal evidence suggests that discrepancies have been found by police officers between registers and witness accounts in that descriptions of security personnel recorded as wearing a particular identification number at the time of the incident differed significantly to those provided by the complainant or witness. It is unclear whether members of the public know what the number is for and it is acknowledged that the current identification system does not indicate whether or not the crowd controller is in fact licensed.

The costs of producing identification cards are minimal. There is a slight cost to Government in terms of monitoring the industry for compliance to ensure that crowd controllers comply with the requirement to wear identification. The Office of Fair Trading has found there is a high level of compliance with the requirement that crowd controllers wear identification, with very few persons being prosecuted for breaches of this offence.

The benefits include ease of access for the public and officials such as police officers and investigation officers to identify crowd controllers involved in incidents. The current system assists to identify persons acting as crowd controllers for both compliance purposes and for identification of crowd controllers involved in incidents, which may occur in a public place or on premises. Incidents may occur due to perceived inappropriateness of the crowd controller, or for witness purposes. The industry benefits from this requirement as its reputation increases as the community perceives security providers as professional persons who accept the accountability and responsibility that the identification and licence implies.

Conclusion

The benefits to all stakeholders outweigh the minimal costs to industry. The requirement contributes to the objectives of the Act by ensuring the public and officials are able to identify crowd controllers who act inappropriately and also, through the relative anonymity of the number based system, reduces the possibility of personal threat to crowd controllers by patrons.

The identification requirement contributes toward the objectives of the Act and the benefits of this system outweigh any associated costs.

14.2 Registers

Section 54 of the Act provides for regulations to be made regulating the conduct of security providers.

Section 17 of the Regulation requires an entity that, directly or indirectly, engages a person to carry out, for reward, the functions of a crowd controller at a public place, to maintain a register as a "sign-on" and "sign-off" point for crowd controllers on duty. The register must contain each crowd

controller's name, residential address and licence number, the firm the crowd controller is employed by (if applicable), the crowd controllers identification number for each shift, and the date, start and finish times of each period of duty at the public place. The register must also contain details of all incidents where a person is injured or where a person is removed from a public place by the crowd controller. Registers are open to inspection by the police and authorised officers under the Act.

Section 18 of the Regulation states that a security firm must keep a register of security providers employed by the firm. The register for firms must contain the name, licence number and expiry date, date of commencement and, when applicable, of termination of employment of each security provider. The firm must allow the register to be inspected by the Chief Executive, an inspector or the police and must keep the register for seven years after the last entry.

The purpose of the requirement for registers is to ensure crowd controllers and their employers are held accountable for any incidents that may occur such as the removal of patrons or violent episodes[110]. The reason for requiring firms to keep registers of employees is similar, in that it ensures that firms are held accountable for the activities of their employees and to assist with compliance monitoring. Specifically the requirement to record licence numbers on the registers ensures that all employees hold appropriate licences.

The Register for crowd controllers must be combined with a number system of identification. The Register completes the identification process by ensuring the personal details of crowd controllers are contained within it. This system gives some level of anonymity of crowd controllers from the public, but ensures that enforcement personnel are able to locate crowd controllers when necessary.

The Register for Security Firms is kept to ensure firms only employ licensed personnel and that persons are easily identified if and or when incidents occur. Firms must be aware of the licensing status of all employees and are responsible for ensuring that all employees are licensed under the Act[111].

Most stakeholders were supportive of registers as a means of verifying the legitimacy of their operations and for safety and identification purposes. However, some stakeholders submit that it is only effective to the point where the person entering information on the register is honest and reliable.

The benefit of maintaining registers is to maintain a record of incidents. Such a record can become vital evidence in substantiating claims. Correctly maintained registers can become vital evidence in substantiating occurrence of incidents in both criminal and civil matters. Registers allow patrons, employers and officials to have ready simple records of events and of crowd controllers who are on duty. Firm registers ensure that a record of all employees is kept. Registers assist by allowing inspectors to easily monitor for compliance and enable police to make inquiries following reported incidents.

Security firm registers benefit the firm as it acts as a quality assurance measure to ensure that firms

[110] As per 51, Mr Nuttall, Member for Sandgate, p6413

[111] Section 9(2) – Requirement to be licensed – a person must not... engage another person... unless the other person holds the appropriate licence

are aware of the licensing status of all security staff. The public is reassured that crowd controllers and firms are responsible and accountable for their actions and that of their employees, which can verify the legitimacy of operation. The keeping of registers can protect the integrity of individual crowd controllers, the community and the venue itself by providing a chronological and accurate history of events. The Government benefits from the requirement that firms and crowd controllers complete registers in that it assists in promoting a safer community by ensuring identification of security providers who can then be held accountable for their actions.

The costs of keeping registers to industry include the cost to purchase an appropriate register. Crowd controller registers are available through industry associations for a cost of approximately $25 plus GST. In the case of firm registers, the firm, operating either a database or a manual system to keep the records, incurs costs. The cost to Government includes the cost of compliance and monitoring of registers. There is a negligible cost to consumers associated with this requirement. There is a cost to crowd controllers or firms who are not operating legitimately, in that they will be exposed with the potential for penalties to be incurred and individual licences to be suspended or revoked.

Conclusion

The benefits of maintaining a firm register outweigh the costs, producing a net benefit to all stakeholders. Therefore it is recommended that the current requirement that a Crowd Controller Register and a Security Firm Register be maintained in specific circumstances remain unchanged.

14.3 Conclusions – Business Conduct Restrictions

It is concluded that:

- the benefits of requiring crowd controllers to wear identification to all stakeholders outweigh the minimal costs to industry and should be retained; and
- the benefits of maintaining both crowd controller and firm registers, where appropriate outweigh the costs to all stakeholders and should be retained.

15 Regulatory Alternatives

A number of alternative, less restrictive options to the current regulatory regime are being considered during the course of this review. Discussion of the costs and benefits associated with each of these options follows.

15.1 Mandatory Code of Conduct

Consideration was given to a mandatory code of conduct as an alternative to the existing legislation.

Codes of conduct are increasingly being used by government and industry as an alternative means of promoting fair trading and ethical conduct within an industry. Codes of conduct can be a more cost-effective and flexible form of regulating an industry than a regulatory regime involving registration or licensing processes and conduct requirements.

Legislative backing is sometimes needed to make a code of conduct effective, for example to ensure sufficient coverage of an industry or to provide enforcement provisions. Mandatory codes of conduct ensure that full participation is achieved from all persons who operate within the industry. The introduction of a mandatory code of conduct would provide industry wide coverage and would provide a consistent approach in terms of requirements and obligations.

The development of a code of conduct would include wide consultation with industry, consumer and government groups and would outline whom the code of conduct will apply to. Implementation of a code of conduct would include a large public campaign to inform consumers and industry of its value, requirements and procedures. It will include industry standards, complaint and dispute procedures and a plan for administration of the code of conduct. The code of conduct would include requirements for reporting and for monitoring the code of conduct for compliance. It would also include procedures for making necessary amendments, which would involve consultation with stakeholders and adequate public notification. A code of conduct would have to comply with the laws of competition and fair trading[112].

A mandatory code of conduct would incorporate penalties for industry members who breach the code of conduct or who do not comply with any order made to remedy a consumer complaint. The code of conduct would provide for reviews at specified intervals. Reviews should consider the effectiveness of the code of conduct and its complaint handling procedures, the levels of compliance in the industry, administration of the code of conduct and public visibility.

A mandatory code of conduct for security providers would have legislative backing and be made under the *Fair Trading Act 1989*. Under this model, there would be no licensing or registration

[112] Ministerial Council on Consumer Affairs, *Fair Trading Codes of Conduct: Why Have Them, How to Prepare Them*, A guide prepared by Commonwealth, State and Territory Consumer Affairs Agencies, October 1996

system and everyone would be able to operate within the industry. Those persons who do choose to operate as security providers, as defined by the code of conduct, would be required to comply with the requirements of the mandatory code of conduct. This mandatory code of conduct could include similar business conduct requirements to those currently in force, particularly in relation to wearing of identification by crowd controllers and the keeping of registers and would have provision for additional conduct requirements to be prescribed within the code of conduct.

A breach of a mandatory code of conduct prescribed by regulation under the *Fair Trading Act 1989* attract penalties that would apply to persons who breach the code of conduct. Under a mandatory code of conduct other remedies would also be available in the event that a person contravenes the code of conduct including injunctions, actions for damages and compensation or other remedial orders.

Private investigators operate within common law and statute requirements that ensure private investigators conduct their business in a way that protects the privacy and contractual arrangements of consumers who choose to do business with a private investigator, as discussed in section 8.1. Introduction of a mandatory code of conduct to regulate the business conduct of private investigators would create an additional burden on private investigators. It may be unnecessary to require private investigators to comply with additional business conduct provisions, given the current regulation and common law responsibilities applicable to this group and the fact that the Office of Fair Trading has received negligible complaints in relation to the conduct of private investigators.

There was no support from stakeholders for a stand-alone code of conduct. Some stakeholders were vehemently opposed to a mandatory code, indicating that its introduction would clearly lead to a drop in standards within the industry. It is perceived that the industry has suffered due to the public perception that the industry is comprised of unskilled, poorly educated and badly remunerated employees with little or no specific training.

The Australian Liquor, Hospitality and Miscellaneous Workers Union ('the Union') opposed replacing the current regulation with a mandatory code of conduct. The rationale behind this opposition includes the potential for a message to be sent to the industry that regulation was relaxed where, in the Union's opinion, it needs to be more stringent. The Union considered that legal remedies under a mandatory code of conduct would not be adequate to maximise safety of the public and property and to achieve honest and reasonable behaviour throughout the industry. Comments were further made that the courts are generally reluctant to grant injunctions unless the defendant has been previously convicted of similar offences. If the current regulatory regime for convicting persons who do not comply with the Act were removed, injunctions would be more difficult to obtain. Actions for damages are expensive for victims and can take several years and therefore relatively few actions are taken. Many security personnel are aware of this and are unlikely to be deterred from breaching a code of conduct.

The Queensland Police Service considers that a mandatory code of conduct may assist in monitoring and regulating the industry but would not be as effective as a regulatory body overseeing the industry in terms of inappropriate or unprofessional behaviour.

A few stakeholders submitted that a mandatory code of conduct that incorporated licensing criteria,

similar to the current licensing system, might be viable. They recognised that persons entering the industry must be identified to ensure they are monitored for compliance with the mandatory code of conduct, which would assist with establishing accountability and ensuring public safety.

The Australian Security Industry Association ('ASIAL') submit that a legislated licensing regime supplemented by a code administered and driven by an approved security organisation is a workable option and that the ASIAL has been working with regulators nationally on such an approach that can be adopted in each state for national consistency. ASIAL submits that its co-regulatory role in New South Wales is effective and does have teeth. It submits that the compliance and complaint management system in New South Wales is superior to any other form of control because the industry knows the players, the scams, the failings and can expeditiously rectify market failure.

The Master Locksmith Association of Australasia submits supports the conclusion that a mandatory code of conduct is not a viable alternative. It considers that codes may subvert the democratic process because they are made by unelected persons, have potential to reflect views of large organisations and include requirements that are too onerous for small business. It uses the New South Wales model as an example where the co-regulatory body demands independent auditing of every licensed business by desktop every year and by face to face audit every 5 years. It suggests that these audits are exhaustive and tend to cover areas such as industrial relations, occupational health and safety and financial returns that have nothing to do with service to the client or the community, they take many hours to complete at a cost in excess of $100 per hour. It states that a preliminary report indicates that in New South Wales in excess of 80% of businesses fail the initial face to face audit mainly for failure to strictly adhere to the details of industrial awards (although employees are generally paid higher than awards overall) thereby incurring additional costs to achieve results that, in the vast majority of cases, are of no benefit to the community nor the employee concerned.

As the mandatory code of conduct model would not require industry members to become licensed, the barriers of entry into the industry would be reduced and there would be less administrative and financial burden on industry participants or government.

Some of the costs highlighted by stakeholders include the large financial and administrative burden on Government firstly to develop the code of conduct and then to ensure appropriate implementation. There would be additional financial burden on Government to ensure operators adhere to the mandatory code of conduct. Honest operators could be disadvantaged by low cost unscrupulous operators not fulfilling obligations and, therefore, undercutting legitimate operators. Comments were made that a code of conduct would not ensure that the objectives of the objectives are met. The cost to security personnel may be in the form of lower wages and conditions due to the increase in competition with unscrupulous operators' under-cutting legitimate operators.

The benefits highlighted by stakeholders included a reduced administrative burden on Government if the licensing requirements were removed with a slight benefit to industry also from the reduction in licensing fees. A mandatory code would presumably include a mandatory training component, and as such the cost to industry of training courses would be likely to remain the same as the current regime.

Under a mandatory code of conduct, it is likely that Government would transfer existing resources into

development, implementation and monitoring of a mandatory code of conduct. Additional costs may be needed at the initial development stage to ensure a adequate review of the industry requirements is conducted.

It is likely that the objectives of the Act could continue to be met under this form of regulation, but may not be as effective as the current regulatory regime. The Government would experience short to long term delays in developing new policies and processes for ensuring industry compliance with the code of conduct, which may have the effect of reducing resources and time allocated to monitor the industry. New training would be required for administrative officers and inspectors to ensure awareness of the new requirements to ensure adequate compliance and monitoring of the industry.

While it is recognised that some benefit could be gained from creating a mandatory code of conduct over business conduct and perhaps ethical and professional standards, there are currently conduct provisions contained in the Act that require security providers to wear identification and complete registers in certain circumstances. The benefit to industry and consumers of a mandatory code of conduct would be the ease of incorporating additional business conduct provisions that may arise from time to time.

It is considered that there is not sufficient justification or requirements for further business conduct provisions and licensing and relevant business conduct provisions currently exist in the Act. The costs of developing, implementing and enforcement a mandatory code would outweigh any benefits, especially considering that many benefits discussed exist under the current Act.

It is ultimately concluded that a mandatory code of conduct would potentially be just as administratively and financially onerous on industry participants as industry specific legislation. It was also considered that the low penalties associated with codes of conduct would potentially make a mandatory code of conduct less effective that the current regulation. There is a danger that the industry may perceive a mandatory code of conduct as being a form of industry regulation with lower penalties reducing its effectiveness.

Conclusion

The impacts of moving to the alternative state of a mandatory code of conduct are summarised in the table below.

Stakeholder	Description	Size	Direction
Consumer	Potential reduction in prices through increased competition and reduced compliance costs	Small	Positive
	Potential for initial delay in compliance and enforcement while code and relevant policies and procedures are developed	Small	Negative
	Costs of additional administrative burden for private investigators potentially passed to consumer	Small	Negative
	Potential drop in standard of service	Medium	Negative
	Legal remedies under a Code may not be adequate to	Medium	Negative

	maximise safety of public and property		
	Code may not promote honest and reasonable behaviour in security providers	Small	Negative
	Business conduct of security providers may be lifted over time	Medium	Positive
	Potentially lower penalties may in effect reduce effectiveness of regulation, thereby compromising safety of the public and property	Small to Medium	Negative
Industry	Potential delays in enforcement during development stage	Small	Negative
	Reduction in financial burden of paying licensing fees	Small	Positive
	Reduction in financial burden of paying training costs	Small	Positive
	Private investigators may be required to adhere to code where common law and statute are may be sufficient	Medium	Negative
	Potential for an initial drop in public perception and reputation of industry	Small	Negative
	Code may not promote same level of honest and reasonable behaviour	Small	Negative
	Honest operators disadvantaged by low cost operators undercutting legitimate operators	Medium	Negative
	Lower wages and conditions due to increase in competition	Medium	Negative
	Administrative burden in ensuring compliance with additional requirements (as compared with current regime)	Small	Negative
	Short to long term delays in Government developing processes to ensure compliance	Small	Negative
	Business conduct would improve after initial implementation and transitional phase	Medium	Positive
	Code may introduce ethical and professional conduct requirements, lifting reputation of industry	Small	Positive
	Potentially lower penalties for non-compliance	Small to Medium	Positive
Government	Financial and administrative burden in developing code	Large	Negative
	Financial and administrative burden in implementing code	Medium	Negative
	Financial and administrative burden of administering code (as compared with current regulatory burden)	Negligible	Nil
	Financial burden of training investigators and administrative staff in the new regime	Small to medium	Negative
	Additional burden of enforcing conduct of private investigators	Small	Negative
	Injunctions may not be easy to obtain without proof of previous convictions, compromising Government's priority of a safer community	Medium	Negative
	Potentially lower penalties for non-compliance thereby reducing effectiveness of regulation, compromising Government's priorities of a safer community	Small to Medium	Negative

The introduction of a mandatory code of conduct model would produce a small to medium net cost to all stakeholders.

The introduction of a mandatory code would not produce any benefit that is not already available through the Act. The costs to government of developing, implementing and enforcing a mandatory code of conduct would be significant. The perceived benefits of moving to a mandatory code of conduct model, to the industry and consumers would be minimal, if not negligible, when balanced with the overall costs and benefits of the current regulatory regime.

A mandatory code of conduct is not considered to be a viable alternative.

15.2 Voluntary Code of Conduct

Consideration was given to a voluntary code of conduct as an alternative to the existing legislation.

A voluntary code of conduct could be completely voluntary, quasi-regulatory or co-regulatory. A complete voluntary code of conduct model would be developed by an industry association, the members of which agree to abide by the code of conduct. Under a quasi-regulatory model, the code of conduct may be developed by industry in cooperation with government and development may be initiated either by government or the industry. A co-regulatory code may be developed by industry, but would involve a third party to administer and/or monitor the code of conduct for compliance and may contain some level of penalty for non-compliance.

Under a voluntary code of conduct, no legislative backing would be given to the code of conduct, which would be administrated by an industry association. A voluntary code of conduct could be developed in the same manner as a mandatory code of conduct, as discussed in section 13.1 and could also include mechanisms to review and amend the code of conduct. The key difference between a mandatory and a voluntary code of conduct is that a voluntary model would have no legislative backing and would not attract legislative penalties for non-compliance. However, there may be other penalties for non-compliance with the code, such as suspension or cancellation of membership with the industry association, which may be used as a way of preventing a security provider from operating within the industry.

Voluntary codes of conduct operate effectively when it is developed with an industry that agrees to abide by the code of conduct. Given that the security industry does not have a peak industry association that represents all security providers, it may be difficult to determine who should develop and administer a voluntary code of conduct.

Stakeholders responded to a code of conduct in general terms, rather than a voluntary or mandatory model. Stakeholders were generally opposed to a code of conduct, as discussed in Section 13.1.

Comments were also made that stopping those who abuse the system would be time consuming and expensive and self would lack the teeth that regulation currently provides.

It is considered that a voluntary code of conduct would not meet the objectives of the Act, particularly

as a voluntary industry-driven code of conduct may not ensure that the public is protected from unacceptable behaviour of security providers. The public would not be reassured that security providers possess a basic level of competency in delivery of services to members of the public. The Government would not be aware of the identity of persons operating in the industry and as such would not be sure that it meets its priority of providing a safer community to Queenslanders.

It is ultimately concluded that the voluntary code of conduct model could potentially have the same or less administrative and financial costs on an industry association and on its participants as industry specific legislation. Penalties would be less severe and there are usually no licensing arrangements thereby reducing the costs of administration. The fragmented nature of the security services industry and the absence of a peak industry body or bodies to administer the code make establishment of a voluntary code impractical. It was also considered that the lack of penalties associated with a voluntary model would make a voluntary code of conduct less effective than the current regulation. The public would not be reassured that all security providers have attained a basic level of competency in providing security services under a voluntary code of conduct model. There is a danger that the industry will perceive a voluntary code of conduct as being a lesser form of regulation with no legislative penalties reducing its effectiveness.

Conclusion

The impacts of moving to the alternative state of a voluntary code of conduct are summarised in the table below.

Stakeholder	Description	Size	Direction
Consumer	Potential for initial delay and disruption in industry compliance while code is developed	Medium	Negative
	Potential drop in standard of service	Medium	Negative
	Legal remedies under a Code may not be adequate to maximise safety of public and property	Medium	Negative
	Code may not promote honest and reasonable behaviour in security providers	Small	Negative
	Injunctions may not be available under a voluntary code of conduct.	Medium	Negative
	Business conduct of security providers may be lifted over time	Medium	Positive
	Absence of penalties may reduce effectiveness of model, thereby compromising safety of the public and property	Small to Medium	Negative
Industry	Financial and administrative costs in development and implementation	Large	Negative
	Potential delays in enforcement during development stage	Small	Negative
	Reduction in financial burden of paying licensing fees	Small	Positive
	Reduction in financial burden of paying training costs	Small	Positive
	Potential for an initial drop in public perception and reputation of industry	Small	Negative
	Code may not promote same level of honest and reasonable behaviour	Small	Negative

	Honest operators disadvantaged by low cost operators undercutting legitimate operators	Medium	Negative
	Lower wages and conditions due to increase in competition	Medium	Negative
	Administrative burden in complying with additional conduct requirements (as compared with current regime)	Small	Negative
	Short to long term delays in development of processes to ensure compliance	Small	Negative
	Business conduct would improve after initial implementation and transitional phase	Medium	Positive
	Code may introduce ethical and professional conduct requirements, lifting reputation of industry	Small	Positive
	Potentially lower penalties for non-compliance	Small to Medium	Positive
Government	Reduction in administrative licensing burden	Medium	Positive
	Reduction in compliance costs	Medium	Positive
	Injunctions may not be easy to obtain without proof of previous convictions, compromising Government's priority of a safer community	Medium	Negative
	Lower penalties for non-compliance thereby reducing effectiveness of regulation, compromising Government's priorities of a safer community	Small to Medium	Negative

The introduction of a voluntary code of conduct model would produce a medium net cost to all stakeholders.

The introduction of a voluntary code would not produce any addition benefit that is not already available through the Act. The costs to industry of developing, implementing and administering a voluntary code of conduct would be significant and it is envisaged that there would be delays in the implementation phase that may cause confusion in the industry and the public. The perceived benefits of moving to a voluntary code of conduct model, to the industry and consumers would be minimal, if not negligible, when balanced with the overall costs and benefits of the current regulatory regime.

A voluntary code of conduct is not considered to be a viable alternative.

15.3 Negative Licensing

Consideration was given to introducing a negative licensing system as an alternative to the current regulation.

Under negative licensing, current barriers to entry into the marketplace would be removed. Persons would not be required to apply to the Office of Fair Trading for permission to operate in the industry. Any person would be allowed to provide security services unless they are placed on a publicly accessible register maintained by the Chief Executive, which would indicate their unsuitability to

operate in the industry.

It is envisaged that criteria would be developed on which to base decisions to exclude persons from the industry and place them on the negative licensing register. In this way, the Chief Executive would have the power to exclude persons with very poor operating records or criminal histories from the security industry. The criteria could include instances where there are serious breaches of legislation, where an individual has a serious criminal history or where a person conducted him/herself inappropriately, as defined. An offence would be created for any person listed on the negative licensing register found operating as a security provider.

Most stakeholders submitted that a negative licensing scheme would provide little benefit to the community, would create additional costs to Government and industry and would reduce the consumer protection currently attainable. The general feedback from stakeholders was that a negative licensing system would not meet the objectives of the Act.

The rationale behind stakeholder responses was for varying reasons. Unsuitable persons would be able to enter the industry, making it more difficult, time consuming and expensive to remove inappropriate members of the industry. Stakeholders believe that a lessening of the present standard would denigrate the good work already achieved in lifting the profile of the industry and that the best method is invariably not the cheapest and that a price cannot be placed on the safety of the community.

The Queensland Police Service does not consider a negative licensing scheme to be a viable option for monitoring and regulating the industry, and that an integrated licensing regime is essential to ensure inappropriate persons do not infiltrate the industry. There is a danger that persons with intention of engaging in criminal or inappropriate behaviour under the guise of providing security functions would enter the industry.

Stakeholders submit that the community expects a regulated, safe environment, rather than the prosecution of offenders, notification of which largely goes unnoticed. There would be damage to the public safety before offenders were identified, which would not adequately fulfil the objectives of the Act. Stakeholders commented that a reactionary approach will not appease the disgruntled public and those who seek to circumvent the criterion and their responsibilities will prevail in the industry.

The community would need to check the public register to find out whether or not the security provider they are considering doing business with has been removed. It is assumed that there would be a small fee to the access the Register, which would add costs to the community. Even when a member of the public does access the Register, there is no guarantee that the person will be appropriate by virtue of the fact that he/she does not appear on the register. Inappropriate industry members would need to be identified before they could be registered on the negative licensing system. There would be additional cost to clients of security provider firms, including hotels, nightclubs, owners of premises and the general public, who would need to check the history of those they wish to employ. Under the current licensing system, they only need to rely on production of a license to draw the assumption that the person is appropriate and adequately trained to perform the requisite duties.

The Queensland Police Service submits that the public safety needs outweigh the need for extended competition within the industry and that self-regulation will not be effective in ensuring the objectives of the Act are achieved. There will be a cost to the community as a result of inappropriate behaviour or offences committed by unscrupulous persons who enter the industry with criminal intent. This cost is in terms of the increase in significant risks associated with inappropriate persons entering the industry and performing the functions entrusted to a security provider, which may result in financial or physical detriment to the public.

A few stakeholders believe that the industry is already rife with inappropriate operators, especially at the management level and that negative licensing would make this scenario worse in that firms would revel in the fact that they can operate with little constraints. With very little or no accountability, there would be damage to the reputation of the industry before offenders were identified and prohibited from operating. Some stakeholders submit that backyard operators without appropriate insurance would be encouraged as they would not be required to operate from legitimate premises and the Chief Executive would have no way of knowing where security providers were operating from.

One Government stakeholder submits that it has had experiences where commercial imperatives without regulation have resulted in lowering the standard of the industry below community expectations.

The Queensland Police Service submits that security firms may not have the ability to ensure that only persons of acceptable character and background are employed nor the ability to ensure appropriate levels of competency, skills and accredited training are provided to persons performing the functions of a security provider. Other stakeholders also submit that persons wanting to employ security providers may not ordinarily look at the person's history, but rely on licensing to ensure persons are appropriate and suitable.

Stakeholders submit that there would be a benefit to inappropriate industry members only who could circumvent the system and operate inappropriately at a low cost for quite some time before being identified as inappropriate and excluded from the industry. There were comments from some stakeholders that the industry would be quickly controlled by organised crime as a guise for underground criminal activity, especially in the nightclub scene where public safety would not be the number one priority in lieu of other criminal activities.

Clients or firms wanting to employ security providers may not look at the history of those they wish to employ and rely on checking for a current license, which indicates they are appropriate and suitable to operate within the industry. Operators could offer low cost services by employing unskilled persons at lower wages to operate as security providers, which could force legitimate operators either out of business, or to lower their prices in order to compete. The standard of the industry would drop as there would be little incentive to operate efficiently when persons offering a lower standard of service with lower costs were also obtaining contracts from clients and forcing wages down for professional operators.

There would be costs savings to industry members of the licensing fees payable to the Office of Fair Trading and the fee payable to attend and complete appropriate training courses.

Stakeholders recognised that the cost to Government of continual policing the activities of all industry members and ensuring that recognised inappropriate persons did not operate as security providers would be horrendous. There would be no revenue from licensing to offset the costs of a large pro-active compliance program. It has been suggested during consultation that a negative licensing scheme would require strict pro-active Government activity to effectively monitor the industry.

Many stakeholders consider that it will be difficult to ascertain who is participating in the market and the Office of Fair Trading may not be sufficiently resourced to investigate all operators. They submit that efficient compliance would require large spot check programs to ensure that the industry was not operating outside the set criterion, to ensure removal where necessary. Given that the Government will not have a register of operators it is possible that criminal activity would infiltrate the industry if it were known that Government is unaware of the history and experience of the individuals operating.

The Office of Fair Trading receives many complaints every year in relation to security providers, indicating that ongoing regulation is required. A negative licensing system would not achieve the objectives of the Act of ensuring public safety and conduct in accordance with community expectations.

There will be a benefit to Government through the reduced administrative burden of licensing security providers. The Government will still be required, under a negative licensing scheme, to incur the costs of monitoring the industry and removing inappropriate persons when required, which would not be offset by the revenue received under the current positive licensing system.

Conclusion

The impacts of moving to the alternative state of a negative licensing scheme are summarised in the table below.

Stakeholder	Description	Size	Direction
Consumer	Potential drop in standard of service	Medium	Negative
	Legal remedies under may not be adequate to maximise safety of public and property	Medium	Negative
	May not promote honest and reasonable behaviour in security providers	Small	Negative
	Injunctions may not be easy to obtain without proof of previous convictions	Medium	Negative
	Business conduct of security providers would be lifted	Medium	Positive
	Lower or no penalties may reduce effectiveness of regulation, thereby compromising safety of the public and property	Small to Medium	Negative
Industry	Reduction in financial burden of paying licensing fees	Small	Positive
	Reduction in financial burden of paying training costs	Small	Positive
	Potential for an initial drop in public perception and reputation of industry	Small	Negative
	Will not promote same level of honest and reasonable	Small	Negative

	behaviour Honest operators disadvantaged by low cost operators undercutting legitimate operators Lower wages and conditions due to increase in competition Lower penalties for non-compliance	Medium Small Small to Medium	Negative Negative Positive
Government	Reduction in administrative licensing burden Reduction in compliance costs Injunctions may not be easy to obtain without proof of previous convictions, compromising Government's priority of a safer community Lower penalties for non-compliance thereby reducing effectiveness of regulation, compromising Government's priorities of a safer community	Medium Medium Medium Small to Medium	Positive Positive Negative Negative

The introduction of a negative licensing system would produce a small to medium net cost to all stakeholders.

The introduction of a negative licensing system would not produce any addition benefit that is not already available through the Act. The costs to industry of developing, implementing and administering a negative licensing system would be significant and it is envisaged that delays would occur that might cause confusion in the industry and the public. The benefit of moving to a negative licensing system is to industry in relation to a decrease in training and licensing fees and to government in relation to a decrease in administrative and financial costs. There would be a cost to consumers in that the public safety would be compromised and the government would only act after an incident had occurred.

The negative licensing model is not considered to be a viable alternative.

15.4 Deregulation

An alternative to the current regulatory regime would be to deregulate the operations of security officers by repealing the Act.

Under deregulation, no industry specific legislation would exist and market forces would determine who enters the market and remains there as a competitive industry operator over time. There would be no conduct requirements and consumers would need to rely on the particular hotel, venue or security firm to ensure they were aware of which security providers were working at any given time for identification purposes, should an incident occur.

Consumer protection would be reduced, as consumers would not know with whom they were dealing, would not be reassured that security providers are in fact appropriate to fulfil that community function and may not be able to locate the person in event that an incident occurs. The market would need to

rely on competitive forces to regulate behaviour. Good operators would make information available to customers in a competitive market. Unscrupulous operators would not be prevented from entering the industry and the safety of the public and property would be reduced to relying on industry participants cooperating voluntarily with current criminal and civil law and with enforcement agencies. Law enforcement would become reactive and only where an offence exists under other legislation.

Deregulation would decrease the cost of monitoring the industry for compliance with the Act and subsequent cost of taking enforcement action when necessary. There would be very little or no obligation to monitor compliance under deregulation.

All stakeholders opposed deregulation. Stakeholders submit that the cost of deregulation would include allowing unsuitable persons to enter the industry; removal of such persons would become extremely difficult. A lessening of the current standard would denigrate good work already achieved in lifting the reputation of the industry. Stakeholders acknowledged that the best way is not always the cheapest but a price cannot be put on the safety of the community. Stakeholders commented that the objectives of the Act would not be met if a deregulation model were introduced.

Most stakeholders recognise that public safety and the standard of service to clients would be compromised dramatically if the industry were deregulated. The number of assaults and complaints in relation to security provider related behaviour would increase. The Queensland Police Service submit that deregulation is not effective in ensuring that all operators maintained the basic level of skills in their delivery of security provider services to the public. This may have the effect of increasing criticism and decreasing public confidence in the ability of security providers to provide the level of service expected by the community.

The Queensland Hotels Association submits that if the industry were deregulated there is potential for increased legal and public liability issues for hotels in the area of negligence for injuries suffered by patrons from either unruly fellow patrons or the crowd controllers themselves. Additionally, without regulation both the hotel and security industry would insure for the same risk, harming the Queensland economy as a whole.

The Queensland Police Service submitted that deregulation will not provide an effective monitoring system to overview the conduct of security providers in Queensland and would fail to ensure that only persons of appropriate character operate as security providers.

Stakeholders acknowledged that a deregulation model would allow more players into the industry and with more players firms will reduce their overheads by lowering wages and cutting corners on contracts. The Queensland Police Service submitted that the public safety needs, addressed partially through an integrated licensing system, outweigh the need for extended competition within the security provider industry. Stakeholders further submit that there would be an increase in unethical practices and in incompetent firms that would contribute toward driving wages and conditions down for officers.

Several stakeholders raised the issue of the security provider providing a good 'cover' for criminal

activity and that there would be an increase in inappropriate persons who claim to be security providers who would have an enhanced opportunity to carry out criminal activities. There would be a cost to Queensland Police Service that would need to be borne to ensure that criminal activities were identified and addressed.

The benefits of deregulation would include the reduction in costs to business associated with administrative costs of existing record keeping and identification requirements. Deregulation would also remove barriers to entry into the industry by removing the requirement to hold a licence that would enable anybody to operate within the industry with no barriers. It is likely that there would be an increase in competition for all operators if the industry were deregulated. Stakeholders submit that the criminal fraternity and unscrupulous security providers would benefit in that they would be allowed to enter the industry without proving competency or appropriateness. There will be costs savings for industry in that they will not have to pay for training costs or licensing fees to operating in the industry.

The Office of Fair Trading continues to receive complaints in relation to security providers, which is indicative of the need for government to continue regulation of the security industry. The public demands a safe environment and expects that only appropriate persons will act in a position of authority or power, such as security providers. Deregulation of the industry would result in a reduction in the safety of the public and property and will create the potential for the criminal element to infiltrate the security industry with no barrier to entry.

Conclusion

The impacts of moving to the alternative state of deregulation are summarised in the table below.

Stakeholder	Description	Size	Direction
Consumer	Potential reduction in price through increased competition and reduced compliance costs	Small	Positive
	Potential drop in standard of service	Medium	Negative
	Legal remedies may not be adequate to maximise safety of public and property	Medium	Negative
	Safety of the public would be reduced	Large	Negative
	Safety of property would be reduced	Medium	Negative
	Deregulation may not promote honest and reasonable behaviour in security providers	Small	Negative
	Injunctions may not be easy to obtain without proof of previous convictions	Medium	Negative
	Consumers may not be able to locate responsible persons	Small to Medium	Negative
Industry	Reduction in financial burden of paying licensing fees	Small	Positive
	Reduction in financial burden of paying training costs	Small	Positive
	Drop in public perception and reputation of industry	Medium	Negative
	Drop in the level of ethical, honest and reasonable behaviour	Small	Negative

	Honest operators disadvantaged by low cost operators undercutting legitimate operators	Medium	Negative
	Lower wages and conditions due to increase in competition	Medium	Negative
	Low or no penalties for non-compliance	Small to Medium	Positive
	Increase in competition within the market	Small to Medium	Positive
	Market would be open for everyone to operate within the industry	Small to Medium	Negative
Government	Reduction in administrative licensing burden	Medium	Positive
	Reduction in compliance costs	Medium	Positive
	Increased cost to the Queensland Police in enforcing the Criminal Code to ensure criminal activities are identified and addressed	Medium	Negative
	Injunctions may not be easy to obtain without proof of previous convictions, compromising Government's priority of a safer community	Medium	Negative
	No penalties for non-compliance thereby reducing effectiveness of regulation, compromising Government's priorities of a safer community	Medium	Negative
	Objectives of Act would not be met	Medium	Negative

Deregulation would produce a medium to large cost to all stakeholders.

Deregulation would not produce any benefit that cannot be attained through the Act and would in fact produce a medium to large cost. The costs to consumers would be large, given that the level of consumer protection, both of persons and property would potentially drop substantially. The cost to industry would be felt largely in the drop of legitimate security providers and therefore of the reputation of the industry. The persons who would benefit from a deregulated state are those who cannot currently enter the market due to inappropriateness or incompetence in that the barriers to entry into the market would be lifted and this group could freely enter the market. This would be to the detriment not only of consumers, but also government who would need to increase its policing of the security industry to ensure that any criminal activity was identified and that enforcement action taken where appropriate. The Queensland Government's priority of a safer community would also not be met.

Deregulation is not considered to be a viable alternative.

16 Summary of Conclusions and Recommendations

In summary it is concluded that:

- the current age restriction is justified in the public interest and should be retained.
- the criteria for determining whether applicants are 'appropriate persons' to holder a licence are appropriate and should be retained.
- the criminal history disclosure requirements under the Act should remain unchanged;
- the requirement that testimonials be provided should be retained;
- the fees charged in Queensland are not considered excessive and do not represent a restriction on entry into the industry or impact significantly on competition.
- the current offences and penalties for operating or employing a person to operate whilst unlicensed are an adequate deterrent to persons carrying out the functions of a security provider without a licence.
- the Chief Executive's discretion to issue licences subject to conditions should be retained.
- the benefits, to the community as a whole, of licensing private investigators outweigh the costs to stakeholders and should be retained.
- the exemptions for employees, legal practitioner, accountants (and their employees) should be retained.
- the exemptions for insurance agents, loss adjusters and their respective employees be retained at this stage.
- the licensing of crowd controllers (including bodyguards) remains relevant today, enhances the objectives of the Act and produces a net benefit for all stakeholders and should be retained;
- the current training requirements under the Act for crowd controllers and security guards produce a net benefit to all stakeholders and remain appropriate. The training requirements should remain unchanged;
- there is negligible benefit for industry, consumers or Government in splitting the definition of crowd controller into two categories of crowd controller and bodyguard and it is recommended that the current definition of crowd controller be retained;
- there is negligible benefit for industry, consumers or Government in splitting the definition of crowd controller into two categories of crowd controller and bodyguard and it is recommended that the current definition of crowd controller be retained
- volunteers are not captured by the current definition of crowd controller and it is not recommended that volunteers be included as security providers in any capacity;
- the use of the word 'principally' in the definition of a crowd controller has continued to cause potential problems in the industry, which may compromise the objectives of the Act by allowing persons to avoid proper training at the potential detriment of the public;
- the security officer licensing requirements be retained;
- exemptions relating to security officer licences remain unchanged at this time;
- the benefits of requiring firms to hold a licence outweigh the costs to stakeholders overall and this requirement should be retained;
- the grounds for cancellation, suspension or refusal to renew are appropriate and should remain unchanged
- the benefits of requiring crowd controllers to wear identification to all stakeholders outweigh the minimal costs to industry and should be retained;

- the benefits of maintaining both crowd controller and firm registers, where appropriate outweigh the costs to all stakeholders and should be retained;
- a mandatory code of conduct would produce a small to medium net cost to all stakeholders. A mandatory code of conduct is not considered to be a viable alternative;
- a voluntary code of conduct would produce a medium net cost to all stakeholders. A voluntary code of conduct is not considered to be a viable alternative;
- a negative licensing system would produce a small to medium net cost to all stakeholders. The negative licensing model is not considered to be a viable alternative; and
- deregulation would produce a medium to large net cost to all stakeholders. Deregulation is not considered to be a viable alternative.

It is recommended that the Office of Fair Trading:

- assess the current disqualifying offences with a view to determining whether the current offences remain relevant and whether any other offences should be recognised as a disqualifying offence;
- investigate the legislative and stakeholder impacts of requiring applicants to disclose criminal history of offences committed within the last five years irrespective of whether a conviction was recorded.
- give further consideration to requiring private investigators to complete competency based training in the National Training Package for Asset Security – Security and Investigative Services (PRS98) as the minimum training standard;
- conduct inquiries into the costs and benefits of removing the exemption for insurance agents;
- in consultation with the loss adjuster industry examine the impacts on the community and stakeholders of including a definition of a loss adjuster in the Act that includes members of the Institute only where loss adjusters who were not members of the Institute would be required to comply with the Act. The assessment should canvass the Institute's requirements for membership to ensure that its requirements are at least equivalent to the Act;
- consider the recommendations made during the national review of the National Training Package for Asset Security – Security and Investigative Services (PRS98);
- consider the definition of crowd controller, particularly use of the word 'principally'. If it is determined that the word 'principally' be removed from the definition, further consideration should be given to clarifying the words 'maintaining order' with potential exemptions where necessary;
- consider the issues, costs and benefits of expanding the definition of security officer to include any or all of the following:
    - alarm installers and repairers;
    - locksmiths;
    - security consultants;
    - security trainers; and
    - control room and CCTV monitoring staff and other similar staff;
- consider licensing 'cash-in-transit' officers as part of a further investigation;
- investigate its current practice of conducting criminal history checks on 10% of renewal applications only to determine the costs and benefits of increasing the percentage of applicants

subjected to criminal history checks on licence renewal; and

- analyse the use of 'reward' in relation to security providers to determine whether or not this is a real issue in the market and if so, whether there is a more appropriate word to be used, such as 'remuneration'.

16.1 Other Issues Raised

16.1.1 Definition and Scope of Act

Some stakeholders did not believe the current definition was appropriate so far as it does not include organisations which provide services such as locksmiths, alarm installers and repairers, security consultants, security trainers, control room and close circuit television (or 'CCTV') monitoring staff and other like functions. Requiring these persons to hold licences will ensure they are subject to appropriate person tests and accountability mechanisms similar to other security providers. The rationale for requiring persons to be licensed is that it will ensure these persons who often work in highly trusted and confidential environments are properly vetted. This would reduce incidents previously experienced in Queensland such as alarm installers, after installing an alarm at particular premises later returning and stealing property using the knowledge gained from installing the alarm.

The issue of requiring further occupations to be licensed is outside the scope of this review. However, given the relevance of the issue raised, it has been recommended that the Office of Fair Trading should consider expanding the scope of definitions contained in the Act to include appropriate security services that currently fall outside the scope of the Act.

16.1.2 Additional Stakeholder Comments

Liquor Licensing has raised the issue of access to licensed security providers and required training in remote areas, given the high incidence of people with disqualifying offences. This issue is outside the scope of this Review and will be considered further by the Office of Fair Trading when it conducts a further investigation of the Act.

The Security Industry Regulatory Council (SIRC) represents the four main security industry associations in Queensland and has provided submissions as a key stakeholder throughout this review process. In addition to the issues raised within the scope of this review, it has raised issues that may require consideration by the Office of Fair Trading. These issues include:

- Merging the manpower and property protection definition into crowd controller and security officer so one security officer licence only is issued. SIRC submit that in many cases it is impossible to define the line between when a security officer is maintaining order (crowd controller) and when it protects property (security officer). As an example, SIRC submit that a security officer protecting property can be called upon to maintain order for example if patrolling around shopping centres where there may be an incident which requires the officer to maintain order, performing a manpower or crowd control function. And visa versa, crowd controllers could be called to maintain order in a carpark or around premises which may involve

some level of property protection.

- Bodyguards should also be classed as security officers. There is no definition of bodyguard in the Act and SIRC believes that the initial purpose of including bodyguards within the definition of crowd controllers was based on the 1990 trend for bodyguards to be used to protect entertainment and sports personalities from being mobbed by crowds. Since that time bodyguards have developed and their clients include persons that may be under threat of physical harm.
- In relation to crowd controllers, in an effort to minimise continued assaults occurring in licensed premises, SIRC submit there should be:
  - A scale of crowd controllers to patrons;
  - A scale of patrons allowed into a venue which considers requirements under the *Liquor Act 1992,* common law duty of care, workplace health and safety laws, building regulations and also considers the type of venue and entertainment;
  - Continuous colour CCTV monitoring of all entry and exit paths to and from the heart of the venue; and
  - Removal of the words 'principally' and 'for reward' from the definition of crowd controller.
- SIRC strongly recommend that Queensland do not adopt a model that requires self-regulation through associations. It submits that the current New South Wales model that requires compulsory membership with an industry association is not working. SIRC are happy with the industry being governed by an independent agency such as the Office of Fair Trading or the Queensland Police Service but not by its competitors stating that commercial confidentiality must be a supreme objective of any regulating legislation. It submits that the association audit process adopted in New South Wales does not address service and produce delivery and that the Act, when recommendations from this NCP review are endorsed will be a good basis for regulation of the Queensland security industry.
- SIRC believe that an authority or tribunal system should be used to deal with show cause actions to save costs and time in going before a magistrates court in the first instance. Such a tribunal could also hear matters to establish if the issue should be taken through the court system.

The Australian Security Industry Association (ASIAL) is the nationwide Association representing the security industry which has around 3,000 companies as members, 150 of which are based in Queensland. ASIAL has provided submissions as a key stakeholder throughout this review process. In addition to this issues ASIAL raised that are within the scope if this review, it has raised some issues that may require or warrant further consideration by the Office of Fair Trading. ASIAL believes that:

- There is market failure but inadequate means to capture the details or satisfactory access for consumers;
- The scope of the regime, currently only manpower, compromises community welfare and level playing field principles because of the occupations that are ignored;
- More can be done to enhance and achieve the objectives than have been established;
- Minimum competencies and appropriate person tests are useful but insufficient in themselves;
- A national database can be a reality for criminal checks;
- Proactive compliance checking, not passive monitoring should be a feature of any regime;
- Mutual recognition is not working adequately and portability is non-existence.

Based on the above, ASIAL has raised the following issues:

- Mandatory membership of an approved industry association and establishment of a genuine co-regulatory approach that identifies and controls unsavoury elements of the security industry will supplement legislative instruments that underpin a workable regime;
- A co-regulatory approach is predicated upon:
  - Improved consumer outcomes (such as SecureGold, an ASIAL warranty and guarantee service);
  - Higher standards of service delivery (such as evolving codes like the ASIAL Code of Practice for the Marketing of Home Security Systems);
  - Better Training and Development of industry practitioners with certification and endorsement initiatives (such as the RTO Seal of Excellence program);
  - Safety and Reliability (protocols like the National Emergency Response Protocol); and
  - Trust and confidence through independent field compliance inspectors to a rigorous assessment regime.

Stakeholders raised many additional issues that were unable to be assessed during the course of this review. The issues raised in addition to those that appear in tis section have been noted at the bottom of the consultation table at Appendix B. These additional comments and issues within this section will be considered by the Office of Fair Trading when it conducts a further investigation of the Act.

APPEN

APPENDIX A

Terms of Reference for the Review of the *Security Providers Act 1993* and *Security Providers Regulations 1995*

1. In accordance with the State's obligations relating to the implementation of National Competition Policy, this review will examine the case for continued regulation of the security provider industry in Queensland.

   The guiding principle is that legislation should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs and that the objectives of the legislation can only be achieved by restricting competition.

2. Without limiting the scope of the review, the Office of Fair Trading (OFT) will:
   i. Clarify the objectives of the legislation;
   ii. Identify the nature of restrictions on competition;
   iii. Analyse the likely effects of the restrictions on competition and on the economy generally;
   iv. Assess and balance the costs and benefits of the restrictions identified by conducting a Public Benefit Test; and
   v. Consider other means for achieving the same results including alternative legislative or non-legislative approaches.

3. The review should give consideration to Clause 1(3) of the Competition Principles Agreement, which is reproduced below.

   Without limiting the matters which may be taken into account, where this Agreement calls:

   (a) For the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or
   (b) For the merits or appropriateness of a particular policy or course of action to be determined; or
   (c) For an assessment of the most effective means of achieving a policy objective;

   the following matters shall, where relevant, be taken into account:

   (a) Government legislation and policies relating to ecologically sustainable development;
   (b) Social welfare and equity considerations, including community service obligations;
   (c) Government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
   (g) Economic and regional development, including employment and investment growth;

(h) The interests of consumers generally or of a class of consumers;
(i) The competitiveness of Australian businesses; and
(j) The efficient allocation of resources.

When examining the matters identified under clause 1(3), the review will give consideration to explicitly identifying the likely impact of reform measures on specific industry sectors and communities, including expected costs in adjusting to change.

4. During the course of the review, the review team will consider:
   - alternative options for the application of consumer protection considerations in the security provider industry (in particular, whether the level of regulation is appropriate);
   - regulatory arrangements in other jurisdictions; and
   - current Queensland Government Legislative Review Guidelines.

5. The review team shall consult with and seek submissions from participants in the security providers industry and other interested parties. To assist in the consultation process, review team will develop and publish an issues paper focussing on restrictions contained in the legislation and alternative options.

6. On completion of the review, review team will submit a report on the outcome of the review to Minister for Fair Trading, and a Competition Impact Statement to Cabinet for its consideration if applicable. It is proposed that the PBT report will be made publicly available once the review process is finalised.

7. Legislation to be reviewed

   It is proposed to review the *Security Providers Act 1993* (the 'SP Act') and the *Security Providers Regulation 1995* (the 'Regulation').

   The 'SP Act' was developed to provide a comprehensive legislative code for the regulation of security providers in Queensland and regulates the following occupations, which fall within the definition of a "Security Provider":
   - Private Investigators;
   - Crowd Controllers;
   - Security Officers; and
   - Security Firms.

   The SP Act principally creates a licensing regime for each of these occupational categories. The licensing regime includes mandatory training requirements for private investigators, crowd controllers and security officers. The Act and Regulation also includes minor conduct requirements on crowd controllers and security firms.

   The impetus for the SP Act's development was increased public concern over a number of reported incidents involving assaults by crowd controllers (colloquially 'bouncers') on patrons of licensed premises in the early 1990's.

The objective of the legislation is to:

- Ensure that only persons of an 'acceptable character' enter and operate as security providers;
- Ensure that operators possess basic levels of competency in the delivery of their services to members of the public; and
- Ensure that industry/market participants behave according to community expectations.

8. Review Arrangements

It is proposed that a targeted public review will be conducted by a review team from the Legislative Review Unit of the Office of Fair Trading (OFT) with the aid of a reference group. It is proposed that the reference group will include representatives from the following departments:

- the licensing and investigations branches within OFT;
- Queensland Police;
- Department of Employment and Training;
- Department of Justice and Attorney-General; and
- Department of State Development.

A social impact assessment and an employment impact statement will be prepared and the Government's Priority Outcomes for Queensland will be considered as an integral part of the review process.

9. Timing of Review

It is anticipated that timelines for the review process will be as follows:

Review to commence	September 2001
Public Notification of the Review	November/December 2001
Consultation period	December 2001
Draft Public Benefit Test Report which incorporates consultation prepared	January/February 2002
Public Benefit Test Report to be presented to the Minister	March 2002

APPENDIX B

Security Providers Act 1993 and the *Security Providers Regulation 1998*
Consultation Results from Issues Paper – January 2002

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
1	Are objectives of SPA relevant? Are objectives being met? Are there any alternative objectives? (DPI)	Industry	Those who choose to actively endorse aims of Act are meeting objects.	Objectives are sound and still very relevant. Relaxing control would invite unsuitable elements to again infiltrate the industry – it has taken many years and is ongoing, to improve the standard and public perception of members of the industry.	There are those who place expediency and financial considerations above all else who tend to ignore or divert from efforts to achieve aims for which the Act was designed. Certain groups within industry require closer scrutiny to ensure compliance with the spirit of the Act.
			Objectives not being met: some firms taken to court for behaviour bordering on criminal (fail to fulfil contracts, charging for services not provided, underpayment of wages). Suggestion: Act needs to be broader in 'acceptable character' – basic level of training is incorrect – operators should have clear understanding of duties and responsibilities under all relevant Acts.	More relevant today. Industry has expanded due to increased crime, cost of maintaining police force and type of security undertaken.	It has been discussed that security take over some police activities, releasing police assets. This is happening (neighbourhood policing, private monitoring stations, traffic control).
			Objections not being met: situation has been advanced since introduction of Act. Suggestion: include consultants, loss prevention officers, sales and technical sectors Rationale: they have opportunity to exploit for illegal intent and been involved in crime against clients. Suggestion: Alarm installers, access control, CCTV installers and service people, locksmiths, security door installers, security alarm monitoring stations operators be captured Rationale: potential for criminal activity in this sector; access to more information such as personal security procedures; carry more responsibility for security/safety of clients, public and property.		Loopholes that allow persons to have a conviction but not their licence cancelled is hindering objective.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Objectives are crucial and not being met. SO/CC – level of expertise and skill lacking. Some Registered Training Organisations (RTOs) do course over 2 weeks, but should be 6 weeks full time.[113] Courses do not cover codes of practice or ethics that cannot be covered in 2 weeks. PI courses teach basic skills and knowledge, but does not produce a person with suitable skills to practice investigation work – can be damaging to lives, reputations and credibility. Lack of skills/knowledge can result in unacceptable behaviour and ethics.	Introduction of Certificate II is positive move to raised level of qualification, skills and knowledge. Objectives are relevant, but not being met as a result of flaws in training processes as outlined (as costs).	PI course can be conducted in 1 week – to be a competent PI one requires far more extensive training/experience.
			More control over training providers will guarantee persons applying for licensing are equipped with correct knowledge.	Objectives are relevant and control on industry has been effective. Objectives are being met through training and criteria checks pre-licensing.	
			Only a few objectives have been met: sub-standard training and inadequate policing;	Objectives are relevant – industry is ever expanding, SPs are expected to be on par with Police; competencies must be maintained to ensure appropriate higher standard of service.	Objectives are basic and it is unlikely industry would be unable to cope with further objectives ie. understanding principles of general business and business loss prevention.
			Overly competitive (cutthroat) attitude of SP has been allowed to exist		Low bids to get contracts rather that quality service.
			Alleged deficiencies relate to reach and specific elements of legislation not to core principles or core regulatory strategies.	Significant step forward in protecting consumers from unscrupulous SPs and protecting ethical practitioners from unfair competition.	Responsible security managers support tougher industry regulation recently introduced
				Objectives are more important today than in the past – more SO and PIs are undertaking roles traditionally police.	Ie. SOs were allowed to use powers normally associated with police during Goodwill Games/Olympic – it is likely this will be repeated in future.
			Removal would see substantial violent and criminally inclined people return to industry; however, there remain many unacceptable persons operating within industry because legislation is not well enforced.	It is imperative that legislation exists to ensure only appropriate persons enter industry; legislation eliminated a number of unacceptable people; basic levels of competency are essential; SOs in control of firearms, batons and dangerous dogs must be competent to use weapons to ensure public safety; SOs placed in dangerous situations and competency ensures they avoid assault and injury to themselves.	Eg. Union wrote to OFT 7 months ago seeking cancellation of firm licence, response was that OFT did not know when it could commence investigation and complaint remains unfinalised. Many firms do not pay workers in accordance with award or certified agreement; industry amongst worst industry in terms of underpayments and other breaches of industrial law.
			Industry has changed, warranting regulation of electronic security and physical security. Current level of regulation unsatisfactory minimum – scope should be expanded to anticipate change/future trends, to cover unregulated non-manpower areas.		Events like CHOGM, Olympics have required increased private security; electronic systems are competing with human patrolling.

[113] Nominated/approved house set out by Queensland is contained on p2 of submission, indication approved hours for each component of Certificate II training.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Objectives are not being met thoroughly – industry needs policing.	Objectives are relevant for public safety.	
			If training removed, increase in less educated persons doing work of complex nature and likelihood of injury; untrained SO has no support from training organisation; correspondence courses do not provide any suitable training for SO or PIs; too easy to become SO having a downward effect on income; average hourly rate as low as $12; non-RTO's deliver training in Cert IV have bastardised the quals between 1998-2001; employers are being presented with Cert IV quals that do not meet national standard, having negative experiences with those employees.	Objectives are relevant – litigation is more prominent; part of protection for any employee is training, warnings and supervision. SOs face legal action personally from persons affected by alcohol who suffer injury; some firms will not cover for SO or cease contract; headlines on nightclub assaults are not always factual and SOs are often subject to trial by media. SOs protect more people than they assault; a trained SO can learn options, techniques for handling intoxicated persons, incident reporting and legal action: Date rape drugs are big concern at University functions and are becoming a feature of nightclubs; if not controlled through licensing and behavioural standards SP industry is exposed to greater mistrust; universities are attracting international students, legal consequence of any person falling victim to crime very serious; community expectation of SO should be maintained through the objectives.	Often innocent SO will be left without work as a result of a claim, even when motivated by revenge or is frivolous; no-win no-pay solicitors add to ease of this happening; as a PI interviewing a lot of SO over nightclub incidents from country pubs to city casinos, trained and licensed SOs are cooperative, professional and helpful - licensing keeps them that way – they are proud of licence as it is a form of qualification, meeting an expected but unwritten standard. You can have a very old conviction (15 years) and still obtain a licence. As a result of September 11 terrorist attack, security should be increased, starting with training, to make industry more competitive; risk management consequences of reducing security training are now very serious.
			Not much change apart from training; initial background inquiries but no follow up on renewal to confirm information is true and correct. Objectives not being met in their entirety – inappropriate persons operate in industry.	Objectives remain relevant today – PI expanding; must be level of competency or opinions of public, Govt and legal profession will decline.	SO and CC should be separate totally from PIs – expectation of community is based on adverse or otherwise media attention given to disreputable SO or CC who appear to receive greatest attention. Aware of two unacceptable individuals holding licence, not behaving appropriately or fulfilling requirements.
			Strongly opposed to licensing of locksmith. NOTE: While member of SIRC, it disagrees with their submission on this point – association takes pride in high ethical standards, skills and service levels.		Prior to acceptance of members, person must undertake high level broad ranging competency test, past criminal history and demonstrate capacity to manage business.
			In some cases, objectives are not being met - extensive sectors of industry, have with access to sensitive information and are not governed by Act or subject to scrutiny. Public perception not altered in respect to poor image industry subject to.	Objectives continue to be relevant today.	To discuss alternate objectives would be futile - we have not addressed issue of policing and mandatory compliance.
		Consumer			

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
		Government	Suggestion: Audits should be conducted on training providers to ensure delivery in accordance with agreed competency standards	Objectives are relevant, adequate, appropriate and consistent with WA legislation	There are some problems in WA with inconsistent judicial decisions on appeal.
			Competency and character tests are primary means in SA of achieving consumer protection objectives.		SA objectives are to protect consumers from physical harm and financial loss at the hands of security and investigations officers
			Objectives do not always prevent unsuitable persons from working as 'bouncers'; some training providers interested in income, rather than quality training.	Objectives are relevant today.	SGPSS is aware that some of its officers have been offered a Certificate of Competence by private providers without examination. The rationale given was that staff working in the industry should already know everything required
				Objectives are relevant in respect to community and industry expectation and desire to ensure only appropriate persons operate as SPs. Benefits: increased compliance throughout industry, reduction in complaints received by OFT; improved industry profile – demonstrates objectives being met.	
			Objectives not being met: OFT does not have access to all information on individuals that would assist determine suitability; enforcement is done on an ad hoc basis primarily in SE Qld or areas where OFT has a presence; training is regarded as a joke by many with little/no audit of training providers.	Objectives are basically still relevant, but it is a growth industry with SOs used at events, for purposes not envisaged ie. family parties, social activities, performing duties once assigned to police etc.	Training requires urgent overhaul: persons are obtaining certificates without completing appropriate training; causes rise in litigation as a result of injury caused by inadequate training of SO with roll on effect through industry and Govt agencies.
				Objectives appropriate, particularly in view of reasons, which led to introduction of SPA.	LL identifies possible impediments to objectives in other DPs.
			Objectives not being met to an acceptable standard – problem with inappropriate people being able to enter and operate in industry; criminal interests infiltrate security industry and use the role of security provider as a method for the commission of property and other related crimes.	Objectives generally very relevant; essential that only persons of acceptable character enter and operate as security; it is necessary that security providers possess basic levels of competency and skills for their profession to facilitate provisions of security services to the Queensland community in an effective and efficient manner.	
2	Appropriateness of specific definitions				

Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
a. Private Investigator (DP2)	Industry	Exempting insurance agents is leaving a loophole that could be susceptible to misuse.		Insurance investigations: normally subcontracted to licensed investigators, prevalent in this economic environment; agents do and will designate personnel to carry out inquiries who may not be trained for the purpose but are not restrained by licence provisions; no fear of retribution due to inappropriate action or behaviour; unlicensed insurance agents could be bias and company orientated in assessments; the combination of factors may direct persons toward inappropriate action.
			Definition appears to be ok.	
		Suggestion: 'a person who for reward carries out an investigation to establish the facts and/or obtain opinions about a matter, and reports either verbally, in writing or by other means to others'. Rationale: takes in persons investigating matters not directly related to a person.	Lawyers and accountants could remain exempt, but staff carrying out investigations should comply.	Suggestion: Loss adjustment and insurance agents should comply. Rationale: there is no appropriate person checks or training. Suggestion: Lawyer's assistants should comply. Rationale: many junior clerks carry out investigative functions.
		Inconsistency: Insurance assessors are not required to hold licence; persons acting as store detectives should be licensed: accountability. Licensing should reflect two areas that PRS98 recognises ie. factual and surveillance. Consider two definitions – background work (database, public records) and cover enquiries (undercover work). Exemptions may be abused giving licensed PIs a competitive disadvantage.	There is a distinction between employees of retail stores who process credit applications and HR applications. Definition appropriate.	PIs contracted by insurance agents are required to hold PI license regardless of whether they carry out surveillance or factual assessments. However, assessors are not required to hold licence, but carry out a similar role – definition needs clarity. Investigators working for insurance companies should be subject to code of practice but this is often not the case.
			Definition is appropriate. No exempt persons should be required to comply.	
		Exemptions not appropriate: all persons who carry out investigations of any nature that involves details of another person must be accountable for this information.	Definition is appropriate.	Information gathered must be placed in a prescribed format and be exact and truthful. All persons described in ss6(1)-(2) should be licensed
			Support current definition as it applies to the general insurance industry: insurance agents/employees and insurance adjustment agents/employees are subject to professional ethical duties and obligations as well as regulated by other legislation.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Licensing loss adjusters will not aid meeting the objectives but would add to operational expenses of Loss Adjusters. NB: Institute membership subscription is $385 annually (SP $88)	Loss Adjuster exemption is appropriate, particularly as it relates to loss adjusters who are members of the Institute; Charter of Objects and Professional Conduct binds members; industry is self-regulated through Charter.; industry is subject to ethical duties and obligations; rationale for exemption has not been altered by time.	Rationale for exemption was that these groups were already subject to professional ethical duties and obligations. Institute members are professional individuals, bound by an ethical code of conduct in the form of a Charter. Loss adjuster members do not have any competitive advantage by virtue of their exclusion.
			Suggestion: Definition should be extended to include all persons working for accountants or legal firms whose primary function is to obtain or give information about another person. Rationale: PIs are employed by corporate sector to conduct complex in-house fraud investigations, covert in nature. Police are subject to stringent legislation regarding deployment and activities, which does not apply to PIs.		
			Suggestion: Act should include licensing of all security including electronic (CCTV, alarm monitoring)		Compliance, audits and monitoring are needed to ensure high standards of probity, occupational competency and workplace conditions.
			Definition is not appropriate; PIs gather factual information about persons, places or things and provide confidential reports to request client.		Legal practitioners who want to do work of PI as source of income should be licensed; its no secret that taxation and land dealing ethics of legal practitioners are often questionable; if they want to undertake investigations they should be licensed; if lawyer is successful, why do investigations where professional law firms outsource to investigation firms. Loss adjusters and all office administrators working for investigation firms should also be licensed.
			Definition should read ' A *qualified* person who for reward... - majority of persons who approach this firm for employment have received training and are qualified to obtain licence; many have lengthy industry experience, are ex-police or have extended theoretical education; need to recognise PI industry as professional	Loss adjusters should not be exempt: they perform same tasks obtaining information about another for reward; after loss adjuster has attended file and believes there is suspicion, file is passed to PI who asks same questions previously asked by loss adjusters; may cause animosity in insured toward PI and/or insurance company, more-so when claim is genuine, hence complains made against PI and not loss adjuster.	Loss adjusting is a separate entity to that of investigations, yet they continue to perform same tasks with no costs or genuine control; Institute of Mercantile Agents and other international associations including World Assn of Detectives and World Investigators Network exist.
				Definition and exemptions are appropriate.	
		Consumer			

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
		Government	WA definition of PI is more appropriate[114].	Exempt occupations are subject to professional ethics duties and obligations or regulated – no gains in further regulation.	
			Lawyers have competitive advantage: not subject to licensing and fees, irrespective of whether or not PI work arises during the course of legal practice. Suggestion: SA exempts professionals *whilst practicing in their profession* – this reduces regulation in situations where PI work is part of a professional's core business functions and prevents direct competition with licensed PIs if the lawyer is operating outside professional duties.		Arguably professional obligations depend on which professional body a person belongs to.
				Definition and exemptions are appropriate.	
			Minor change needed to reflect information should be factual and confidential; Rationale for exemptions not appropriate, apart from legal practitioners and accountants.		
	b. Crowd Controllers (DP3)	Industry		Definition appears appropriate.	
			Role has expanded to event security; bodyguard is used more for personal protection and should have new criteria/licence. Suggested definition: a person who is primarily employed in maintaining peace and order in or about a public place or employed at a private function for the protection of patrons'.		NOTE: that the word 'primarily' in a definition may exclude those who perform security as a secondary function, but still must be appropriate and require adequate training
			Definition not appropriate; body guarding should be removed from definition; trained security officers usually specialise in close personal protection or body guarding, not CC; SO and CC licences should be combined as 93% of licensees hold combined licence.		Suggested definition: 'all persons who sell, provide advice, instruct in a managerial way, market, supply or maintain any product/service which is held out or represented in any way to be a security product/service and requires person to enter premises or property, not owned/occupied by him/herself or his/her firm or any of his/her partners, either physically or electronically for the provision of the product or service.
				Definition is appropriate.	
			Bodyguarding should be separate from CC: very different skills to guarding a person vs. controlling a crowd.		Successful in NSW under 1997 changes to Security Industry Act.

[114] 'An investigator is a person who for remuneration conducts- (a) Investigations into the conduct of individuals or bodies corporate or the character of individuals; (b) Surveillance work in relation to the matters referred to in paragraph (a); or (c) Investigations concerning mission persons' *Security and Related Activities (Control) Act 1996* (WA)

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Definition adequately describes CC duties, but also defines duties of uniformed security officers.	The words CC should be dropped with title of 'bouncer' and licences endorsed with categories of CC or bodyguard. Body-guard endorsement should only be available after completing appropriate approved course in close personal protection.
			Definition not appropriate as it includes people not intended to be controlled/regulated by Act eg. Volunteers at schools, church, sporting and non-profit groups at fundraisers when alcohol is served; hotel manager and bar staff may be asked to act as or assist a licensed CC. Suggested definition: 'a person who, for financial reward is at licensed premises principally for the purpose of maintaining order in or about the licensed premises.' It may be argued that CCs also perform duties of SO, requiring a different class of licence. An 80/20 rule should apply to decide whether person falls within definition of CC (80% of duties as CC = considered as a CC) which would protect hotel managers and bar staff who may be called upon by necessity to act as or assist CC.	To include volunteers would impose undue restrictions such as: unnecessary financial burdens; compliance regarding keeping registers; compliance on ID of volunteer CCs. NOTE: 'For reward' is an element of S9 offences therefore volunteers not captured.	Hansard: The move to regulate operators... followed increased public concern over a number of reported incidents involving assaults by crowd controllers on patrons of licensed premises'[115]. Purpose (in Hansard) is control of assaults by CCs on patrons of licensed premises[116] - not intended to regulate unpaid volunteers, nor hotel managers. Hansard: When Act introduced, it was considered that large employers would not employ SOs who would potentially harm reputation through improper conduct.[117] Principle of propriety as mentioned in Hansard applies to small non-profit groups using volunteers for CC as it does to large employers. CCs may perform non-traditional duties beyond definition such as picking up glasses, escorting staff from premises, opening, locking and securing premises; escorting transfer of cash around premises.
			Definition should exclude persons conducting close protection; bodyguards should require significant specific training to safeguard public and those purportedly being protected.		Bodyguarding is a highly skilled area, which should not be conducted by persons that have not been trained to a very high standard.
				Definition appropriate and CCs need to be licensed; if not more violent 'bouncers' would return to industry, resulting in greater assaults upon public.	
				Definition is appropriate.	Should be included as security guard level 2.

[115] Hansard, 2 December 1993, p6427
[116] Hansard, 2 December 1993, p6427
[117] Hansard, 2 December 1993, p6428

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Locksmiths should not be licensed – internal and disciplinary procedures of Master Locksmiths Association ensure members maintain security of customers and voluntarily rectify rare complaints received by the Association (one in Qld in 30 months); licensing is unnecessary barrier to entry in contravention of NCP (see independent consultants report in VIC indicating no evidence that locksmiths require licensing)		VIC cabinet rejected licensing locksmiths as it lacked demonstrated benefit to community; new licensing introduced in NSW 3 years ago and continued regulation was strongly opposed by Master Locksmiths who has made appropriate submissions to NSW police, Fair Trading etc.; NSW legislation is draconian and imposes mandatory joining of industry associations, which contravene principles of freedom of association. SIRC rejected NSW regime but has supported extension nationally.
				Definition is appropriate.	
		Consumer			
		Government	WA considers its CC definition more appropriate[118]		
			Suggestion: Remove 'bodyguard' from definition with new definition outlining specific duties assigned to this task.		
			Certain occupations or employment functions should not be included, be such as ushers employed at entertainment venues (football, concerts, performing arts).		Ushers can be viewed as providing security: there are times they can be called upon to maintain physical presence at conclusion of event to deter crowds from entering entertainment arena.
			Some persons caught operating unlicensed have manipulated 'For reward' and definition of public place should be clarified (too ambiguous).	Definition is appropriate.	
			Preferable to separate 'bodyguards', who protect a person, from 'bouncers' who maintain order in public places.	Definition is appropriate.	
	e. Security Officers (DP4)	Industry	Suggestion: 'a person who, for reward, patrols *and*/or guards another person's property, *assets and/or business operation.*'	Casino employees should remain exempt who meet and exceed all criteria of Act but are also regulated by Govt; meet provisions of *Casino Control Act* which caters for the environment they are employed; regulation under two Acts would create confusion of process and procedure to detriment of both Acts.	

[118] 'A crowd controller is a person who in respect of any licensed premises, place of entertainment, or public or private event or function, as part of his or her regulat duties performs for remuneration, any function of – (a) controlling or monitoring the behaviour of persons; (b) screening persons seeking entry; (c) removing persons for behavioural reasons, or any other prescribed activity (contained in regulations)' *Security and Related Activities (Control) Act 1996* (WA)

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Combine SO/CCs and move bodyguards into SO role. Suggested definition: 'a person who is employed to protect life and property through patrolling, controlling, securing, watching, escorting, guarding and alarm monitoring'. Cash in transit officers need to comply with Act to get weapons licence; most in-house security officers are required by employers to be licensed; they should comply; line managers/ supervisors claim they do not go on site and therefore do not need licenses; changes should be made to ensure persons who direct/control security providers are licensed, overcoming present situation where persons disqualified operate a business instead.	All SOs in Qld should be licensed; exemptions are discriminatory and go against reason for Act; objective is to protect public; all officers come in contact with public and should be trained and licensed accordingly; reasonable exception would be factory guard or watchman directly employed by owner of site to watch only that site.	Definition of 'security product or service': one that (a) is designed to stop or deter an offence being committed; (b) gives warning or advice of an offence having been or about to be committed; (c) gives warning or advice of an event that requires human intervention for the protection of persons or property; (d) restricts or controls the entry or exit of persons to or from places either physically or electronically; (e) monitors the movement of people or property either physically or electronically; (f) is held out to be designed to direct people, including motor vehicles; (g) where persons are hired to directly protect persons or property.
			Suggested definition: 'all persons who sell, provide advice, instruct in a managerial way, market, supply or maintain any product or service which is held out or represented in any way to be a security produce or service and requires the person to enter premises or property, not owned or occupied by him/herself or his/her firm or any of his/her partners either physically or electronically for the provision of the product or service.'		
			There should be no exemptions; may create competitive disadvantage for private companies normally tendering security services; exempt persons may not be appropriately trained.	Definition appropriate, but for exemptions. Benefit: licensed SOs are trained.	Further research is required in regard to S7(2) exemptions.
			The only exemptions should be police, military and other similar organisations.	Definition of SO is appropriate; through training and major changes to industry regarding professionalism of modern SOs; Act should provide for only licensed guards to patrol and protect property.	
			Those carrying out any form of private security should be licensed; no one should be exempt from Act.	Definition is partially appropriate – uniformed SO performs CC duties; not uncommon for clients to ask for uniformed SOs for CC purposes.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Definition is not appropriate; it includes people not intended to be controlled or regulated ie. volunteer, to act as SOs by schools, churches, sporting clubs or non-profit organisations at fundraisers; current definition does not recognise protection of people as well as property; should avoid inclusion of unintended persons; and reflect true intentions of Govt. Suggested definition: 'a person who, for financial reward patrols or guards another person or property'.		To make volunteers comply would impose undue restrictions like unnecessary financial burden; compliance of keeping registers (NOTE: 'for reward' is an element of the offences in s9 therefore volunteers are not captured). There should be an 80/20 rule – if not doing over 80% of SO duties, no license required.
			All persons should be licensed; reliance on assumption that large employers would not employ persons who would harm reputation through improper conduct is a fallacy; all persons who act as SOs should be subject to legislative regime other than Criminal Code and should be properly trained and licensed.		
			Logical to expand definition given that directly employed SOs require same competency, hold same weapons and face same dangers as those employed by SP.		
			No categories should be exempt.	Definition is appropriate.	
			There should be no exemptions; given SO is defined as 'a person who for reward patrols or guards another persons property', it follows that all who are encompassed by definition must be licensed.	Definition is appropriate.	
		Consumers			
		Government	Suggestion: use 'remuneration' in place of 'reward'	Exemption for those guarding employer's property is appropriate.	Definition is appropriate.
			Suggestion: SA Act incorporates alarm installers into security agent definition. Rationale: such persons obtain knowledge and information on how to circumvent alarm systems leaving consumers in a vulnerable position		. Consumers often pay large deposits and face significant losses if not dealt with appropriately. Persons with criminal histories are excluded from market reducing risk of consumer detriment.
				Definition is appropriate	Employers hiring in-house staff should ensure those staff are aware of obligations and limitations under Criminal Code and other legislation.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Cost of licensing those currently exempt to Govt to license all persons who guard/patrol employers properties.	Definition is appropriate. Current exemptions should remain.	Difficult to ascertain employee role; could considered most employees have obligation (perceived or real) to guard employers property eg. employee witnesses person shop lifting in employer's business; it is reasonable to assume onus on employee to guard employer's premises.
			'For reward' has been manipulated by persons caught unlicensed. There should be no exemptions; if you perform duties of SO you should be adequately trained and licensed; employer is irrelevant.		
	d. Security Firms (DP5)	Industry		Appears appropriate.	
			Any organisation, whether contract or in-house should be licensed. Suggestion: 'a person or partnership, government department or registered business that operates in-house security, whether for financial gain or not, that provides personnel for the protection of life and property through CCs, SOs or PIs.'		
			Suggestion: 'a person or group of persons except where acting alone, incorporated or not, who hold themselves to supply the services of a SP'.		
			Many sole operators work from home, hold licenses but are not required to hold firm licence; breeds unprofessionalism; they can reduce prices but do not have resources, infrastructure and exposure to upgrade/improve skills; cannot afford insurance due to charging minimum rate; cannot provide resources to monitor/control operations in a way that safeguards clients against professional indemnity issues; sole operators are more likely to take short cuts in ethical practices; exemption allows abuse of the system and disadvantages reputable firms; firm pays $$s to hold firm licence, but sole operators are not required; gives competitive advantage to sole operators.		Further research is needed to ascertain level of sole operators who contract directly to clients rather than subcontract to firm. Who should hold firms licence and who does not have the appropriate resources to conduct their business in the public interest.
				Definition is appropriate.	
			All persons who carry out private security should be licensed and subject to minimum Certificate II; licenses obtained under grandfather clause should do course in modern security guards ensuring they are aware of modern security needs.	Definition is appropriate.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Definition is not appropriate; it includes people not intended to be controlled or regulated; not intended to include those who by way of an arm length transaction, sub-contract or those who as an intermediary. Suggested definition: 'a person, partnership or corporation who directly employs CCs, SOs or PIs for financial reward.'		Eg: PI in Brisbane receives instructions to conduct inquiries in Townsville – PI sends file to agent in Townsville; alarm monitoring company engaged security patrol to respond to alarms on behalf of alarm clients, SO trading in own right subcontracts another SO or firm to provide services for a client; school hire hall to external group, as part of hire agreement group pays school a fee for having the schools contracted security company provide security for the function. NOTE: Most Govt schools in greater Brisbane area use Govt Protective SOs; schools are responsible for own security, but mostly for alarms/security, rather than CC work; if school or private hirer uses security they either use Govt who fall under Govt Security Act or licensed personnel under SPA.
				Definition appears appropriate.	
				Definition is appropriate.	
				Definition is appropriate.	
			Firm is far too broad and includes PI firms who do not provide security whatsoever; adverse publicity for firms who provide security is greater than adverse publicity against PIs; there should be separate definition		
				Definition is appropriate.	
		Consumers			
		Government	Suggestion: use 'remuneration' in place of 'reward'		Definition is appropriate.
				Definition is appropriate.	
				Definition is appropriate.	
			'For reward' has been manipulated by persons caught unlicensed		Sub-contractors could be clarified - there is industry confusion.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
3	**Should all groups be licensed? Does licensing contribute to meeting objectives i.e. safer environment which meets community expectations? What are the costs and benefit of licensing? (DP6)**	Industry	Applicant incurs initial cost; criterion, training and general performance expectations are more prohibitive to individuals who attempt to enter industry when unsuitable or have wrong motives for joining this vocation.	Relates directly to spirit of Act and aims it was designed to achieve; all categories should be licensed; to relax criteria would lead to infiltration of undesirables and tarnish reputations, painfully developed over recent years; best option is not necessarily cheapest or most expedient but long term benefits will outweigh short term costs; Licensing eliminates obvious undesirables; there will always be persons able to meet criteria who are not suitable but prevalence of these persons is reduced; in most cases, unsuitable personnel are quickly identified and may be dealt with accordingly; number of assaults and complaints significantly reduced since introduction of Act; reflection that more appropriate personnel are involved in industry.	Govt body should receive initial fees to offset admin costs; applicant should incur initial cost of application but be reimbursed by employer after 6 months once skills are enhanced resulting in a positive effect on operation; employee should have become an asset to employer and enhanced operation; reasonable that employee's initial costs be reimbursed; genuine employer will recoup his outlay as a result of employee's enhanced skills, which should have a positive effect on operation.
			Suggestion: consultants, loss prevention officers, sales and technical sectors should also be licensed. Cost to industry of licence.	Present occupational groups should be licensed; licensing ensures operators are fit and proper persons and competency training has been undertaken; licensing has done a lot to clean up industry, particularly PI and CCs, but CCs still require continual policing to ensure it doesn't fall below expected standards; benefits are obtained by firm and employees; firms are assured of getting staff who have completed entry level course training and aware how to conduct themselves in a professional manner; Consumers benefit: operators are checked as appropriate and have completed training; licensees get immediate confidence from public.	Police should have ability to directly prosecute.
			Costs: Production of licence (photo, personnel costs, production, mailing, registry; burden falls on SOs and firms, but firms recover costs through contracts.	All categories should be licensed; provides public with knowledge that person providing service is licensed and fulfilled obligations satisfactorily to licensing authority; proof persons have fulfilled necessary licensing requirements and fit and appropriate; proves competency and successful completion of training; allows Licensing to have a register of all licensees; restricts type of person that may obtain licence; gives public security and knowledge there is some Govt control over industry participants; Govt benefits from collection of fees enabling them to operate licensing register; allows Govt to audit firms and check individuals; with separate licences, firms can decide what type of security to provide a service on.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Suggestion: traineeship/ apprenticeship and regulated training regime to ensure suitable persons only enter field; rationale: industry attracts variety of people as it traditionally required little qualifications; not considered a trade or profession hence lacking qualification and quality which is not in the public interest and as such, one cannot expect objectives to be met; OFT would only be required to ensure appropriateness, and employers would be required to monitor/control behaviour of SPs; stricter control on training process is required; achieved through enforcement or industry code. Cost of licence is minimal – training = $600-$700 for a two week period, paid by applicant. Firm pays cost of firm licence, recovered from clients, which appears unproportionally high in relation to cost of individual licence.	Objective appropriate but not being met. Licensing contributes to objectives – it ensures persons are fit and proper and achieves a standard of qualification applicable to prospective/respective roles.	Training needs to be monitored by legislation or by industry under code of practice. If monitored by industry, industry needs to be broken into difference areas (PI, SO/CC and technical); higher qualifications needed before employed or traineeship developed for different categories; objectives will not be met until industry is viewed as a profession.
				All categories should be licensed; licensing contributes to objectives by controlling who enters industry; has contributed to safer environment to a certain extent; separate categories will assist Govt to keep tighter control and may open further opportunity to persons who may not meet criteria for one category, but may for another.	More inspectors making random checks of persons in workplace is needed to be effective.
			Costs are met by industry.	Licensing fees help Govt implement licensing process; Helps keep undesirable persons out of industry; licensing essential to maintain accountability; allows industry controlling bodies to identify those who would defy objectives of legislation; assurance to clients that operators are legal; assurance to firms that hired operator has cleared licensing criteria.	PIs should be licensed under Qld IOP Act – Investigators Charter is completely different to security operatives.
			Regulation should be extended to all security occupations; there are many opportunities for abuse of position.		
			All categories should be licensed and subject to misconduct provisions; costs should be borne by SP by way of pro-rata fee structure levied on employer; fee structure should reflect total cost of administration by Govt (a cost recovery basis)		Act should be rewritten to ensure ethical and moral behaviour in industry. SP Misconduct Tribunal should be created so industry becomes more professional supplier of service to Qld public.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Locksmiths and persons selling/installing security equipment including alarms, video surveillance should be licensed; persons guarding employer's property should also be licensed; improves reputation of industry and ensures they are trained to same standard as other SOs; any directly employed SOs may carry weapons and may be a danger to public if not properly trained; licensee bears some or all costs of obtaining licence.	All persons currently required to be licensed should remain so; ensures industry that has previously attracted dishonest operators remains free of some dishonest operators; licensing makes community safer by reducing inappropriate persons working in industry and by having correctly identified licensed people to ensure they are accountable for actions; without licensing it may be difficult to identify a firm or SO when incident occurs.	Union has been informed of times where thefts have occurred shortly after installation of alarm system or new lock with no sign of forced entry or malfunction of security device. NOTE: Prior to a weapons licence being issued for the purpose of security guarding the applicant must have a SO licence under the SPA.
			All categories should be licensed; dangerous to have incompetent or criminal installer of alarms, electronic locks or CCTV; level playing field is necessary to regulate technical equipment installers and operators.		
			All categories of SP should be licensed for public safety and criminal checks; licensing has not contributed to objectives.	OFT receives revenue from licensing.	Most people don't complain against SP because it is usually at night or they have been drinking.
			All categories should be licensed; no exceptions; licensing makes people think seriously about doing something unethical; losing licence and income can contribute to appropriate behaviour (Eg given); cost minimal compared to cost of equipping PI (computer, printer, digital/video camera, mobile phone, email, vehicle); employers only want licensed employees; usually give probationary period to prove competence; if training and licensing removed, employers will have more applications, but reduced quality; employers are answerable to clients and need to meet their expectations; removal will not make it easier for potential PIs, but more difficult.	Licensing has contributed to a objectives; public faith that SPs are appropriately screened and licensed (Egs given); PIs going door to door for witnesses can show ID so residents know they are not a potential thief; PI benefits from trained, equipped staff with national qualification; employer benefits from having trained staff; client benefits from a better trained, more professional PI.	If PI is not earning over $1,000 per week s/he should not be in industry as productivity is insufficient.
			All categories should be licensed to assist maintain levels of accountability, professionalism and recognition of that profession; licensee bears costs. licence issued to individuals is not recognised as being personal identification by some establishments (banks) although Govt issues it.	Licensing has contributed to a degree, through better training and higher penalties imposed on individuals and firms breaching Act and Regulation; Govt benefits from funds received	No additional advantages to PI, individual or firm from holding licence; not permitted access to certain information, even though paid and trained to handle information in a correct and lawful manner; no recognition by other Govt gents of work performed by PIs though we have provided assistance that has resulted in some crimes being solved/ detected.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			All categories should be licensed to ensure all existing and potential security operatives have achieved a minimum level of skill and are fit/proper to undertake duties and responsibilities; cost usually borne by licensee.	Licensing has contributed to a safer environment, but stops short as a result of inappropriate policing,; licensing impacts positively on public perception of industry; fees paid to OFT; consumers benefit.	
		Consumer			
		Government			An option for three year renewals under the SPA has received Cabinet approval and licenses must be extended in term to an optional 3 year period.
			Costs met by applicant; individual categories enables appropriate training	All groups should be licensed to ensure fit and proper character to take position of trust in relation to property/affairs of others; checks prior to licensing ie. character, suitability and competency contribute toward objectives; screening applicants and wearing ID has contributed to a safer environment; training supports fit and proper criteria.	
				All categories should be licensed; licensing assists in decreasing chance of unethical persons applying for a licence; licensing has achieved this to a degree; SOs should be more aware of consequences of their actions and 'bouncers' can be more readily identified.	
			Alternative regulation for PIs under code could be considered; level playing field for PI industry; costs are ultimately passed on to end user; industry bears costs of licensing and training; Govt bears cost of administering act including licensing and regulatory functions; costs are more than met by licence fees received by industry.	All categories should be licensed; most offer service to community, often performing community-policing role, obtaining and providing sensitive and/or confidential information; licensing ensures only appropriate persons with training are lawfully employed in industry; has contributed to safer environment by ensuring inappropriate persons are not lawfully employed in industry and providing penalties for those who breach Act; Benefit: end user by dealing with better trained, more reputable and professional SP; industry with improved wages and conditions, more competitive with better-trained and more professional personnel.	Consider excluding PIs from Act given limited numbers, lesser involvement with community policing and security roles; peers in other industries are exempt eg. Home security, locksmiths, insurance agencies, loss adjusters, legal and accountants.
			Argument: PIs do not require licensing; lower risk, few persons who perform duties that do not fall under exemptions ie. most PIs fulfilling those duties are unlicensed due to exemption provisions.	Industry is growing in importance within community; licensing provides for appropriate persons with appropriate training to be licensed; licensing contributes toward safer environment due to licensing requirements	Lack of resources directly toward enforcement allows inappropriate persons to operate, to the annoyance of those who comply.
			Some barriers to licensing all SPs; SP in remote areas eg. Difficult for licensees to hire licensed CCs, including but not restricted to indigenous communities; difficult for local people who want to obtain licences due to geographic isolation (lack of access to property training) and high incidence of people with disqualifying offences, particularly indigenous communities.	All categories should be licensed: introduced because of emerging trend of unacceptable behaviour, as a result of undesirable and unskilled people taking up occupation; system of licensing appropriate people via legislative framework was response and this is reflected in objects of Act.	It is desirable to overcome difficulties (in remote areas – where there are difficulties with training and appropriateness), without reducing need for SPs to be licensed.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
4	Licensing Criteria – are criteria appropriate? (DP7)	Industry		Licensing criteria are appropriate; no dispute that licensing is onerous and often tedious but the alternative is degeneration into environment that prevailed prior to the introduction; Act and present regime has served its purpose well and lifted the image and performance of the industry; with constructive input from industry members, minor modification may be made to reflect current environment and requirements but essentially Act is sound and performing well. It is organisations within industry that have room for improvement.	Although not familiar with procedure employed to establish whether or not an applicant is a "suitable person"; criteria for Casino employees requires scrutiny of criminal records and associations (local, state, federal and international), financial dealings and employment records for the 10 years prior to application; these criteria should be required of all personnel within the industry; If person is a "Key" person within the organisation then scrutiny should be extended to 15 years prior to the application.
			Suggestion: ASIO checks should be mandatory.	Criteria is appropriate; needs of public far outweigh other concerns; ensures personnel of highest integrity and ability in industry; sensitive environment requires trust, honesty, reliability and dependability from clients and public; industry is integral part of Australia's fight against crime and corruption needing high ethical standard; only way to ensure this is to have extensive criteria that ensures only the best are licensed; strict controls must remain – cannot afford to loosen control on an industry that has such a poor reputation.	Security is no different from police; sensitivity and public trust; the only way to ensure potential licensees are fit is to ensure every applicant has a thorough security check; concerns that firms breach other legislation such as WHS and Industrial Relations; industry ignores legislation; needs to be link to OFT for other legislative breaches; given problems with police forces, cannot logically argue that requirements to restrict entry should be relaxed.
				Criteria are adequate and fair to employers and employees.	
				Licensing criteria is appropriate.	
				Licensing criteria appears appropriate now.	Strict control remains the key to keeping industry successful.
				Licensing criteria is appropriate; keeps undesirable persons out of industry; present system is basic and cost effective; licensing is necessary to control stakeholders	Most stakeholders would not relish the thought of returning to the literally cut-throat pre-licensing days.
			Standards should be national to allow for common standards and portability of licences.		
				Criteria appear to meet community expectations.	
			Suggestion: Should be expanded so 3 convictions or orders against licensee for any matter by any court or tribunal disqualify firm and officers from holding licence.	Criteria are appropriate.	
			Should include all categories of physical and electronic security		Make it compulsory to register with an approved security industry association (exists in NSW).

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Criteria are appropriate – licensing standards should not be lowered.	Firm must undergo more stringent scrutiny as to whom runs firm and should be licensed; a register EBA and current public liability insurance and WorkCover policy should be part of firm criteria.
			Age is too high – should be lowered to 17 with 1 year probation – allows greater access to traineeships; VIC offers traineeship in Cert II Investigative Services; if licensing abandoned, increase in investigation risk; new entrants undercut hourly rates to win business;	If you do something wrong, unethical or illegal and are exposed you lose your licence; makes you unable to work in industry; face career change; although PI licence gives no power, proof of ID is essential for witness cooperation; fit and proper means you understand several important issues relating to gathering and storing information and presenting evidence.	Eg if licensing removed: anyone with camera could call them selves surveillance agent; follows claimant in vehicle; harassment and WH&S issues; if followed wrong person, caused accident, injuries; add to claimant's stress; claimant's lawyers will consider who opened market up to cowboys and contribution of that decision make to client's additional harassment and stress claim.
				Licensing is satisfactory to a certain degree, but should be minimum education level say Grade 10 for individuals making application for PI licence; consideration should be given to changing firm requirements – applicants should have 4 years experience as individual before firm licence issued, with some formal education in business management.	
				Criteria are appropriate and do not need amending.	It is not being policed.
		Consumer			
		Government		Criteria is appropriate.	
				Criteria are appropriate; CCs or 'bouncers' require a higher level of communication skills and ability to de-escalate confrontational situations than SOs.	
				Criteria are appropriate.	
					Training package no longer needs CEO approval – National Training Package, Cert II (PRS98) adopted; test needs urgent amendment – unless person is convicted of offence OFT is very limited in being able to take action against unsuitable persons holding a licence.
				Criteria are appropriate.	

Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
a. Over 18 (DP8)	Industry		18 should be minimum age to apply for licence; industry demands high level maturity from personnel and significant technical and general experience. Few 18 year olds possess these prerequisites: youthful exuberance is not what is required in emergency or highly volatile situations. Rash and ill considered actions can often result in serious or even life threatening incidents and must be considered at employment stage.	More preferable age is 21, but this may be discriminatory to certain individuals – onus is on employers to screen personnel to ensure they have required maturity and experience to professionally carry out duties.
		No cost to industry; age should be raised age to 21 years; not only requires high integrity, but maturity, lateral thinking, responsible, loyal, dependable, which come with experience and age.	Age restriction is legitimate; promotes a more mature and reliable workforce.	
			Age is appropriate – persons under 18 do not have maturity to handle many situations they could face daily.	If security technical service occupations were captured, an exception for trainees and apprentices would need to occur.
		Persons lack maturity and/or life skills to perform roles that require responsibility for welfare and safety of people; detriment to person and others if not responsible/mature.	Age must be at least 18 years, possibly 21.	Eg. PI investigating activities of a spouse requires correct and professional management or several lives could be severely affected.
			Age restriction is appropriate; gives chance of having life experience and ability to work in restricted areas of licensed premises.	
		Persons under 18 are juveniles under the *Juvenile Justices Act 1992*, creating complications if prosecutions were necessary.	Age is an important factor, which must be maintained.	Persons under 21 should have provisional licence.
			Age is appropriate; promotes public confidence in SP ability to carry out duties.	
			Age is necessary; being a competent SO requires a level of maturity; it is likely a person under 18 would not be respected in role by public which may lead to unnecessary conflict and violence, particularly for CCs.	
			Age is appropriate; maturity.	
		Age is not appropriate – precludes persons from undertaking course of study until at least 17 ¾ years; costs are lost learning time; 18 is ridiculous.		
			Age is appropriate; no prior experience; applicant should obtain position with firm for 12 months on provisional licence; experience gained would assist trainee to have understanding of industry and requirements and empathy when dealing with distressed clients; benefit is maturity.	
			Age is appropriate; persons who have not achieved this age are not able to be employed on licensed premises, CC venues; lack of maturity and life skills required.	Exception for consideration: apprentice in technical services – should they be included in licensing criteria?

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
		Consumer			
		Government	Age restriction could be relaxed to those in a bona fide training or apprenticeship scheme.	Age is appropriate; maturity and life experience is required to undertake duties to community expectations; benefits outweigh costs.	
				Age is appropriate; large percentage of SP are employed in licensed premises with existing 18+ age restriction; ability of persons under 18 to competently and professionally perform SP functions is questionable and may not meet community expectations.	
			Lowering age could result in a person working in an area they are not legally entitled to enter.		
				Age is appropriate.	
	b. Appropriate person test (DP9)	Industry	Suggestion: Domestic violence orders and degree of violence should be put in category of not fit and proper, especially if threatening with a weapon..		
			Some individuals may have transgressed at some time and later rehabilitated will be prohibited from industry; there will always be casualties of any broad based criteria; to dispense with criteria is unacceptable.	Appropriate person test is important; essential to maintaining industry standards.	More stringent initial criteria usually translates to fewer problems at a later time; preferred applicants would have little difficulty regardless of how stringent the criteria.
			Concerns: what happens after they enter industry – no procedures to report dishonesty, unlawful activity etc. Suggestion: mandatory to report incident to licensing for action.	Crucial licensing requirement to ensure only persons of good character and mental health are employed; effective in ensuring only persons of exceptional character are able to enter industry; benefits outweigh costs; must ensure we have only the best security in the industry.	Test could be more extensively worded; need to maintain standard after licensed; must report inappropriate behaviour and take action; this would improve operating standards of most firms and officers; reporting should include industrial relations, WHS and other convictions or inappropriate action by firms and officers; need tighter control to ensure high standard is improved and maintained.
			Costs of licence application; OFT pays QPS a fee to conduct criminal history checks.	Test is very important to employers; they know employees do not have criminal records; clients presume if operator is licensed they have passed appropriate person test and should be honest and trustworthy; also see DP11; benefit to clients; presume operator is licensed and therefore appropriate, honest and trustworthy.	
			Some questionable characters still obtain licences, but industry and community usually regulate these few.	Important licensing requirement; there is tendency for inappropriate persons to enter industry; open to corruption and/or unethical practices by its design; important for test to be stringently and vigilantly observed; assists in ensuring only acceptable persons operate as SP; maintaining test is in public interest and meets objectives of legislation.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Prevents wrong type of person entering industry. Reducing standard would put industry back to 1970s/1980s (pre-licensing).	Test is important to control persons entering industry. Test does not need revision, but persons need to be checked on renewal.	Criminal history checks on renewal should be compulsory, not just random.
			Costs are irrelevant.	Test is important – employer, client and public must be assured that person who polices corporate activities must be honest, no personal criminal involvement, of sound mind, free of debts likely to cause dishonesty and definition free of criminal conviction.	Provisions do not need revising.
			Test does not go far enough to achieve goals. SPA nor CL(RO) Act requires disclosure about whether applicant has been interviewed, investigated, charged with criminal offence that is still to be brought before the courts for determination. No requirement to disclose whether charges are withdrawn due to absence of witnesses, complaints or no evidence. This allows inappropriate persons to be licensed despite being known to police, interviewed, investigated or charged by never convicted of an offence.	Test is important to protect reputation of industry and interests of general public, Test is important is effective in maintaining industry standards by ensuring only persons of acceptable character operate as SP, but only if criteria is enforced.	Current test needs to be revised – they do not go far enough to preventing inappropriate persons entering industry. OFT should check if applicant is known to police.
			Test is not a barrier to improper or unethical conduct once a person is licensed, hence there is demonstrated need for SP Misconduct Tribunal.	Test is imperative to maintain public confidence in industry and participants;	
				Test is important, though not particularly effective as it has not been well enforced. Test would be effective if promoted and enforced.	
			Must be policed harder and monitors; there should be clear avenues of compliance; test is not effective by itself – industry needs more policing; suggest code of conduce and higher standards. Costs met by increasing licence fees; most of industry would agree to higher fees for greater policing.	Test is important – honesty and integrity of every licensee must be tested; applicants must be screened;	
			No costs to training organisations or applicant.	Test is important – risk of potential conviction is deterrent to PIs who may otherwise trespass, lie, disclose confidential information or use other dubious means of gathering information;	Requirements need revision to include no criminal convictions, plus attainment of suitable qualification (for PIs) ie. Cert IV in Investigation Services.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Costs of not maintaining some test would affect general public and create distrust toward all licensees.	Test is important and should not be abolished in any way. Minimum age necessary for firm applicants. Benefits – without them any person could apply and receive licence after complying with training.	Changes need to be revised particularly relating to laws of bankruptcy- many persons take advantage of system to alleviate personal/business debts, but genuine persons have been declared bankrupt not through their own fault or negligence should not be penalised further – explanation should be provided and if nothing untoward, no objection to licence after all other requirements fulfilled.
				Test is critical to employers, consumers and industry as a whole; current measures ensure only fit and proper persons of acceptable character gain entry to industry.	While criteria are appropriate, methodology employed in ascertaining compliance is questionable, given the number of inappropriate persons who are issued with licences.
					Consider including traffic offences such as DUI, speeding and other driving licence offences, but not dangerous driving which causes serious injury or death.
		Consumer			
		Government	Suggestion: On-going minor or traffic convictions should be considered in establishing licensees regard for rules and regulation Some persons may be victim or circumstances and barred from market – this must be balanced against community expectation that licensees attain appropriate standard	Ensures security providers are fit and proper to hold position of such authority. Test is effective, depending on where bar is set in relation to relevancy and recency of convictions or behaviour.	
			The test may not be effective as a perception exists that some 'bouncers' may use illegal substances for body building which may have other medical side effects.	Helps ensure only the most trustworthy persons are employed in industry. Maintains a high standard of persons in the industry	Almost everything in the industry revolves around trust.
			Costs to all stakeholders is negligible, except those with criminal history; indirect costs for conducting criminal history checks and professional costs incurred by OFT in resisting appeals through court where persons appeal against licence refusal.	Test is important. Effective in maintaining industry standards. Benefits: ensure persons with criminal histories who may pose threat to community and industry are not eligible for licence; maintains industry standards of professionalism; and meets community expectations.	Do not need revision

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Current requirements need revision – too restrictive in determining appropriateness; should reflect what are existing disqualifying offence provisions; conviction could stand irrespective of if it is recorded or not; too many operators have either obtained a licence or been able to hold a licence after committing a disqualifying offence, being convicted by had 'no conviction recorded' to enable continued licensing. Not effective test.	Test is important; SP are taking on roles that were performed by Police, being utilised more throughout community; perception by community they are of good character and have appropriate checks performed upon application to support this.	Contributing toward ineffective test: inadequacies of Mutual Recognition legislation, lack of cooperation and sharing of information from police and courts and inconsistent penalties imposed by magistrates. Problems with OFT obtaining information to accurately assess mental health – reference may be deleted due to new Mental Health Act (Due 02/02)- can provide examples (confidential medical information). 10 years may be excessive for some disqualifying offences ie. steeling loaf of bread = unable to hold licence for 10 years – sliding scale would be better with lesser offences reduced to 5 years.
				Test is important licensing requirement.	
	c. Disqualifying offences (DP10)	Industry	Suggestion: addendum to added to list to the effect of, 'or any other offence that, in the opinion of the CEO, gives sufficient cause to reasonably suggest that the applicant is not an appropriate person'.	Offences are relevant.	
				Offences are relevant.	Offences under TPA should be included.
				While not qualified to comment, from experience disqualifying offences are appropriate.	
				Offences are relevant.	
				Offences are relevant.	
			Disqualifying offences should be at Commissioner for Police discretion as directed from time to time.		
				No disqualifying offences should be removed.	
			Suggest industry relations issue for repeat offenders	Offences are relevant.	
				Offences are relevant. There are no other offences that should be captured.	
				Offences are relevant. No others should be added or removed.	
				Offences are relevant and do not require additions or exclusions.	
		Consumer			
		Government	Suggestion: There should be some discretion or appeal process to consider circumstances of conviction.	Offences are relevant	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Schedule of disqualifying offences is too broad, capturing offences which may not be relevant to determine appropriateness [potential unnecessary barrier] i.e. Ch 9 = unlawful assembly/ breaches of the peace Suggestion: Offences in all 17 Chapters should be examined to determine whether each offence should be a legislative bar to entry.		In the interest of faimess, CEO should have discretion to disregard offences in assessing appropriateness i.e. young person participates in illegal demonstration, but no problems in 8 years – it may be appropriate to disregard previous offence in this circumstance.
				Disqualifying offences are relevant.	
				Disqualifying offences are relevant.	Inclusion of FTA offences would be of benefit; should include, but not limited to False and Misleading Representation offences under FTA.
					Should be referred to Legal for comment. Suggested inclusions: dangerous driving (Ch29); some offences are included but not if charged with regulatory offence such as shoplifting, compared with stealing; damage to property, fraud under Code is included but social security fraud is not; assault is included, but not assault of police officer under Police Powers and Responsibilities Act.
				Disqualifying offences are adequate.	
	d. Disclosure of offences (DP11)	**Industry**		Disclosure is reasonable – persons could reasonably be expected to deal with valuable assets therefore full disclosure is essential. If person has shown dishonest tendencies it is unrealistic that they be expose to significant temptation. A person in position of responsibility/authority must be seen as a person of sound character. Community has a right to assume that any person in position of responsibility is of good character and appropriate to hold position.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Not unreasonable.- if we want high integrity and honesty, having ex-criminals in our midst is not the way to go. Safety of community far outweighs individual requirement. Must loos sight of what the security industry is all about 'The protection of life and property'.	Once a criminal, always a criminal.
			Suggestion: Test should include persons who are found guilty of an offence with opportunity to appeal if they consider they are now appropriate. Rationale: many operators are convicted of disqualifying offences, but not recorded – most offences relate to honesty, violence and weapons, primary offences that should be considered in determining appropriateness.	Present system (criminal history) will indicate whether further checking is required. Benefits to community outweigh costs – intention of test is to ensure public that operatives are honest and trustworthy – important that public is not subjected to operatives who have found a way around the system, demonstrating a lack of integrity.	
				Important that applicants disclose criminal history – industry attracts inappropriate persons. Benefits to community far outweigh costs on applicants – public have a right to be safe and/or engage services of SP without risk of detriment; public perceive licensing provides guarantee of safety and low risk of detriment.	Special consideration could be given if convicted of a summary offence more than five years old – perhaps referees and other indicators can show applicant is appropriate. Licensing body has responsibility to do everything practical to ensure community can realise their perception i.e. safe/low risk of detriment.
				Requirement is reasonable so government body knows type of person entering industry; governing body should act on behalf of community's best wishes.	It is governing body's is responsible for not allowing persons who do not meet criteria into industry.
			Cost is irrelevant and should not be a consideration.	Requirement is appropriate, necessary and reasonable. SOs are responsible for handling millions of dollars in cash daily, gold, jewels and property – client must be assured their security team can be trusted.	People must be prepared to declare their post to realise the importance of trust placed on them with SP licence.
			Does not require applicant to disclose whether person has been interviewed, investigated or charged with criminal offence that is yet to be brought before court for determination due to absence of witnesses, complaints or withdrawn charges or no evidence – this has allowed persons known to police but not convicted to enter industry.	Requirement is reasonable.	Does not go far enough to prevent entry of inappropriate persons. Applicants should be required to disclose information regarding being ever charged with a criminal offence and OFT should conduct inquiries also to ascertain whether applicant is adversely known to police.
				Disclosure by applicants is fair and warranted, given the level of trust communities put in SPs.	
				Maintaining disclosure regardless of rehabilitation period is important – industry affords operators more opportunity for criminal activity that other industries so it is necessary to ensure persons with serious criminal history are excluded.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Requirement is reasonable. Benefits to community outweigh costs on applicants.	
				Requirement is reasonable. All criminal history should be disclosed; Benefits outweigh costs	Eg: 3 years ago writer worked for national investigations agency who employed convicted rapist as a surveillance agent – left employment when person tried to sell him heroin.
				Requirement is reasonable, although once history has been disclosed outside of 5-10 year period, information should not be subjected to public record. Benefits do not outweigh costs.	Offence itself should be considered and not that offence has been committed.
				Requirement is reasonable and benefits far outweigh costs to applicant.	
		Consumer			
		Government		Requirement is appropriate – licensing officer needs to be aware of relevant information in considering applications Benefits outweigh costs	
				Information that may predict behaviour, which could inflame a critical incident should be a relevant factor in licensing consideration. Past convictions of dishonest may remain relevant in considering licensing despite the passage of the rehabilitation period. Disclosure after rehabilitation period is reasonable – benefits to community outweigh costs to applicants of disclosure. Applicants may mitigate against conviction which may show the offence of long ago should not adversely affect a licence application.	Probability of public contact is very high and may involve critical situations.
			Applicant looses the benefit of statutory obligation in CL(RO) Act to only report convictions in past 5-10 years. It may be difficult to justify maintaining unlimited statutory disclosure for applicants in every circumstance. NB: JAG would like to be consulted further on this issue.		

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Requirement is very reasonable. Security is based on trust. The chance of a person with a criminal history re-offending (particularly dishonesty offences) may be considered unacceptable to the community in general	The community in general and those paying for security services must have a level of trust in the industry that providers will not compromise their premises or business.
				Requirement is reasonable; SP perform community/ private policing role and community expectations and Govt priorities require appropriate screening of applicants; reasonable to suggestions benefits to community far outweigh costs to applicants.	
				Requirement is reasonable – all criminal history should be disclosed – shows lifestyle patterns of applicants. Benefits outweigh costs; applicant does not incur cost unless they have interstate history.	
				Requirement to disclose older criminal history is reasonable – previous history, regardless of expiration of rehabilitation period can indicate patterns of behaviour that would be unacceptable in a person carrying out responsibilities of licensed SP.	
	e. Qualifications (i) Security Officers and Crowd Controllers (DP12)	Industry			People are still using the VETEC logo, saying it is VETEC approved course. It was terminated over 12 months ago; this occurs with people who do the Weapons Act Safety course. DETIR advise they are not permitted to use the term VETEC.
			Many training schemes exist. If persons were able to choose other training schemes, assessment of credit value of prior courses should be reviewed on case by case basis and accreditation should be at CEO discretion.	Training to appropriate level is essential if industry is to maintain and improve standards. PRS98 is acceptable at this stage, but trends should be identified and training adequately reflect these changes.	
			Suggestion: Exemption to for current officers should be removed. Supervisors/managers do not complete training – managers should have Diploma in Security Management or equivalent tertiary qualification. If training the bottom need to train the top. Standard should be increased where there are deficiencies, certainly no reduction	Training should be a criteria. Safety of community outweighs individual requirements. New Package has addressed problem of poorly trained officers, but not training of supervisors/managers. Applicants should not be able to choose other training – all participants should be equally trained to required level of competency.	Exemptions do nothing to improve industry and inhibits its potential. All licensed personnel should undertake required certificate. Level of certificate should appear on licence.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Training should be a criteria. Requirements are appropriate – Cert Level II of PRS98 is appropriate at present. National package has advantages – certificate is recognised in all states. Applicants should not be able to choose other training schemes – Qld has highest requirements for entry level training which should be continued.	PRS98 is being reviewed to better structure advancement – CLII will still be the competent officer level and should remain.z
			Little margin for in-house training putting pressure on employers to employ inferior staff. Persons obtaining licence believe they are qualified for employment, but seldom are – they tend to complete lowest cost course, encouraging RTOs to conduct 4-6 week courses within 2 weeks. Suggestion: Courses should include ethics, professionalism and etiquette; SOs could be required to reach Cert III within certain time frame (12 mths) to ensure ongoing education for efficient/effective SOs for benefit of public.	Training is an important criteria licensing – generally large number of unqualified SPs for employers to choose from.	Lack of skilled/experience SP has been recognised as a threat to many firms. Some firms advise they would select one appropriate person only from up to 200 applicants. It is important that courses are conducted to ensure applicant is competent to Certificate II which requires RTOs carry out responsibility of ensuring course duration is adequate to meet qualification level of competence. Remuneration should be depending on qualification obtained and skills, knowledge and role in workplace – grading would encourage better work practices and professionalism; currently SOs remuneration is sometimes questionable as to whether it fits within award.
				Training should be a criteria. New Certificate courses are an appropriate entry level for industry and as industry grows so should level of training.	Traineeships are an option as long as strict control of trainers are kept and persons training the trainers are capable of passing on sufficient information.
			SPs should not choose their own training – we need to maintain uniformity.	Training should be a criteria and current training is appropriate and satisfactory. Give SP basic outline of responsibilities in accordance with respective legal requirements.	SPs can advance from basic course to meet industry needs. Units of Competency are available to Advanced Diploma of Risk Management.
			Entry level training needs to be expanded in Queensland to ensure minimum standards of competency and knowledge of legal and ethical requirements.		

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Strong belief that training for some areas is clearly inadequate eg. No specific training for close personal protection or proper control and conduct of covert operations. Persons conducting covert fraud investigations are often subject to no regulation other than the Criminal Code even though Police required to conduct same investigation would be subject to many restrictions regarding operation and ethical conduct.	Adequate training must remain one of the criteria.	
			Applicants should not be able to choose other training schemes – they may not ensure officer is competent to do duties.	Training should be maintained for each licence category.	Requirements should be higher for airport SO given more complicated equipment used and increased security in the wake of the events of September 2001.
			Courses should be increased not shortened; apprenticeships; TAFE should be the only place to training; private companies are only interested in pumping anyone through to make money and everyone passes.	Training should be a criterion.	
			Not appropriate – not all to national standard no issued by RTO; all training organisations should comply with national standard and training to workplace competency level, not just take money and run and forget about students; should be trained by RTOs and increased to Cert IV and preferably Advanced Diploma of Risk Management (covers all units for investigations including Cert IV) with all courses and assessments approved by ITAB prior to commencement.	Training should be a criterion.	
			In house training is expensive and low profit margins put restraints on capital available but are the vehicle for delivery of our product and demand our most fervent attention. Option of applicant choosing other training is not relevant for entry into SP industry.	Training should be a criterion and current requirements are appropriate – not necessary to increase or decrease minimum skills as they apply to initial applicants.	Firms must accept responsibility and bear costs of their own staff development as do all other business organisations.
		Consumers			
		Government	In relation to applicants choosing other training schemes – choosing alterative schemes would be difficult given the national package promotes national consistency, mutual recognition to the licensing outcome. It is unlikely that introduction of alternative course selection would receive industry support	Training providers are registered under the Australian Quality Training Framework (AQTF) providing quality and integrity to outcomes.	The National Training package has been endorsed by industry and all states/territories, which replaces or is replacing all other curriculum based courses.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Suggestion: Training should be increased or varied as National Training Package changes. Applicants should be able to choose other training providers, as long as they are equivalent or higher than the National Package i.e. a detective training course with a Police Service.	Enables appropriate service delivery. Training is part of endorsed National Training Package.	
			Suggestion: Training in Emergency Procedures such as evacuation should be mandatory. Applicants should have the choice of attending a private security company, TAFE or Open Learning. All courses should cover the training certified by the National Training Authority.	Training should be a criterion. Current training requirements are adequate for base level, but may need to be increased if/when responsibilities increase.	
				Training should be a criterion. It is appropriate because it is nationally recognised to a more advanced level than previous, resulting in better trained operatives, more professional industry which meets community expectations and provides a safer community. Benefits for community, industry and Govt outweigh costs to industry and applicants for licences.	
				Training should be criteria.	Training process can and is being abused by some industry members who treat is as a money making exercise. Recourse are needed at DET to enable proper auditing of training operators. Industry thinks training process is a joke. NOTE: anecdotal evidence suggests that some certificates are obtained at a pub over a beer – pay your money and get the certificate.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Despite LL support for adequate training, the issue of access to training in remote areas should be addressed.	Adequate training is essential; LL supports introduction of national package, however, merely having package is not sufficient ot ensure robust and sufficient training;	Quality of training is depending on individual training – many experiences ex-police and SOs are delivering training with poor training skills and techniques, despite practical experience; individual trainers should be approved or endorsed and periodically monitored to ensure standards are maintained. Suggestion: individual trainers rather than organisations should be endorsed as quality of delivery can vary from trainer to trainer. Suggestion: refresher training (to ensure continuing compliance and recency of information) should be prerequisite for licence renewal, should three year renewals proceed.
	(ii) Private Investigators (DP13)	Industry		National standard is a positive step. Compatible standards of expertise and ethics is vital. National standard provides level playing field where members can reasonably expect industry members to be competent, professional and act within the same guidelines. This is a move toward reducing the rogue element from the equation.	
			PRS98 does not cover PI very well and not accepted by OFT when adopted for SO/CC. Costs: setting up temporary course for PIs would be excessive for trainer – better to wait for revised PRS98. PIs completing PRSIR could use course in other states, would not be accepted under mutual recognition in Qld – they would have to do PRS98 to be recognised.	Current course for PIs as approved by CEO continue until revised version of PRS98 is released.	PRS98 is being reveiwed.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Lack of qualification in PI area; lack of suitably qualified PIs; course outline does not prepare for employment or to safely enter industry. Actions of incompetent (under 2 years) PIs can be damaging to lives of others and do not provide information client has paid for (information they do not get is crucial); client does not know what information is available; inexperience or underqualified PIs may be bias in reporting to cover inadequacies resulting in a genuine insurance claim being delayed or even denied. Suggestion: PIs complete Certificate III level or at least Certificate II for licensing requirements, with Cert III within set timeframe. Rationale: PIs enter field as a career, rather than other SO/CCs. Costs of moving to national package include extra cost to applicant (which would be accepted, as most prefer to participate in a course that assists for job readiness.	Current course is an overview of PI role and as such is reasonable. Benefits: to employee as they can source qualified personnel; to applicant who is more likely to gain employment; to clients who are more likely to receive factual, precise information packages.	PIs require 2 years industry experience before competent – investigator who obtains licence is far from qualified in dealing with lives and having responsibility of confidentiality and ability to report fact rather than assumption or conjecture. Training should include ethics, professionalism and etiquette. There is a belief that ex-police require little or no training as PIs – this is not the case which most police specialising in policing and criminal law; there are aspects of civil investigation that police do not have experience or training to competently perform. National training package is divided into two streams, surveillance and factual – licensing should reflect these qualifications, issuing two separate licenses (or one for both).
					All Queensland registered training organisations (RTOs) exclusively deliver the National Training Package.
			National package does not require PIs comply with legal and procedural requirements as it underpins knowledge; this is not satisfactory; PIs must understand the law Cost should be irrelevant	Training is sufficient – it encompasses legal and procedural requirements. National Training Package would make training uniform it all states, easier to mutually recognise interstate operators and competency will be easier to identify.	
			Entry level training needs to be expanded in Queensland to ensure minimum standards of competency and knowledge of legal and ethical requirements.		
			All mandatory training should be conducted within normal hours at cost of firm; study leave should be readily available for licensees to increase their occupation related skill base.		Anecdotal evidence suggests some companies require officers to complete training out of work hours at their own cost – this denotes a very low commitment from companies to the proper education and training of employees
				Training is sufficient.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Nil costs for PI until seeking qual - $350 Recognition of Prior Learning, or $2-3,00 for course; Cost to training organisations not prepared to move with times and become RTO's and deliver nationally recognised training; delivery of other training is an impediment to students undertaking learning with non-RTOs;	National training package is only alternative to PIs at Cert IV or Advanced Dip of Risk Management level; employers benefit most by getting PIs who can complete work to required standard; saves firm training time; enables student to enter industry at maximum earning capacity; graduates can competently complete botch surveillance and factual investigation work, plus manager affairs as a sub-contractor or employee; students are immediately employable; employer gains competent PI; student gains nationally recognised qual; industry develops professionally.	Everybody wins with natioanlly recognised training.
			Costs – no suggestion in minimum training package in points of law; there would be numerous PIs with no previous experience and less than minimal training, commencing firm and taking industry back 20 years.	Benefits – national system would permit PI to travel interstate and conduct inquiries or commence business without having to complete further tariing.	Units are core only – current minimum standards not necessarily correct.
		Consumer			
		Government	No significant costs in moving to national training package.	Adoption of a national training package for PI's would be appropriate – national recognised qualification giving national consistency, mutual recognition and incorporate the latest endorsed industry standards	
			Costs incurred by licensee. There should be no additional costs if using National Training Package.	There should be training for PI's from the National Training Package with consideration given to other similar or higher standard of training. Benefit of national uniformity.	
	f. Referees and photos (DP14)	Industry	Not sufficient to assess corporations. Easy for person to nominate person acceptable to CEO, but may not necessarily be appropriate.	Credibility should be subject to strictest scrutiny and disclosure of all information. Photo evidence verifies accuracy of documentation in relation to applicant.	
			Persons who write testimonials may have been paid to do so. They may be forged. Not really relevant. If initial checks are thorough testimonials should not be required. ASIO check needed. Birth certificates can be forged and don't have photographs. Suggestion: identification the same as banks (100 point check), coupled with appropriate person, criminal history and ASIO checks.	Photographs must be supplied to identify licence holder is actually that person.	
			Not sufficient to assess corporation's appropriateness – names of all persons employed by corporation who may direct security providers must be licensed and those persons attached to corporation licence, like that of nominee. Suggestion: 100 points system to give more depth to confirmation.	Testimonies are important so inappropriate persons do not enter the industry or hide behind a corporate face. Birth Certificates are important to establish identity. Photographs are appropriate – public, employers and enforcement officers must be able to identify person in possession of the licence is the person to whom the licence was issued.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Testimonials are appropriate and important – ensure persons of appropriate character are obtaining licenses; due to ease of entering industry with little qualification and ability to take advantage of position and responsibility expected/given to SPs – important that applicants are appraised as vigilantly as practical to ensure good character. Current methods appear practical and appropriate and should be maintained.	
				Testimonials are appropriate so government knows who is applying; It is appropriate that applicants provide birth certificates as proof of ID. Supplying photos ensures current identification.	Corporation/nominees should have criminal history checks.
			Testimonials are a waste of time - they are always favourable.	Individuals should be the only ones to provide birth certificates, passports, rates notices etc as proof of ID. It should be sufficient that firms have at least one director/partner that holds a licence. Photographs are appropriate to help prevent use of licences by unauthorised persons.	
			Greater reliance on current driver's licence or passport would provide greater certainty of ID than a birth certificate.	Appear relevant; licence should contain recent photo and SP should display name tag prominently on uniform.	Uniform police are required to wear name tag whilst on duty.
			Requirement for firm testimonials should be replaced by requirement that application be approved by Board of persons appointed by Minister from industry, including representatives of Union and reputable employers in industry.	Requirement for birth certificates and photos are important to ensure correct identity of person applying for licence.	
			There must be more provision for assessment of appropriateness and avenues for compliance, policing and expulsion.	Testimonials are appropriate; birth certificates are appropriate; photograph is appropriate.	
			Testimonials are not sufficient to assess firm appropriateness.	Testimonials are appropriate; birth certificates are appropriate; photo ID is appropriate so you can match ID of person claiming to be SP.	
			Contents should not be relied upon for true evaluation, as they will contain comments and remarks the applicant has requested from a close friend. ID does not take into consideration fraudulent tampering with licence.	Testimonials are appropriate; provides some insight into individual; birth certificate is appropriate – shows some sincerity; photo is appropriate so not mistake is made as to who the licence holder is.	Some other form of ID could be supplied at time licence issued ie badge, card that is only issued to licensee.
				Appropriate and paramount in ensuring thorough, vigilant applicant screening and appraisal for licensing.	
		Consumer			

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
		Government		Testimonials are appropriate, not as a stand alone assessment but as a contribution to licensing requirements Minimum requirements for positive identification prior to licensing. ID assists in accountability.	
			May not be most effective way of checking appropriateness – how do you assess whether or not the testimonial is given by a reputable person?	Ensures licensees are of appropriate character	
			Suggestion: more detailed procedure in place including looking at financial capabilities, ethics etc.	Testimonials are appropriate to maintain a high level of applications. Full birth certificates (not extracts) should be supplied to maintain high level of proof of identity. Photograph requirement maintains a high level of proof of identity	
				Testimonials are appropriate; birth certificates are appropriate to assist in positive ID; testimonials are sufficient to assess firm's appropriateness provided they are considered in conjunction with appropriate person test; photos are appropriate to assist in positive ID and reduced incidents of forged licences and licensing lending.	
			Testimonials are a waste of time and should be removed – no-one lodges a reference that does not show them being of good character. These requirements are not sufficient to assess firm's appropriateness.	Birth certificates assist with ID and assessing minimum age requirement. Photo is appropriate for ID applicants.	
				Accompanying documentation is appropriate.	
	g. Fees (DP15)	Industry	Three year licences – most persons can just afford to pay annual fees, some have numerous licences. Burden on thousands of licence holders if proposal goes to three year licence. It should stay on annual basis – costs: it will put people out of work; more people on dole.		

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Not a significant barrier. If organisation cannot meet minimal financial obligations, suggest they are likely not suitable for industry. If assets are think, temptation when guarding valuable assets may be difficult to resist. Three yearly renewals are appropriate as long as applicant knows that a breach of the Act may result in rescinding of licence without compensation. Three year licence would reduce admin burden on regulating body.	Courts have held that where a person places another in a position where they are exposed to temptation that could be reasonably expected to be too difficult to resist, they may to some degree be culpable in any illegal act committed.
				Fees charged are reasonable. Three year licences is preferable – more reasonable and economical if staff were licensed for three years to minimise responsibility upon employers to ensure each expiry date is recorded and reviewed.	
			Suggestion: increase firm fees substantially based on type and number of employees i.e. Licensed premises $10,000 pa, firms employing 1-5 $2,500, employing 6-20 $5,000, employing 21-100 $10,000, employing 101-250 $15,000 and over 250 $25,000 pa.	Not a significant barrier. Three year licence is convenient. Licensee may pay reduced fee for three year licence. Reduction in admin costs for OFT.	$111 for individual compared with $441 for company seems a disparity.
			Fees are a significant barrier – licence fees and training fees – there are a lot of casual employees in the industry. Corporation's fees should be based on number of employees ie. $200 up to 20; $500 more than 20 would be more appropriate and fair	Three year licences may be appropriate, but only with appropriate cancellation processes. There should still be option for yearly renewals. Firms should remain annual renewals. Reduction in costs to licensing authority.	
			Unproportional cost of firm licence disadvantages those required to pay fee; penalised for creating employment and providing strength and assurance to clients.	Fees not a barrier. Three year licences appropriate, but SPs would be required to inform OFT if they commit disqualifying offence as soon as practical after committing offence.	PIs – it is small operator that do not have resources to provide sound and appropriate investigations for clients and advertise low rates to obtain work – not beneficial to industry or community. Research of small operators is required to verify comments.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Fees could be barrier to low income earners, but relatively inexpensive. Three year renewals - Applying each year gives government a chance to keep a correct check on licence holders; could see licence holder becoming inappropriate within 3 years.	May be more beneficial to renew every 1 year – government checks current licence holders and checks appropriateness yearly.	
			Fees are a barrier to entry – fees for individuals are too expensive.	Three year renewals are appropriate – saves time; expenses of licence production; saves raw materials used to manufacture licences; Costs should be reduced benefiting operators and licensing authority.	Suggested fee structure: SO/CC $50; CC $35; SO $35; PI $50; and Firm $440.
			Fee of $441 is significant barrier for small and part time operators operating in an overly competitive market; imposes serious financial burden. Cost involved with issuing firm licence can not be considered commensurate with the fee of $441 – if individual licences are processed for around $100 why the disproportionate cost of $441 for firms.		Whilst licence fees are tax deductible you must earn money before you can deduct it.
			Fees should be pro-rata based on number of employees – great fee for more employees. License fee for firms does not reflect cost of administering legislation.	Fees for officers seem appropriate for what is often low remuneration. Three year renewals seem proper in the context.	Cost recovery ought to be the aim and fees for firms ought to reflect this.
			Fees are too low – should be increased to $5,000 – additional revenue would help fund additional resources needed to enforce Act and it would help ensure that fly by night operators are kept out of industry and only firms with necessary commitment and resources to operate lawfully are allowed to operate.	Fees are insufficient barrier to entry; particularly given that set up costs for firms are much lower than in other industries; it is possible to start security business with almost no capital outlay and this is done frequently. Three year licences would be acceptable provided the ability was retained for cancellation at any time.	High incidence of firms not paying employees entitlements; firms should be required to pay bond to OFT of $10,000 from which unpaid entitlements could be paid; bond can be returned to firm after 5 years if no claims made in court/tribunal on behalf of firm employees.
			Fees should be higher to cover extensive licensing compliance and policing. Three year renewals are not appropriate – criminal convictions could be obtained while licensed.		
			Costs are merely two extra years fee; no problem paying if you are professional; if you don't want three year licence you can still get one year.	Fees not a significant barrier; Three year licence is appropriate – available in VIC and TAS with no issues; easier, more convenient and less time consuming; essential improvement.	
			Licence does not provide any advantages. Three year licence not appropriate – some have not updated personal particulars on renewals for up to 10 years; would make task of checking personal details harder (address, name changes).	Fees not a barrier – reasonably low.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Fees do not form a barrier for entry and are reasonable. Firm fees do not form barrier – may firms believe they should be increased as a deterrent to sole operators without infrastructure or resources to control operation and bring industry into disrepute and endanger operatives and community. SP should be able to obtain three year licence, given that appropriate cancellation process is in vogue. Govt would benefit as cost reduction in admin fees would be passed onto licensee.	
			Current fees and photos appear excessive, causes unnecessary paper and does not appear to contribute anything toward improving validity of officers. Unnecessary revenue raising; appearance is unlikely to change noticeably over three years.		SO and CCs should be licensed at 3 year intervals with photo and reduced fee of $150 per three years. NOTE: a person who wants to disguise himself can do so quite easily and may change appearances many times within three years – moustache, hair colour, hair cut, glasses etc. can considerably change a person's appearance
		Consumer			
		Government	Not a significant barrier to entry	Three year licences is not restrictive and reduced administration time in renewing licences.	
			In some instances such as individual unemployed persons or low income, pesos may have difficulty particularly if other costs are involved such as training. Three year renewals: appearances can change significantly in three years; opportunity to re-screen renewals for disqualifying offences and ensure they maintain appropriate person test.	Not a significant barrier. Three year renewals are appropriate.	NOTE: The comments on this point seem a bit confused. The review team has assumed that the issues raised would be costs, rather than benefits as random checks would be conducted three yearly rather than yearly.
				Not a significant barrier; three year licences are appropriate provided criminal history checks are conducted. Benefits – reduced costs/burden to applicants; reduced admin costs/burden to Govt	
			Three yearly renewal: yearly renewals allow for maintenance of accurate database and photo licences being more reflective of current likeness; current system allows for random checks of possible convictions through annual renewals.	Not a significant barrier; dual licence equates to $2 per week. .	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
				Fees do not create a barrier to entry – fees are reasonable, particularly given the level of scrutiny required for each application. Three year renewals reduced admin burden of licensed SPs and allows a practical tie in with mandatory training refreshers.	
	h. Post licensing – suspension, cancellation, refusal to renew, renewal (DP16)	Industry		Grounds for cancellation or suspension are adequate – most contingencies are catered for.	
			Suggestion: Additional grounds should include convictions in industrial courts or for breaches of WHS. If person is sacked it should be compulsory to report to OFT – theft or unethical behaviour make licensee unfit.	Incorrect/misleading for, contravention of condition, commission of offence and if person no longer appropriate, licences should be cancelled or terminated as it shows the licensee to be unfit to hold licence.	Industry is a disgrace; needs cleaning up.
			Grounds are not satisfactory – too general and subject to interpretation. Public demands that security personnel are honest and trustworthy. Suggestion: Persons convicted of disqualifying offence should not be precluded from obtaining licence; offences against TPA if commented in relation to security business, should be included. 10 year disqualification can be too severe in relation to some minor drug misuse and weapons offences – should be subject of review with amendment to allow appear to Mag's court under conditions.		There should be further discussion on cancellation offences.
				Grounds for suspension, cancellation or refusal to renew are satisfactory.	Unethical or unacceptable conduct should lead to suspension or cancellation. Few people know who to complaint and how to go about it – belief that police handle complaints and therefore do not lay complaint in case of victimisation and identity is not confidential – possibly keep complainants confidential and limit fear of victimisation or rebuttal.
				Grounds are appropriate – keeps strict control of industry.	
				Grounds are satisfactory.	Licences should not be suspended or cancelled until person charged has been convicted.
					A disciplinary regime should apply under a SP Misconduct Tribunal (previously suggested).
			Additional disqualifying grounds should be added.	Grounds for cancellation are probably sufficient.	

Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
		Industrial Relations offences, breaches of code of conduct, police running of companies should be captured.	Grounds are sufficient for public safety.	
		Any conviction against the Privacy Act should be included.	Grounds are satisfactory	
			Grounds are satisfactory and should not be changed; assist in accountability of licensees. No other offences should be included.	Consideration should be given to commencing tribunal or panel to receive/hear complaints and determine penalty imposed and whether licence should be cancelled or suspended. Panel could consist of QPS, solicitors, OFT and Institute of Mercantile Agents.
		Grounds not satisfactory: do not penalise unethical conduct, poor industrial relations or business practices, especially firms.		
	Consumer			
	Government		Grounds are reasonable and provide sufficient enforcement capability.	
		Suggestion other offences/conduct that should be captured: ensure ethical behaviour; companies should ensure employees enjoy conditions and remuneration in accordance with the relevant award.	Grounds are satisfactory.	
			Breaches under FTA should be captured.	
		Appropriate person test is limiting; many instances of persons being considered inappropriate but s11(3) limits decision to parameters outlined in ss11(4)-(5).		SP Act provides for licence to be suspended/cancelled or not renewed if licensee is charged with disqualifying offence – no provision if applicant charged with disqualifying offence.
		Conviction may render licensee in appropriate, but it is unclear how agency becomes aware of convictions between licence renewal time. There may be concerns if CCs convicted of offence (or several offences) under Liquor Act such as permitting minors to enter licensed premises. Suggestion: Grounds cold include conviction of disqualifying offence and/or conviction of offence that CEO considers indicates licensee's unsuitability to hold licence.	Not clear if person must be convicted of offence, or if licensee is no longer appropriate before cancellation, suspension or refusal to renew.	Grounds need further consideration. Under Liquor Act, grounds include licensee being convicted of offence under Liquor Act, Health Act or Food Act, or offence that *CEO considers indicates the licensee's unsuitability to hold licence.* Further general ground for discipline if licensee ceases to be fit and proper person. It is noted that charging of a licensee with disqualifying offence is grounds for suspension or refusing to renew. However, if licensee is convicted the only avenue for further action is to prove them inappropriate rather than allowing conviction itself to stand as a ground.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
	I. Offences (DP17)	Industry			Security firms allowing unlicensed persons to work or guards working with expired licences is commonplace in industry.
				Penalty is adequate as a deterrent. More prosecutions would strengthen position of legitimate members and continue enhancing image of industry.	Would like to see offenders prosecuted, making a statement that offences will not be tolerated.
			IT is a unmanageable task to check 700 licensed guards renew annually. Suggestion: Responsibility be placed on employer to ensure a time of initial employment, the guard is licensed, but it is the guards responsibility to renew punctually or formally notify employer of expiration or rescission. The Register is impractical and would be an unwieldy document to provide all information on guards working say 4 nights a week, possibly wearing different ID each night.	Penalty is sufficient.	Some onus should be placed on employee to formally notify employer immediately upon expiry or rescission of licence. NOTE: There appears to be some confusion – Security firms need only record name, licence number, expiry etc. Only CC's need to record ID numbers, incidents etc. each night.
			Firm penalty should be larger. Penalty for employing larger persons should be increased and licence revoked for life.	Individual penalty is appropriate	
			Penalty should be increased in line with CPI. Penalty for employing unlicensed persons (firm) is not sufficient.		A review of penalties handed down shows great leniency so increasing maximum penalty would have little effect.
				Penalties appear sufficient, however statistics in regard to number of offences and convictions of this nature would be required to assess further.	
			Higher penalty should be given for firms – they are responsible for persons they send into the community to work.	Penalty is appropriate.	More spot checks are required to help catch offenders who should be required to retrain.
				Penalty is appropriate – all operators have had sufficient warning in relation to non-compliance.	
			Penalties to firms should be more substantial; large multinational firms operate in industry and current penalty would appear paltry in relation to their turnover.		

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Unlicensed operation may be due to lack of enforcement rather that inadequate penalties; union would support increased penalties if Govt saw a need; first offence $3-4,000 for individual and $10-15,000 for firm; persons can make a lot more money compared to the penalties, if due to criminal history the could not get a licence.	Difficult to say whether penalties are a sufficient deterrent without prosecution details.	Union is aware that it is common on the Gold Coast for CCs in hotels to operate unlicensed; told my managers to tell anyone who asks that they are directly employed by hotel, but are not employees of hotel; a firm called State Patrol provided services without licence at several venues.
			Penalties are not adequate.		
			Penalty not appropriate for PI – privy to much confidential information; anyone passing themselves as a licensed PI and being exposed should be fined heavily. Penalty for firm is not adequate – firm should make adequate inquiries before accepting employee and keep register of days/dates of licence renewal due and ensure it happens each year.		Common for REA to door knock neighbours of a rent skipper and pose as PI to illicit information.
				Penalties are sufficient	Obviously (?) not policed.
				Fines sufficient.	
		Consumer			
		Government		Penalty is appropriate and sufficient – providing there is a real risk of being apprehended prosecuted and convicted.	
			The maximum penalties for a company and individuals may not be a realistic deterrent.		
				Penalties appear adequate when compared with similar offences under other OFT legislation for occupation industries; based on increasing compliance levels and comprehensive publication of penalties it would appear that penalties have successfully deterred unlicensed activity within the industry. Penalty for firm is adequate – increased level of compliance I industry suggests that penalties have been a sufficient deterrent.	
				Penalties are appropriate; it only takes one phone call from a firm to the licensing section to check if a person is licensed.	
				Penalty is adequate.	
5	Business Conduct				
	a. ID for crowd controllers (DP18)	Industry	Casino security wear photo ID with licence number and position embossed on ID. It is easy to swap or fabricate mere numbers.	ID's go toward credibility, accountability and professionalism. Community will perceive that security providers are professional and accepts the accountability that ID implies.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Administrative costs are incurred by for Department Flawed if employer does not keep adequate register. Suggestion: card with licence number in large lettering may improve ID of CCs issued as part of licence, produced to employer at beginning of each shift, written in register and worn as prescribed. Rationale: if employer does not keep records/register up to date, the number would correlate with OFT records.	Numbering card system	
			Costs of ID cards are minimal while allowing patrons and official to readily identify CCs.	ID is adequate – it is important they are readily and easily identified and a number achieves this. Important they are not personally identified – they and family may be the target of disgruntled patrons.	CCs should be in a readily identifiable uniform – this would reduce conflict in public places in many circumstances. If one definition for CC and SO, SO should wear readily uniform and ID if maintaining order at a public place, when carrying out duties other than bodyguard and escort work.
			Suggestion: Fairer, more equitable complaints process may be required.	Requirements are adequate.	Many people are not aware of complaint process. If complaint made to venue or firm, often complaint is not pursued with little/no feedback or response to complaint who may be in fear of rebuttal.
				IDs are appropriate as long as registers are kept appropriately and inspectors make random checks. Benefits community to be able to report inappropriate actions or behaviour of CC.	Passport photos on CC ID could be used so it can be matched with licence.
			CCs should not have to wear numbers – exposes their ID to vindictive or vexatious patrons. If CC is appropriate to hold licence, that should be sufficient to ID CC, provided they carry licence on their person at all times while working.	There is no more effective way of ID CCs.	
					CCs should be required to wear a name badge so ID is easier for police. This should also apply to SOs.
			ID should prominently show licence number and photograph to reduce likelihood of licences being given to unlicensed persons to wear.	CCs should be required to wear ID at all times on chest	
				ID is adequate for public safety and accountability.	
			Cost of ID minimal	ID is adequate. Benefits: public has opportunity to ID firm and individual, should they want to lodge complaint or endorsement.	
		Consumers			

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
		Government	Suggested change: licence showing name and licence number should be worn and clearly visible	Public identification is important as it supports accountability.	
			Suggestion: CC could be issued larget photo ID with individual number on this ID – large number matching officer's registration number could be embroidered on shirts.	May decrease cost in tracking down a CC when making a complaint as registration number would be on file at OFT.	
			Cost to owners of public placed in provide CC IDs – minimal.	From complaints/inquiries received by Compliance Division staff, it is apparent that current ID when work as prescribed has been adequate for purpose of ID CCs. Benefits: ease of ID of CC; meets community expectations and assists create more professional appearance.	Suggestion: CCs could wear shirts bearing the word 'security' in large clear print (fluorescent) on front and back of shirts to enable easy ID of CCs and enable persons to distinguish between CCs and other persons who may be involved in incidents at licensed venues/public places.
				Sufficient (after discussion with compliance officers)	CCs could wear a shirt (bright, easily recognised) with the word 'Security' in large print as well as ID number – employer's name (club, pub etc) also could assist with ID.
			Risk of abuse and can cause difficulties in proving an offence.	LL acknowledges there could be greater safety risks involved if CCs were required to wear personal ID. Suggestion: a 'midway' system where CCs wear unique ID number (not available to public) may reduce risk of misuse while not appreciably increasing risks to safety of CCs.	
	b. Registers (DP19)	Industry	Suggestion: requires some supplementary mechanism such as Incident Report – register reports are very brief where as form is more comprehensive and a better base for an inquiry or statement if required.	Effective to a point Verifies legitimacy of operation. Those involved in improper activity fear the register. Register acts as safeguard for operator. Excellent auditing too for regulator.	Registers are best restricted to notations and occurrences whereas incidences should receive greater specific attention.
			Register relies on honesty of person entering information. Minimal cost of maintaining registers. Cost to government of compliance, but offset by licence fees.	Effective, with reservations. Correctly maintained registers become vital evidence in substantiating occurrence of incidents.	All incidents should be reported to relevant authority. Non-compliance should be sufficient to prove licensee unfit.
			Entering home addresses opens CC up to possible abuse – public document open to inspection; private identity should remain private to all but employer and officials. Other costs are minimal	Registers are effective, combined with electronic systems, if they are maintained and record all events. Allows patrons, employers and officials to have a ready simple records of events and CCs on duty.	
				Registers appear appropriate	A fairer, more equitable complaint process may be required.
			Document can be kept for future reference.	Registers are appropriate.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Costs are irrelevant.	Registers are appropriate and effective for recording incidents – total necessity. Benefits are considerable, especially in the even of unforeseen litigation – records may provide answers to police, inspectors and courts; contemporaneous notes are necessary for maintaining event accuracy.	
			Reservations should be held for legislation requiring keeping of a register compelling persons to enter information that may be self-incriminating, denies a person right of silence and further deprives right to natural justice as it is unsafe, unsound and unsatisfactory.		
				Registers should be kept by firms and at sites; significant penalties should apply to firms or individuals who do not keep or keep false registers.	
			Registers are not appropriate – too many incidents go unreported; incidents should be collated and kept by Bureau of Statistics. Costs could be met by increasing licence fees.		
			Registers are not effective – usually only kept as incident report referrals by client of firm; firm generally claim only client register exists thus if OFT demanded to see this register majority of firms would not be able to produce; Costs are 3 minutes time on an incident free night and 30 mins if an incident. Dodgy firm is disadvantaged and should be exposed with licence revoked of principles of firm as well as firm.	Document advantages client;	Should be inspected every 5 months by OFT; alternative are to decide that either client of firm keep register or individual SO should keep one.
			Costs: minimal	Benefits: chronological and accurate history of events for scrutiny; most effective way of recording incidents; protect integrity of individual, community and venue.	
		Consumers			
		Government	Costs: time to fill out incidents. Seven year retention period may be onerous – suggest 3 years	Effective provided they are maintained in accordance with the Act Recording of incidents assists persons who are performing duties within the law.	Alternative options are limited
			Registers are only as reliable as the person inputting information. Costs minimal Persons may be reluctant to enter information into registers that could be seen as incriminating evidence.	Registers may assist in any inquiry or for evidence in court.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Costs of registers to owners of public place; admin burden to CCs required to complete register; CCs concerns that personal information contained in registers may be accessible to public.	Benefits; contemporaneous account of incident benefits CC and owners of venues; assists maintain accurate record of hours worked; benefits Govt when investigating complaints/enquiries or obtaining evidence.	Suggestion: an effective CCTV system would provide comprehensive means of recording incidents.
			Minimal costs when one considers cost of litigation as a result of incondite – accurate completion of register is time well spent.	Important with use of cameras to record incidents.	
				Registers are a cost effective control mechanism, provided licensees are compelled (through monitoring and enforcement) to maintain up to date and accurate registers.	LL has experiences that registers are often poorly maintained either through neglect or intentional deceit.
6	**Alternatives**				
	a. Mandatory Code (DP20)	**Industry**	Insufficient in itself Enormous burden on regulator to ensure operators adheres to code. Regulator may not have adequate resources. Stemming those who abuse the system would be time consuming and expensive. Honest operators would be disadvantaged from low cost unscrupulous operators. not fulfilling obligations and therefore able to undercut legitimate operator.	May be viable in conjunction with existing licensing. May ease licensing burden if removed. Honest operators would benefit initially from reduced licensing costs	Most industries are regulated by Code. Must be a gauge by which industry may set minimum standards.
			Would not meet objectives. Cost to officers, as firms will push wages and conditions down.	Should be implemented as part of improved regulatory administration.	Needs to be combined with one association where all firms must be members to work.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Self-regulation lacks teeth that regulation provides. Costs would be horrendous and always open to interpretation; public would be disadvantaged as they would have less recourse to regulatory authority for complaint and would have difficulty obtaining remedy or compensation.	Mandatory code would not meet objectives.	Codes are only as good as the associations that control and protect them. Police Security Industry Liaison Board has been studying development of a code based on industry's relationship with QPS. SIRC's code of conduct, ethics or practice bind member, but they only expel members if it contravenes the Code. In NSW SPs must be members of approved associations that do not have full control of members. There is no organisation in NSW like SIRC that allows approved associations to compare notes so if member is expelled they do not get membership with another, just change if they have to. Note: breaches of TPA were operating under code which had no effect.
			May need combined regulation with many current applications of Act remaining. Licensing still required to monitor those entering industry and to assist with accountability and public safety —licences could be issued by industry body. Implementation costs.	Could be effective – tighter control over misconduct; implementation of set of ethics for companies to base underlying principles; industry regulated by industry could raise level of professionalism and public perception of industry; could ensure appropriate training and ongoing development of personnel, raising profile of industry and provide career paths; could ensure firms are appropriately insured and have adequate measures in place to safeguard clients and customers; industry body could assist operators with business practices and act as a resouce for SPs – overall benefit to community, Queensland (employment) and SP industry. Costs outweighed by public awareness, public safety and community benefits.	Break industry into three areas, under one umbrella i.e. SO/CCs, PIs and technical access personnel – allow industry specific aspects to be addressed. Industry body could advertise to public ways to make complaint and effectively manage complaints: body made up of people within industry, other interested parties, OFT, legal and business professionals. The insurance industry code of practice model could be used.
				Code is a viable option – keep industry working in an appropriate manner; code would meet objectives; industry and community would benefit as seen by professionalism of police force.	
			Costs are irrelevant. Those operating illegally or unprofessionally would be disadvantaged.	Code should be in place – many operators who stay within the law but are ethically and morally disturbing – Code may rid the industry of this type of operator. Code could be designed around legislative and natural justice. Benefits outweigh costs. Licensing, clients and public would benefit.	Genuine operators would have a code in place.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Vehemently opposed to mandatory code; clearly leads to a drop in standards within industry; industry has suffered due to public perception that it is comprised of unskilled, poorly educated and badly remunerated employees with little or no specific training.		
			Abolition of offences and licensing and replacement with Code is opposed by union – message to industry that regulation was relaxed where as it needs to be more stringent; alternative legal remedies under code would not be adequate to maximise safety of public and property and to achieve honest and reasonable behaviour through industry; courts are generally reluctant to grant injunctions unless previously convicted of similar act; if regime for achieving convictions is removed, injunctions would be very difficult to obtain. Actions for damages are expensive for victims and take several years – relatively few actions are taken; SOs knowing this are unlikely to deter from breaches of a code.	Licensing costs are small compared to public benefit of licensing and existence of offences.	
			Favours Code of practice – needs effective, collaborative and transparent self-regulation; concedes that industry needs to evolve. Proposes fair and equitable co-regulation, commensurate with public policy objectives, supports industry collaboration and offers certainty and consistency while lifting standards; moves toward national uniformity; improve business efficiency, add certainty and reduce costs and complexity; remove problems relating to mutual recognition across jurisdictions.		
			Licensing would cover cost of Code once fees are increased to a more acceptable level.	Code is viable, but licensing must stay; Code would meet objectives;	
			Nota viable option – industry affects multiple industries and firms; single code would not work for security patrol, foot and vehicle, detention centres, airports, nightclubs, on site security for building sites, amusement parks, weapons training etc. Costs minimal	No benefits; honest traders would be disadvantages.	
			Not a viable option: depends upon self-regulation with little or no accountability: historically, industry has been unable to form impartial associations let alone its own regulatory body; cost of monitoring and policing Code is significant (in unlikely event industry could agree on form an association).		How would it be funded? How would it remain impartial? Would consumer have confidence in its integrity?

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Not a viable option – firms within PI industry are members of Institute of Mercantile Agents who operate under that Code; while it is not mandatory to join Institute, to operate under another code may cause conflict; Code would not meet objectives.	Law for PI is working well and will continue to improve with assistance of Govt and industry.	Consider compulsory for PIs to become members of IMA or similar, who operate under a strict Code.
		Consumers			
		Government		Effective only if supported by legislation and ongoing industry audits. Reduces costs to government and provides opportunity to industry to balance commercial interests and licensing requirements	
			Reduces revenue. It is difficult to see the same level of enforcement and checks without offsetting revenue. Removal of licensing may not require the same level of training and competence to the detriment of consumers	Eliminates licensing fees.	
			Costs of setting up code of conduct Ongoing costs in maintaining currency	May help in having all operators operating to identical guidelines.	
			If Code negated any appropriate person test it would NOT be seen as viable. Code would not meet objectives. Costs: no appropriate person test may not meet community/industry expectations; safety of public a real concern; industry's professionalism or standing in community could be negatively affected.	May be viable provided Code was enforceable under FTA and inspectors could utilise powers under FTA. Benefits: no requirement to be licensed; reduced admin and financial burden on industry and Govt.	
			Not viable – reason for introduction of SPA has not changed and is more relevant today; Codes keep honest people honest – if it was viable it would have been introduced, rather than the SPA. Would not meet objectives – subsequent risk to public safety would make introduction of a Code politically unsound.	No benefits to industry.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Does not provide a better model than current legislation; reactive with action only possible after breach of Code, or operation in some way to warrant exclusion; unacceptable risk to public; risks of allowing inappropriate persons to act as SPs which is the unsatisfactory situation that existed before SPA was introduced. Legislative framework is the only option that allows vetting of people seeking to enter industry as well as enforcement tools should licensees contravene responsibilities down the track.		
	b. Negative Licensing (DP21)	Industry	Provides a foot in the door to less than suitable persons. Once in industry, it is difficult, time consuming and expensive to eradicate errant members of the industry. Lessening of present standard would denigrate good work already achieved. Best method is invariably not the cheapest, but what price do we place on safety of the community. OFT may not be sufficiently resourced to investigate all operators. Damage to industry before offenders were identified. Being reactionary will not appease a disgruntled populace. Those who seek to circumvent the criteria and responsibilities will prevail in the industry.	Little benefits.	Would not meet objectives. Community expects a regulated, safe environment, not so much prosecution of offenders.
			Would not meet objectives. Currently, industry is rife with inappropriate operators, especially within management – negative licensing would make this worse. Industry is inept. Firms will revel in the fact they can operate with little constraints.	Not a viable option. Positive licensing is the only way to bring industry into line and operate within legislative guidelines (including WH&S and Industrial relations). Need strict pro-active government to monitor industry. Little benefits.	Blames OFT for problems – it has shown scant interest in industry or its problems.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Not a viable option Public would have problems accessing a register of inappropriate persons or firms even if aware of its existence. Would not meet objectives. Costs horrendous with continual watch on activities of inappropriate persons to ensure they do not act SP. Major disadvantage for public.	Present licensing allows public an easy way to identify appropriate persons. Benefit to inappropriate persons only.	
			Not a viable option – will not meet objectives; not in interest of public safety and industry behaviour. Process will go backwards rather than improving; more security and investigation matters are passed to private sector which needs control and monitoring as industry grows; undesirable characters may enter industry. Costs to industry and community.	Licensing is required so appropriate persons only enter industry. Even with current measures, there are few barriers to entry – there should be effective policing in the interest of the community – licensing should remain.	
			People operating inappropriately would be disadvantages.	Negative licensing could be viable in removing persons from industry.	
			Not a viable option – would encourage backyard operators without legitimate business premises, appropriate insurances. Standards would be lowered and prices of legitimate operators and bring about poor quality assurance to clients. Negative licensing would not meet objectives – when prices are lowered corners are cut and laws and regulations go out the window. Legitimate business will suffer; market prices are ridiculously low at the present time and many operators will be forced into liquidation.		
			Vehemently opposed to mandatory code; clearly leads to a drop in standards within industry; industry has suffered due to public perception that it is comprised of unskilled, poorly educated and badly remunerated employees with little or no specific training.		
			Not an appropriate alternative; OFT would no know all individuals/firms that are likely to breach regulations; due to poor enforcement of regulations, many SPs have breached by not been prosecuted.	Requiring only those with convictions would allow many inappropriate operators to enter or remain in industry.	
			Not an appropriate alternative – public safety; would not meet objectives.		

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Not a viable option – current system is transparent and not open to argument; if negative licensing introduced on the Gold Coast, the Russian Mafia would be in control of the industry within 6 months; nightclubs would need additional protection costs and Govt officials subject to bribes and corruption on a scale previously not seen in Qld. Would not meet objectives – any person could front a firm; can be owned and controlled by criminal element; public safety not an issue to these persons; only sale of drugs, protection services, prostitution and corruption would be high on their agenda. Honest people disadvantaged; public safety of vulnerable teenagers would be disadvantaged in nightclubs; SOs would be controlling interests of criminal organisations.	Criminals would benefit;	
			Not viable: not in interest of public or community; would remove remaining remnant of stopping inappropriate persons gaining entry to industry; little or no accountability; cost of monitoring and policing negative licensing is significant.		Govt regulated licensing is the only viable option.
			All efforts to make PIs accountable would be destroyed.		Negative licensing appears to relate only to SO, not PIs.
		Consumers			
		Government	Not an appropriate option – pre-licensing screening is imperative to maintaining standards. WA has experiences that commercial imperatives without regulation will result in lowering the standard below community expectations.		
			Administration and enforcement costs to government. No revenue offset from licensing. Does not impose controls on behaviour once entering market. Difficult to ascertain who is participating in the market.		Negative licensing is best suited to industry that are relatively complaint free and do not need ongoing regulation. Negative licensing has been applied to process services in SA who are source of very few complaints.

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Not viable option. Persons wanting to employ security providers may not look at history of those they wish to employ but rely on OFT licensing to ensure persons are appropriate and suitable. Negative licensing would not meet objectives – a company could close business one day and open under another name and structure.		
			Not a viable option – if appropriate test not applied community expectations may not be met and public safety concerns could resurface; would not meet objectives. Costs: no appropriate person test may not meet community/industry expectations; safety a real concern; professionalism of industry could be negatively affected.	Benefits: No licensing requirement; reduced admin and financial burden on industry and Govt.	
			Not a viable option – reduces current entry level into industry. Would not meet objectives – risk to public safety; politically unsound.	No benefits to industry.	
				Does not provide a better model than current legislation; reactive with action only possible after breach of Code, or operation in some way to warrant exclusion; unacceptable risk to public; risks of allowing inappropriate persons to act as SPs which is the unsatisfactory situation that existed before SPA was introduced. Legislative framework is the only option that allows vetting of people seeking to enter industry as well as enforcement tools should licensees contravene responsibilities down the track.	
	c. Deregulation (DP22)	Industry	Same as Issue 6(b) Negative licensing	Same as Issue 6(b)	Same as Issue 6(b)
			Further increase in incompetent firms. Drive down wages and conditions for officers; allows more players into industry; public safety will be compromised: with more players, firms will reduce overheads by lowering wages and cutting corners on contracts.	Not viable- other industries have failed, leading to higher prices and lower safety standards (eg: banks). Allows more players into industry. May be costs savings for industry. Costs measured in lost lives; Officers may lose jobs.	Industry is a mess currently which will go down hill if deregulated.
			Being a SP can be a good cover for criminal activity; Qld would see all sorts of inappropriate persons claiming to be SP to enhance opportunity to carry out criminal activities; QPS would need expanding to fill void left by appropriate persons leaving security reputation very low. Qld would become known as 'an easy touch' and firms would come north to set up security companies.	Deregulation is not a viable option. Benefits criminal fraternity and shonky security providers.	

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Compromises safety of public, service to client and would have large impact on industry – encourage unethical practices, pricing would lead to inferior service, general lack of skill and professionalism; security personnel and sub-contractors may work for low wages and fees.	Deregulation is not a viable option.	With growing privatisation it is important that industry is monitored and controlled by either industry or government or both.
			Deregulation is not the answer – most companies and venues do not have control of staff in some circumstances; industry would go backwards; community must be protected from improper work practices which could evolve in deregulated oligopolistic market; costs to industry catastrophic with regards to standard we are training to maintain.		
			Deregulation would set back the industry 20 years to the bad old days; change the face of the industry; operators with financial stability, mental and physical toughness would survive.	Deregulation would not affect public safety or protection.	
			Vehemently opposed to mandatory code; clearly leads to a drop in standards within industry; industry has suffered due to public perception that it is comprised of unskilled, poorly educated and badly remunerated employees with little or no specific training.		
			Not a viable option – would return industry to problems pre-regulation; market forces act primarily between client and SP and not directly on public; alarm installers or locksmiths may rob many houses after installing items, but information is unlikely to be known to future customers of SP; market forces will not prevent robbery; public may not be able to ID SPs thus preventing them from taking action against them; SP clients eg. Hotels would be under no obligation to disclose ID of SP and may be reluctant to do so to avoid litigation.		
			Not a viable option – public safety; impact would be a very unsafe environment for public with no benefits.		

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Not a viable option – teenage children with inadequate trained security, little control or redress if you tried to sue firm that did not exist; public safety would not exist; no warning signs saying SO is untrained and unlicensed – do not enter if you are concerned. Dangerous situation; public safety not protected; (eg given); no public liability for firms in case of litigation; costs of fixing situation once it fell over Honest professionals would be disadvantages; pay for SOs would drop below $10/hour.	Criminals and shonky operators would benefit.	
			Not a viable option: due to nature of industry and its propensity to attract inappropriate persons; would foster unethical business practices and impact negatively on industry; jeopardise public safety and lead to deterioration in performance standards; not in industry or public interest.	Inappropriate persons only would benefit.	
			All efforts to make PIs accountable would be destroyed.		Deregulation appears to relate to SOs not PIs.
			Not in the best interests; could open way for some providers to devalue quality of officers and OFT; quality should not depend on market forces, who allow firms to obtain work for the least cost, leading to less pay for employees, resulting in lower quality of officers; quality should depend on standard, not market forces or values.		
		Government	Not viable – pre-licensing screening is imperative to maintaining standards. WA has experiences that commercial imperatives without regulation will result in lowering the standard below community expectations Pay rates would not increase and less professional persons would enter the industry. Assaults and complaints would increase requiring additional compliance costs. Positive public perception would diminish.		

	Issue	Group	Costs/Suggested change	Benefits/Status Quo	Comments
			Not viable – public perception would be severely jeopardised. Impact would be potentially chaotic – the safety of the general public could not be adequately protected. Potential for unlicensed/ untrained persons to carry out security functions may prove disastrous. Quality and standards of service to consumers would decrease. Staff in reputable firms providing high quality service could lose employment conditions or jobs when competing with unscrupulous providers		
			Not viable – violent behaviour; impact in terms of behaviour and safety would be significant; objectives would not be met; safety of public less protected. Costs: no appropriate person test may not meet community/industry expectations; safety a real concern; professionalism of industry could be negatively affected.	Benefits: No licensing requirement; reduced admin and financial burden on industry and Govt.	Licensing is most effective manner of controlling industry participants; the only means of improving public safety is increased market presence by authorities.
			Not viable. Public safety compromised – not politically sound.		
				Does not provide a better model than current legislation; reactive with action only possible after breach of Code, or operation in some way to warrant exclusion; unacceptable risk to public; risks of allowing inappropriate persons to act as SPs which is the unsatisfactory situation that existed before SPA was introduced. Legislative framework is the only option that allows vetting of people seeking to enter industry as well as enforcement tools should licensees contravene responsibilities down the track.	

Other matters raised:

13 There should be one security industry association with compulsory membership of all licensed firms made up of police; Liquor, hospitality and miscellaneous workers union; OFT; JAG and rotational members. Licences should reflect competency level i.e. level III should relate to level III licence which was an objective of the Asset Security Training which has not been introduced. Firms should produce five year business plan approved by OFT, must understand obligations under WH&S, industrial relation and Security Industry (Contractors) Award legislation and have Diploma in Security Management or equivalent at the very least Level III in Security Guarding. Responsibility should be transferred from OFT to QPS. Security firms should not be allowed to provide training – conflict of interest; company should not train its personnel; implications on how thorough training will be. Traineeships are like a gold mine, firms mild for every cent without providing training. Qld should conduct finger print, ASIO and drug checks.

14 QPS do now have ability to directly prosecute an offender; QPS are more likely to detect offences; more expeditious and cost effective if QPS could charge an offender at the scene and time of offence; all practitioners in all sections of the Qld security industry should be licensed as soon as possible; definitions should be amended as per DP3-5; no direct correlation between courts convicting an offender and cancellation of licences; loopholes allow persons that should be excluded to obtain a licence; a more appropriate system would be to consider guilty offences not just recorded convictions with appeal proviso; 10 year disqualification can be too severe for some minor offences.. NOTE: Pages 16-20 of SIRC submission covers other matters raised by SIRC.

T3 Consideration should be given to imposing a form of bond on entities attempting to enter industry to apply to all individuals, partnerships an forms that contract direct to another entity that does not provide security services. Bond may be held in interest bearing account belonging to SP not third party eg. Firm would keep say $10,000 or $20,000 in separate account and be able to prove funds are available at any time – this would ensure firms have some guaranteed funds to pay sub-contractors and creditors should they run into financial difficulty and would be required to report to regulatory body; assists in ensuring only entities that have adequate resources enter industry and that small under-capitalised persons do not enter; firms using ethical and professional practices, who are able to maintain financial means to pay taxes, creditors, insurances, payroll and superannuation enter industry; help to stop small entities discounting prices which is damaging to industry and not in the interest of clients, public safety or community. Suggested changes include appropriate qualifications for entry into industry and via traineeship; appropriate quality training with reasonable timeframes to reach competency; creating career paths; fair and equitable complaints process, monitoring overseeing, administering and policing of regulations or industry codes; workable code of conduct and ethics; divisions of industry in regard to licensing process, skill level requirement and training; public awareness program to breed public confidence and understanding; involvement of industry regulating body; and first maintaining an adequate bond. Industry standard is below other standards and many providers fail to hold adequate insurance, maintain appropriate records and struggle (or fail) to pay correct taxes and superannuation. Current standards need to be raised so that there is a fair and equitable, level playing field that protects the interest of industry and community.

I5 SP do not adhere to Security Industry (Contractors) Award – State; Industrial Relations and Unions do not enforce Award; employees are not aware of award and are willing to work sub-standard conditions and awards; industry fails to attract and keep quality entrants due to poor pay, bad working conditions and limited full time employment and career advancement; absence of a truly representative trade association which provides a forum for networking and exchange of information, knowledge and ideas; government reluctant to share, exchange or decimate information; limited knowledge and experience in industry due to high turn over of personnel.

I7 (Ed) Security managers are strongly committed to greater professionalism of the industry through enforcement of standards and through more regular and comprehensive consultation and communication with industry members by the regulatory agency. NOTE: Mr Prenzler, Senior Lecturer, School of Criminology and Criminal Justice, Griffith University has provided copies of five (5) separate studies in relation to the SP industry which are on the 'RESEARCH' Folder of the NCP Review.

I9 Issue of distinguishing employees of the private security industry from Police or other Government issued uniforms is one, which the Qld Police Union feels strongly about. Currently, public are unable to distinguish between SOs and other uniformed personnel; firms often provide uniforms that look very similar to police, fire or ambulance officers; private SOs should be ID through uniform of a colour that cannot be confused with any other person of authority eg. Green or a striped shirt). Noted that Beattie Labor Government made an election commitment to address this issue during 2001 election campaign. Strongly submit that industry ought to be administered by Commissioner for Policy; greater regulation is required, not less; OFT is clearly ill-equipped to administer functions which have become similar or identical to those performed by sworn police; industry should be administered from the stand point of providing better and more professional and ethical service to the public; administration must not be conducted with a view of providing cheaper labour to wealth multi-national companies; government has a responsibility to provide legislation regime that will be enforced stridently with a focus on integrity and with provision for sanctions when standards are not maintained. Legislation and regulations need to be enhanced so those who currently escape scrutiny fall within its scope; legislators need to recognise that communities that rely on services from security firms do not currently have great confidence in the integrity of the regime in Queensland; given the convergence over the years of the roles of police and SPs, serious consideration must be given to similar sanctions and responsibilities; industry largely underpays employees given responsibilities they are expected to discharge; firms also provide minimum training which is often of dubious standard; SPs have recently been engaged by Government to support police in major events such as Olympics and Goodwill Games – it is likely this will be the case during upcoming CHOGM in Queensland. The public deserves a better regulated industry with more safeguards and sanctions eg. If licensed SO or bodyguard is detected drink driving while on duty there is no other sanction other than that of Magistrate; if PI working for accountant engages in fraudulent conduct and is dismissed, he would have no impediment to resuming employment even if conviction is recorded against them. Industry and legislation is in need of restructure to ensure standards within it are appropriate to ensure public confidence in this rapidly expanding sector.

I12 ASIAL did not directly answer any questions in the Issues Paper. They support responsive regulation, which would include comprehensive licensing of all occupations; national framework supported by states to remove 'havens' for those rejected in other jurisdictions; power of licensees through enforceable code; mandated training standards; and vigorous compliance monitoring and complaint management. Regulation should be uniform to take account of mutual recognition protocols, consistent with COAG principles of standardising regimes to afford business national consistency, certainty and predicability and remove complexity. Suggested model from NSW, which is a co-regulation between Government and Industry with requirement of mandatory membership with an approved security organisation. NSW have identified and eliminated some illegal or bad practices within some firms – several operators have exited the industry as a consequence. Part of NSW criteria is that applicants are members of an Approved Security Organisation, who ensures that members comply with Act and regulations, attendant legislation and NSW mandatory code of conduct. Built into the system are safeguards for protection of confidential information that auditors may see, auditors' independence, training and certification; a self-assessment checklist, signed and returned to approved association prior to membership renewal; random field inspections.

I13 Industry needs extensive policing due to lack of honesty and integrity; operative times and ares that industry operates in sees it governing itself; the firm is suffering because sub-sub-contractors quote what it pays its safe; industry needs governing body with teeth to manage code of conduct and restrictive licensing regime.

I14 Legislation offers protection to individuals and public whom they are exposed to; if there is no SP licence, then a weapons licence as it relates to their work cannot be issued to the SP; this is pertinent in raising the question, should SPs be licensed to carry weapons, or should SPs have no capacity to be armed; Code would remove such capacity, as would negative licensing and deregulation. SP who are

not competent, reliable and professional may be attracted to industry; there must be adequate process, when problems arise, to secure either financial penalty or remove licences; it is often the only recourse to ensure industry operates effectively and efficiently.

T6 Before RTOs teach national package Cert II, III or IV Quals, they must be approved by ITAB which should include sighting and keeping of all lesson plans, course materials and assessments as well as any proposed changes; realistic comprehensive employee assistance plan should accompany each student's learning program to ensure they are assisted to gain employment in industry. Function of investigations and security industry should be separated – nothing to do with each other as all-encompassing security industry; quite different industries and should be referred to and treated separately. This is the reason for separate training and different qualifications. Training organisations promise beg incomes to students and deliver training that will not allow student to realise that income. All organisations should meet criteria of Cert IV and industry expected standards for public liability investigation, MV Accident investigation, stolen MV, work cover and surveillance investigation – if not they should not have quals recognised. Investigation earning potential is directly linked to quality of training and quality of screening procedure of RTO; RTOs get 5 inquires per month from persons who want to be PIs because they think TV programs are real and they can carry weapons and arrest people.; one inquiry per month from persons who just want to get even with someone – opening floodgates to these people will not benefit community or make it safer, with more factual investigation being undertaken. Creating a non-licensed non-training requirement for PIs will only succeed in persons being given false hope of becoming PI and earning high income. False hope would be more disadvantageous. There is varied need for PIs – not all have police background – backgrounds that are useful include WH&S, building, insurance, finance, accounting, electrical, engineering, army, navy, air force, MV repair – it is not sufficient to rely on just ex-police as prime source of future potential PIs and use that as an excuse to drop licensing and training. There is much competition amongst RTOs – benefits students as course vary in quality and depth as well as qualifications of instructions. Competition has lowered costs; benefit to students with employment potential being realised. Review should be conducted every 12-18 months to keep pace with changing needs and industry trends.

[1] Nominated/approved house set out by Queensland is contained on p2 of submission, indication approved hours for each component of Certificate II training.

[1] 'An investigator is a person who for remuneration conducts- (a) Investigations into the conduct of individuals or bodies corporate or the character of individuals; (b) Surveillance work in relation to the matters referred to in paragraph (a); or (c) Investigations concerning mission persons' *Security and Related Activities (Control) Act 1996* (WA)

[1] Hansard, 2 December 1993, p6427

[1] Hansard, 2 December 1993, p6427

[1] Hansard, 2 December 1993, p6428

[1] 'A crowd controller is a person who in respect of any licensed premises, place of entertainment, or public or private event or function, as part of his or her regular duties performs for remuneration, any function of – (a) controlling or monitoring the behaviour of persons; (b) screening persons seeking entry; (c) removing persons for behavioural reasons, or any other prescribed activity (contained in regulations)' *Security and Related Activities (Control) Act 1996* (WA)

APPENDIX C
Comparison of Licensing Requirements in Jurisdictions Administering Legislation Regulating Security Providers

	Queensland	New South Wales	Australian Capital Territory	Victoria	South Australia	Western Australia	Tasmania	Northern Territory
Relevant Legislation	*Security Providers Act 1993, Security Providers Regulation 1995*	*Security Industry Act 1997, Security Industry Regulation 1998*	*ACT Fair Trading Act 1992,* Prescribed Codes of Practice under Section 34 – Crowd Marshall's Access Control, Cash Transit, Bodyguard, Guard and Patrol.	*Private Agents Act 1966* and *Private Agents Regulations 1990*	*Security and Investigation Agents Act 1995, Security and Investigation Agents Regulations 1995*	*Security and Related Activities (Control) Act 1996* and *Security and Related Activities (Control) Regulations 1997*	*Commercial and Inquiry Agents Act 1974, Commercial and Inquiry Agents Regulation 1975* and *Crowd Controllers Act 1999*	*Northern Territory Private Security Act, 1995, Northern Territory Criminal Code, 1994* and *Commercial and Private Agents Licensing Act 2001*
Licence Issuing Authority	Licensing Section, Office of Fair Trading	Security Industry Registry New South Wales Police Service	Registration and Licensing Unit, ACT Office of Fair Trading, Policy and Regulatory	Private Agents Registry, Victoria Police	Office of Consumer and Business Affairs Commissioner for	Commercial Agents, West Australian Police Service	Department of Justice and Industrial Relations	Racing, Gaming and Licensing Division, Treasury, Department of Industries

	Queensland	New South Wales	Australian Capital Territory	Victoria	South Australia	Western Australia	Tasmania	Northern Territory
			Div. Department of Justice and Community Safety		Consumer Affairs			and Business
Categories of licence issued	Security Officer Crowd Controller Private Investigator Security Firm Security Officer/Crowd Controller	Master Licence (Employers & Sole Traders) Class 1 (Manpower) Guards, Bodyguards, Crowd Controllers Class 2 (Technical) Consultants	Registration for Principals and employees in the following sectors of the security industry – Crowd Marshall's, Access Control, Cash Transit, Bodyguard, Guard and Patrol	Crowd Controllers Security Guards Combined Security Guard/Crowd Controller Security Firms Inquiry Agents	Security Agents Licence Investigation Agents Licence Agent (contractor) level & Agent (employee) level	Security Agents Security Officers Security Consultants Security Installers Crowd Control Agents Crowd Controllers Inquiry Agents and Investigators	Security Agents Security Guards Inquiry Agents Process Servers Commercial Agents Commercial Sub-agents	Security Firms Security Officers (full and provisional) Crowd Controllers (full and provisional) Private Bailiff Commercial Agents Inquiry Agent
Requirements/checks on initial licence application **a) Criminal history check** **b) Fingerprint**	**a)** ✓ **b)** x	**a)** ✓ **b)** ✓	**a)** ✓ **b)** x	**a)** ✓ **b)** x	**a)** ✓ **b)** x	**a)** ✓ **b)** ✓	**a)** ✓ **b)** x	**a)** x **b)** ✓

	Queensland	New South Wales	Australian Capital Territory	Victoria	South Australia	Western Australia	Tasmania	Northern Territory
check **c) Other requirements/ checks**	c) ✓	c) ✓	c) x	c) ✓	c) ✓	c) ✓	c) ✓	c) ✓
Licence renewal requirements/checks **a) Criminal history check** **b) Fingerprint check** **c) Other requirements/ checks**	a) ✓ Random checks b) x c) x	Licences cannot be "renewed", Legislation requires that all previous licence holders re-apply for a licence. Integrity checks are undertaken with each re-application.	One off check only a) x b) x c) x	a) ✓ b) x c) x	a) ✓ random checks b) x c) ✓	a) ✓ b) x c) ✓	a) ✓ b) x c) ✓	a) ✓ b) x c) x
Licence fees	Security Officer – $91.50 Crowd Controller - $91.50	Master Licence scaled fee structure dependent on number of licensed employees ranging from	*Employees* Registration for initial Code of Practice $82.50 Each additional	a) Crowd Controller / Security Guards & combined $70 x 1 yr $120 x 2 yrs $170 x 3 yrs	Business – $282.00 Company – $424.00 Employee – $114.00	Agent licenses $235 for 3 years, $215 for 1 year Security Officer	Commercial Agent Inquiry Agent Process Server Security Agent	Security Officer (Provisional or Full): $90 Crowd Controller

	Queensland	New South Wales	Australian Capital Territory	Victoria	South Australia	Western Australia	Tasmania	Northern Territory
	Private Investigator - $91.50 Security Firms - $459	$350 (sole trader) to $2500 (more than 51 licensed employees) Class 1 & 2 $85 x 1 yr $350 x 5 yrs	Code of Practice $6.60 Later registration for one or more history check $36.00 Certification $38.50 Principals Registration for initial Code of Practice $650.00; Each additional Code of Practice $50.00. Later registration for one or more additional Codes $70.00 Criminal History check $36.00 Certification $70.00	b) Individual Security Firm $120 x 1 yr $220 x 2 yrs $320 x 3 yrs c) Inquiry Sole Agent $120 x 1 yr $220 x 2 yrs $320 x 3 yrs d) Agent / Security Firm Companies & Partnerships $270 x 1 yr $520 x 2 yrs $770 x 3 yrs		$67 for 3 years, $47 for 1 year Crowd Controller $101 for 3 years, $81 for 1 year Both licenses $127 for 3 years, $107 for 1 year Crowd Controller licence includes $34 fingerprint fee	$75.60 – 1 year $138.60 – 2 years $203.65 – 3 years Commercial Sub-agent Security guards $36.75 – 1 year $69.30 – 2 years $105 – 3 years	(Provisional or Full): $90 For both licences: $160 Security Firm: Sole Trader $400 Partnership or Corporation $800
Testing for prohibited drugs	No testing conducted	No testing conducted	No testing conducted	No testing conducted	No testing conducted	All licensed crowd	No testing conducted	No testing conducted

	Queensland	New South Wales	Australian Capital Territory	Victoria	South Australia	Western Australia	Tasmania	Northern Territory
						controllers have a requirement to provide a sample of urine or blood for testing of prohibited substances. May also include testing for steroids		
Training standard required	Certificate level II	Class 1 (Manpower) Certificate II in Security (Guarding) Senior First Aid Certificate Class 2 (Technical) Various	No prescribed training. Principals take responsibility for the competency of their employees	Certificate II in Security (Guarding) PRS 20198 Certificate IV in Investigative Services PRS40498	Either courses approved by the Commissioner (being phased out) or Specific Units of Competency from the Asset Security Training Package and the Financial	Certificate level II (Security Officers and Crowd Controllers)	None required.	Certificate level II

	Queensland	New South Wales	Australian Capital Territory	Victoria	South Australia	Western Australia	Tasmania	Northern Territory
					Services Training Package			
If training standard is nationally accredited package, name of training package and Units of Competency required and optional	PRS98, Asset Security Training Package	PRS98, Asset Security Training Package	Not applicable	PRS98, Asset Security Training Package	PRS98, Asset Security Training Package	PRS98, Asset Security Training Package	N/A	PRS98, Asset Security Training Package
Provision of training	Registered training providers	Registered Training Organisations approved by the Commissioner of Police	Not applicable	Registered Training Providers	Registered Training Organisations	Registered Training Providers	N/A	Registered Training Providers
Body responsible for regulation of training providers	Queensland Department of Education, Training and Industrial Relations	NSW Vocational Education Training Accreditation Board (VETAB) Approved Security Industry Associations	Not applicable	Office of Training and Further Education, and Private Agents Registry	Accreditation and Registration Council	Western Australian Department of Training	N/A	Northern Territory Employment and Training Authority

APPENDIX D

DISQUALIFYING OFFENCE PROVISIONS UNDER THE *CRIMINAL CODE*

See section 3 of the Act

PART 1—EXISTING PROVISIONS

1. Chapter 9 (Unlawful assemblies—breaches of the peace)
2. Chapter 16 (Offences relating to the administration of justice)
3. Chapter 20 (Miscellaneous offences against public authority)

3A. Chapter 22 (Offences against morality)

4. Chapter 28 (Homicide-Suicide-Concealment of birth)
5. Chapter 29 (Offences endangering life or health)
6. Chapter 30 (Assaults)
7. Chapter 32 (Assaults on females—Abduction)
8. Chapter 33 (Offences against liberty)
9. Chapter 36 (Stealing)
10. Chapter 37 (Offences analogous to stealing)
11. Chapter 38 (Stealing with violence—Extortion by threats)
12. Chapter 39 (Burglary—Housebreaking and like offences)
13. Chapter 40 (Other fraudulent practices)
14. Chapter 41 (Receiving stolen or fraudulently obtained and like offences)
15. Chapter 42 (Frauds by trustees and officers of companies and corporations - false accounting)
16. Chapter 42A (Secret commissions)
17. Chapter 46 (Offences)
18. Chapter 49 (Punishment of forgery and like offences)
19. Chapter 52 (Personation)
20. Chapter 56 (Conspiracy)

PART 2—PROVISIONS REPEALED BY *CRIMINAL LAW AMENDMENT ACT 1997*

1. Section 343A (Assaults occasioning bodily harm)
2. Section 344 (Aggravated assaults)

It should be noted that the offences listed in Part 2 are now contained within the general provisions of Chapter 30 of the *Criminal Code* relating to assault offences.